Issue Papers
2015 Legislative Session



DEPARTMENT OF LEGISLATIVE SERVICES 2014

Issue Papers

2015 Legislative Session

Presentation to the

Maryland General Assembly

Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland

December 2014

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: 410-946-5400 ● Washington Area: 301-970-5400
Other Areas: 1-800-492-7122, Extension 5400
TTY: 410-946-5401 ● 301-970-5401
TTY users may also use the Maryland Relay Service
to contact the General Assembly.

Email: libr@mlis.state.md.us
Home Page: http://mgaleg.maryland.gov

Department of Legislative Services
Office of Policy Analysis
Maryland General Assembly

Karl S. Aro
Executive Director

Warren G. Deschenaux
Director

November 2014

Members of the General Assembly:

Prior to each session, staff of the Department of Legislative Services, Office of Policy Analysis, prepare an information report on issues. This document is a compilation of the issue papers arranged by major topic. The information reflects the status of the items as of November 21, 2014.

Following each paper is an identification of the staff who worked on a particular topic. If you should need additional information, please do not hesitate to contact the appropriate staff person.

We trust this information will be of assistance to members of the General Assembly.

Sincerely,

Karl S. Aro
Executive Director

Warren G. Deschenaux
Director

KSA/WGD/mpd

Legislative Services Building · 90 State Circle · Annapolis, Maryland 21401-1991
410-946-5510 · FAX 410-946-5529 · TDD 410-946-5401
301-970-5510 · FAX 301-970-5529 · TDD 301-970-5401
Other areas in Maryland 1-800-492-7122

Contents

Transmittal Letter iii

1. Operating Budget

Economic and Revenue Outlook 1
Budget Outlook 5
Transportation Trust Fund Overview 11
Federal Funds Outlook 15
Impact of Long-term Liabilities on the State Budget 17

2. Capital Budget

Debt Affordability 21
Capital Budget Outlook 25
Status of State Center 29

3. Revenues and Taxes

Taxation of Retirement Income 35
Significant Revenue Measures During the 2011 through 2014 Legislative Term 39
Implementation of Casino Gaming 45
Evaluation of the Earned Income and Film Production Activity Tax Credits 51

4. Personnel

State Retirement and Pension System Investment Performance and Contribution Rates 53
State Workforce and Payroll 59
Update on Other Post Employment Benefits 63
New Employee and Retiree Health Insurance Plan 67
Succession Planning in State Agencies 69

5. Education

State Education Aid 73
Challenges with Transition to the Maryland College- and Career-Ready Standards and the Partnership for Assessment of Readiness for College and Careers 77
Adequacy of Education Funding Follow-up Study Begins 81
Teacher and Principal Evaluations and U.S. Department of Education Flexibility Waivers 85
Public School Construction 89
Review of Maryland Public Charter School Program 93
Start Time for School Year and School Day for Maryland Public Schools 97

6. Higher Education

Enrollment Trends and Projections 101
College Affordability and Financial Aid 105
Performance Funding and Cost per Degree 109
Coppin State University Reforms 113

7. Health and Health Insurance

Implementation of Federal Health Care Reform 117
Maryland Health Benefit Exchange 121
Implementation of the All-payer Model Contract 125
Medicaid Population and Financing Trends 129
Behavioral Health Integration 135
Outpatient Services Programs for Individuals with Mental Illness 139
Medical Marijuana and Public Health Impact of Marijuana Legalization 143
Combatting Opioid Overdose 147
State Oversight of Group Homes for Medically Fragile Children 151

8. Social Programs

Public Assistance Caseload Trends 155
Child Welfare Demonstration Waiver 159
Department of Juvenile Services Population Trends and Facility Issues 163
Deep Poverty in Maryland 167

9. Transportation

Status of the Proposed Transit Lines 171
Overview of the Draft *Consolidated Transportation Program* 175

10. Business Regulation

Workers' Compensation 177
Unemployment Insurance 181
Renewable Energy and Public Service Commission Initiatives 185
Transportation Network Services 189
Labor Wages and Leave Benefits 191

11. Public Safety

State Correctional System 195
Law Enforcement Use of Force 199
Asset Forfeiture 203
Firearms 207

12. Criminal Law

Ignition Interlock 211
Marijuana Decriminalization and Paraphernalia 213
Pretrial Representation of Indigent Defendants 217

13. Courts and Civil Proceedings

Domestic Violence 221
False Claims Act 225
Abolishing Contested Elections for Circuit Court Judges 229
Termination of Parental Rights of Father of Child Conceived through Rape, Incest, or Sexual Abuse 231

14. Environment and Natural Resources

The Status of Chesapeake Bay Restoration 233
Local Stormwater Management 237
Fisheries Management 241

15. State Government

Public Campaign Financing 245
Developments in Campaign Finance Law 249
A Fresh Look at the State Procurement Law 253

16. Local Government

State Aid to Local Governments 257
Allocation of State Aid Among Local Jurisdictions 261
Local Government Revenue Outlook 265
Local Government Tax Actions 269
Local Government Salary Actions 275
Recent Developments in Home Rule Authority of County Governments 281
Baltimore City Homestead Property Tax Credit Study 285
Maryland Demographic Profile 287
2015 Legislative Agenda – Maryland Municipal League 291
2015 Legislative Agenda – Maryland Association of Counties 293

Operating Budget

Economic and Revenue Outlook

Federal budget reductions and the 16-day federal government shutdown helped make 2013 the worst year for the Maryland economy since the depths of the recession. Available data for 2014 shows little improvement and the State continues to significantly underperform the national economy. General fund revenues in fiscal 2014 underperformed, and the estimate for fiscal 2015 was revised down by $177 million.

Economic Outlook

The recession that began in December 2007 officially ended in June 2009. Since bottoming out in February 2010, U.S. employment has increased by 9.8 million jobs, or 7.5%. The U.S. economy finally reached the milestone of recovering the jobs lost during the recession in May 2014, over six years (76 months) after the recession began. By contrast, it took 48 months to reach a new employment peak after the early 2000s recession and 32 months after the recession of the early 1990s. Private-sector jobs are up 10.3 million since the trough (9.6%), but government jobs remain down 2.5%, or about 557,000 jobs. Personal income has grown 4.0% in the first 8 months of 2014, while growth in wages is up 4.7%.

While the recession in Maryland was less severe than for the nation as a whole, it was still the worst economic contraction the State had experienced since the recession of the early 1990s. Maryland's recovery from the recession has lagged the nation, especially in the last few years. The federal budget reductions of recent years, along with the government shutdown in fall 2013, had a significant impact on the Maryland economy. Employment increased by less than 1% in 2013, and wage income growth slowed from 3.2% in 2012 to just 0.8% in 2013. Federal civilian employment in Maryland fell 1.0% in 2013, while wages fell 2.6% as some agencies imposed furloughs. This is the second year in a row that federal civilian wages fell as they dropped 1.3% in 2012, while federal employment that year declined 0.2%. Although Maryland has experienced other periods when federal employment declined, a drop in total nominal federal wages had not happened since 1967. The situation with federal spending and employment is not unique to Maryland, as nationally federal civilian wages fell 1.1% in 2012 and 2.3% in 2013.

The contraction of the federal government had impacts throughout the Maryland economy in 2013. Nonfederal employment went from growth of 1.6% in 2012 to just 0.8% in 2013. Nonfederal wages were up 3.7% in 2012 but only 1.2% in 2013. Adjusted for inflation, total Maryland wage income in 2013 fell 0.7%, the first decline since 2009. The data available so far for 2014 shows little improvement over the performance in 2013. Employment in the first nine months of 2014 was up 0.6%, while national employment was up 1.8%. Maryland federal employment was down 1.9% in the first three quarters of 2014, while nonfederal employment grew just 0.8%. In the first half of 2014, Maryland personal income increased 2.3%, and wage income was up 1.5%.

In September 2014, the Board of Revenue Estimates (BRE) issued a revised economic forecast for Maryland, its first since December 2013 (**Exhibit 1**). BRE revised the economic outlook largely in line with recent performance. Employment growth for 2014 was revised down from 1.5% to 0.7%. The projection for personal income growth was lowered in 2014 in part due to a downward revision to the estimate of wage income. BRE's forecast for 2014 assumes growth accelerates during the second half of the year. BRE also lowered their long-term assumptions with employment growth peaking at 1.4% in 2016 down from 1.8% in the previous forecast.

Exhibit 1
Maryland Economic Outlook
Year-over-year Percentage Change

Calendar	Employment		Personal Income	
Year	**Dec. 2013**	**Sep. 2014**	**Dec. 2013**	**Sep. 2014**
2011	1.1%	1.0%	5.6%	5.3%
2012	1.2%	1.2%	3.5%	3.6%
2013	0.9%	0.9%	1.9%	1.1%
2014 Est.	1.5%	0.7%	4.6%	3.3%
2015 Est.	1.8%	1.2%	5.1%	4.0%
2016 Est.	1.8%	1.4%	5.2%	4.3%
2017 Est.	1.3%	1.0%	4.8%	4.8%

Note: The figures for 2013 under the Dec. 2013 columns are estimates.

Source: Board of Revenue Estimates

Revenue Outlook

Fiscal 2014 general fund revenues were below the estimate by $27.4 million. General fund revenues totaled $15.1 billion in fiscal 2014, an increase of 1.5% over fiscal 2013. The share of the corporate income tax going to the Transportation Trust Fund was increased from 9.5% in fiscal 2013 (excluding the first 15.15%) to 19.5% in fiscal 2014. Adjusted for this distribution change, baseline general fund revenue growth in fiscal 2014 was 1.6%.

The biggest source of fiscal 2014 underattainment was the personal income tax. General fund personal income tax revenues were under the estimate by $169 million and grew just 1.1% over fiscal 2013. The underattainment was due entirely to the poor performance of final payments with returns (relating to capital gains and other forms of nonwage income), which fell 8.0% from fiscal 2013 and missed the estimate by $300 million (including both State and local income taxes). All other components of the income tax were on target, and withholding grew 3.0%

over fiscal 2013. The corporate income tax exceeded the fiscal 2014 estimate by $44.0 million due almost entirely to the settlement of a court case and the subsequent payment of back taxes. The sales tax exceeded the estimate by $11.8 million but grew just 1.9%, reflecting the weak economy. Weak wage growth, along with competition from the casinos, resulted in a decline in net lottery sales of 1.8% in fiscal 2014, the second consecutive drop following a decline of 2.2% in fiscal 2013. As this decline was anticipated, general fund lottery revenues were on target with the estimate for fiscal 2014.

Fiscal 2015 general fund revenue collections through September were up 3.7% from last year. Corporate income tax revenues were down 7.3% due to several large refunds related to the film production tax credit. Personal income tax revenues were up 5.3% in the first quarter of fiscal 2015 as non-withholding payments grew 11.7%, and withholding was up 3.3% over the prior year. Sales tax revenue growth improved substantially during the spring and summer, and fiscal 2015 general fund revenues were up 4.1% through September. A few large estate tax payments in August pushed year-to-date fiscal 2015 estate and inheritance tax revenues up 57.0%.

In September, BRE lowered their estimate for fiscal 2015 general fund revenues by $177 million (**Exhibit 2**). The personal income tax estimate was revised down by $184 million in line with the underattainment in fiscal 2014. The withholding estimate was revised down, reflecting the weaker employment and wage outlook. The sales tax estimate was lowered by $31 million, largely due to the timing of collections by Amazon.com. The original fiscal 2015 estimate assumed Amazon.com would be collecting sales tax in Maryland for the entire fiscal year but the company instead began collecting the sales tax as of October 1, 2014. BRE also lowered their estimate of how much revenue is likely to be collected by Amazon.com. Lottery revenues are projected to decline by 3.5% in fiscal 2016 due to a new distribution of $20 million to the Stadium Authority required by the Baltimore City Public Schools Construction and Revitalization Act of 2013 (Chapter 647). General fund revenues are projected to grow 4.7% in fiscal 2015 and 3.7% in fiscal 2016. Excluding the distribution of transfer tax revenue to the general fund, revenues are projected to grow 4.4% in fiscal 2015 and 4.1% in fiscal 2016.

Exhibit 2
Maryland General Fund Revenue Forecast
($ in Millions)

	Fiscal 2015				Fiscal 2016	
	BRE Mar. 2014	**BRE Sep. 2014**	**$ Diff.**	**% Change 2015/2014**	**BRE Sep. 2014**	**% Change 2016/2015**
Personal Income Tax	$8,469	$8,285	-$184	6.6%	$8,743	5.5%
Sales & Use Tax	4,350	4,320	-31	4.3%	4,524	4.7%
Corporate Income Tax	781	787	6	3.4%	837	6.3%
Lottery	510	503	-7	0.5%	486	-3.5%
Other	1,882	1,920	38	-0.4%	1,802	-6.1%
Total	**$15,992**	**$15,815**	**-$177**	**4.7%**	**$16,393**	**3.7%**

Source: Board of Revenue Estimates (BRE)

For further information contact: Theresa M. Tuszynski Phone: (410) 946/(301) 946-5510

Operating Budget

Budget Outlook

Since the 2014 session forecast, the State's fiscal picture has worsened due to a combination of downward revenue revisions and current year spending deficiencies. The State is faced with a cash shortfall of nearly $300 million in fiscal 2015 and approximately $600 million in fiscal 2016. In the longer term, a structural shortfall of $1 billion is forecast by fiscal 2020, caused in part by lower revenue expectations as well as debt service costs that outstrip property tax revenue growth.

Background

Fiscal 2014 closed with a general fund balance of $147.6 million. General fund revenues totaled $15.1 billion, an increase of 1.5% over fiscal 2013. **Exhibit 1** illustrates the changes by revenue component compared to the revised estimate from March 2014 adjusted for action at the 2014 session. Personal income taxes were lower than estimated by $169.3 million based on final payments. This loss was offset by better than expected corporate income taxes due to the payment of back taxes related to a court case; slightly higher sales and use taxes which continue to be hampered by the weak economy; and higher than expected attainment in other revenue sources, including business franchise taxes and the insurance premium tax.

Exhibit 1
Fiscal 2014 Estimated vs. Actual General Fund Revenue Performance
($ in Millions)

	Fiscal 2014 Estimated	Fiscal 2014 Actual	Change
Personal Income Tax	$7,943.1	$7,773.8	-$169.3
Corporate Income Tax	716.8	761.2	44.4
State Lottery	501.1	501.1	0.0
Sales and Use Tax	4,131.4	4,143.2	11.8
Other	1,841.1	1,926.9	85.8
Total	**$15,133.5**	**$15,106.2**	**-$27.4**

Source: Department of Legislative Services

Fiscal 2015 Activity

Exhibit 2 shows that fiscal 2014 is projected to end with a general fund balance of -$291.2 million, which is $374.7 million lower than expected when the budget was enacted at the 2014 session. This lower balance is largely the result of estimated deficiencies totaling $294.9 million to address shortfalls for Medicaid, video lottery terminal underattainment, student assessment costs, State park operations and related expenses due to a shortfall in transfer tax revenues, public safety operational costs, State employee health insurance, and smaller shortfalls across various agencies. General fund revenues are also lower by $204.5 million, as fiscal 2014 closed with $27.4 million less in revenue, and in September 2014, the Board of Revenue Estimates (BRE) revised its fiscal 2015 projection downward by $177.1 million. The write down is due to lagging employment and personal income growth, affecting personal income tax attainment. This shortfall was mitigated by the withdrawal of nearly $80.0 million in general fund spending through the Board of Public Works (BPW) in July 2014.

Exhibit 2
Evolution of the Fiscal 2015 General Fund Balance
($ in Millions)

		Fiscal 2015
Estimated Closing Balance (July 2014)		**$83.5**
Revenue		
July Board of Public Works (BPW) Revenue Assumptions	$2.2	
Fiscal 2014 Closeout	-27.4	
September 2014 BRE Revenue Revision	-177.1	
Transfers		
Net Change in Tax Credit, Budget Restoration Fund, and Other Transfers	-1.1	
Spending		
July BPW Withdrawals and Reversion Assumptions	79.4	
Fiscal 2014 Closeout Reversions	44.3	
DLS Estimated Fiscal 2015 Deficiencies	-294.9	
Revised Closing Balance (November 2014)		**-$291.2**

BRE: Board of Revenue Estimates
DLS: Department of Legislative Services

Source: Department of Legislative Services

Fiscal 2016 to 2020 Forecast

Exhibit 3 provides the Department of Legislative Services (DLS) general fund forecast through fiscal 2020. Relative to the forecast prepared following the 2014 session, the fiscal outlook has worsened both on a cash and a structural basis. As noted, BRE revised its estimate of fiscal 2015 general fund revenues downward by $177 million. Lowering the ongoing revenue base carries forward throughout the forecast period, so that by fiscal 2019, total revenue is $411 million lower than what was shown in the July 2014 DLS forecast.

On a cash flow basis, the near term challenge lies in balancing the fiscal 2015 budget. This will require actions totaling at least $291 million, while nearly one-half of the year has elapsed. Withdrawing the January 1, 2015 general salary increase and mid-year provider rate increases represents one option that would have to be implemented through BPW before the end of calendar 2014. Absent such action, the current Governor or Governor-elect would need to adopt some mix of targeted and across-the-board reductions, such as employee furloughs, and possibly propose to use some part of the nearly $800 million Rainy Day Fund balance.

Balancing the fiscal 2016 budget similarly poses cash balance challenges, as DLS estimates that nearly $600 million in revenue and spending actions will be needed in order to ensure a balanced budget. Growth in formula-based mandates and entitlements accounts for approximately one-half of the increase in spending in fiscal 2016. Much of this is attributed to statutorily required education funding, debt service growth, and Medicaid. Remaining growth is largely attributable to State employee personnel expenses, including health insurance, pension costs, annualization of the fiscal 2015 mid-year general salary increase, merit growth, and an assumed 2% general salary increase for fiscal 2016.

In the longer term, structural balance continues to elude the State. DLS is projecting a structural shortfall of $1 billion by fiscal 2020. Over one-half of this is due to rising debt service expense, which is outpacing growth in the State share of property taxes dedicated to this purpose. By fiscal 2020, $559 million in general funds will be needed for debt service. This portion of the deficit could be addressed if the State property tax rate was increased above the current level of 11.2 cents. The remaining shortfall, due to lower revenue estimates, could be addressed by a mix of revenue and spending actions. Inasmuch as two-thirds of the general fund budget is driven by statutory formulas and entitlement programs, efforts to rein in the deficit will need to focus on those areas.

Exhibit 3
General Fund Projections
Fiscal 2015-2020
($ in Millions)

	Working 2015	Baseline 2016	Estimate 2017	Estimate 2018	Estimate 2019	Estimate 2020	Avg. Annual Change 2016-20
Revenues							
Opening Fund Balance	$148	$0	$0	$0	$0	$0	
Transfers	1	33	30	34	34	31	
One-time Revenues/Legislation	71	0	0	0	0	0	
Subtotal One-time Revenue	***$220***	***$33***	***$30***	***$34***	***$34***	***$31***	***-1.6%***
Ongoing Revenues	$15,766	$16,413	$17,137	$17,810	$17,810	$19,138	
Subtotal Ongoing Revenue	***$15,766***	***$16,413***	***$17,137***	***$17,810***	***$17,810***	***$19,138***	***3.9%***
Total Revenues and Fund Balance	**$15,986**	**$16,446**	**$17,167**	**$17,844**	**$17,844**	**$19,169**	**3.9%**
Ongoing Spending							
Operating Spending	$16,809	$17,342	$18,152	$19,029	$19,029	$20,756	
Education Trust Fund[(1)]	-407	-414	-532	-560	-560	-573	
Multi-year Commitments	10	10	10	0	0	0	
Subtotal Ongoing Spending	***$16,411***	***$16,938***	***$17,630***	***$18,469***	***$18,469***	***$20,183***	***4.5%***
One-time Spending							
PAYGO Capital	$3	$1	$1	$1	$1	$1	
One-time reductions	-166	0	0	0	0	0	
Legislation/One-time Adjustments/Swaps	10	0	0	0	0	0	
Appropriation to Reserve Fund	20	100	50	50	50	50	
Subtotal One-time Spending	***-$134***	***$101***	***$51***	***$51***	***$51***	***$51***	
Total Spending	**$16,277**	**$17,039**	**$17,681**	**$18,520**	**$18,520**	**$20,234**	**4.4%**
Ending Balance	**-$291**	**-$593**	**-$514**	**-$676**	**-$676**	**-$1,065**	
Rainy Day Fund Balance	$791	$820	$857	$891	$891	$957	
Balance Over 5% of General Fund Revenues	3	1	0	0	0	1	
As % of General Fund Revenues	5.02%	5.00%	5.00%	5.00%	5.00%	5.00%	
Structural Balance	**-$645**	**-$525**	**-$493**	**-$659**	**-$659**	**-$1,045**	

PAYGO: pay-as-you-go

(1) The Education Trust Fund is supported by revenues from video lottery terminals, table games, and savings from equipment leases.

Source: Department of Legislative Services

Conclusion

Since the 2014 session forecast, the State's fiscal picture has worsened due to a combination of downward revenue revisions and current year spending deficiencies. The current and next Governor are faced with a cash shortfall of nearly $300 million in fiscal 2015 and approximately $600 million in fiscal 2016. Achieving cash balance could include imposing targeted and across-the-board spending cuts, as well as use of the Rainy Day Fund balance. In the longer term, a structural shortfall of $1 billion is forecast by fiscal 2020, caused in part by lower revenue expectations as well as debt service costs that outstrip property tax revenue growth. By fiscal 2020, $559 million in general funds are needed just for additional debt service expense. If the State share of the property tax rate is increased, it will go far toward resolving the deficit, but absent this, State policymakers will need to focus on other ongoing general fund revenue actions and the two-thirds of the general fund budget driven by statutory formulas and entitlement programs.

For further information contact: David B. Juppe Phone: (410) 946/(301) 970-5530

Operating Budget

Transportation Trust Fund Overview

The Transportation Trust Fund closed fiscal 2014 with a higher than expected fund balance due to capital spending being less than estimated. The Department of Legislative Services estimates that the fiscal 2015 to 2020 *Consolidated Transportation Program* could total approximately $14.2 billion, which is approximately $441 million less than the Maryland Department of Transportation's estimate. The lower capital program is attributable to higher operating budget spending and lower revenue estimates.

Fiscal 2014 Closeout

The Transportation Trust Fund (TTF) ended fiscal 2014 with a fund balance of $255 million, an amount $155 million higher than the $100 million projected ending balance. The higher fund balance is the net effect of a lower than anticipated level of expenditures ($239 million), which increases the fund balance, partially offset by a lower than expected level of revenue attainment ($85 million), which decreases the balance.

Operating expenditures for the Maryland Department of Transportation (MDOT) were $103 million higher than projected due primarily to winter maintenance and operations spending related to the large number of winter storm events. This increase was more than offset by decreases in planned capital spending of $335 million, of which $106 million represents a fund swap with federal funds. Decreased capital spending by the Maryland Transit Administration accounts for the majority of the remaining decrease in capital spending ($176 million.)

Tax and fee revenues were $15 million lower than expected. Motor fuel tax revenues were $36 million under the estimate but revenues from the titling tax and corporate income tax each exceeded projections by $13 million and $10 million, respectively. The largest decrease in revenues was a reduction of $110 million in planned bond sales made possible by the lower than projected spending.

Fiscal 2015 to 2020 TTF Forecast

Exhibit 1 shows the fiscal 2015 to 2020 TTF forecast by the Department of Legislative Services (DLS). The forecast details the expected trends in revenue attainment, debt issuance, and expenditures. Compared to the MDOT forecast, DLS assumes slightly less revenue attainment, higher operating budget spending for employee compensation, transit services, and winter maintenance, and slightly higher bond sales to minimize reductions in capital spending. Based on DLS estimates, the six-year capital program will be $441 million less than projected in the MDOT forecast.

Exhibit 1
Transportation Trust Fund Forecast
Fiscal 2015-2020
($ in Millions)

	2015	2016	2017	2018	2019	2020	Total 2015-2020
Opening Fund Balance	**$255**	**$100**	**$125**	**$125**	**$125**	**$150**	
Closing Fund Balance	**$100**	**$125**	**$125**	**$125**	**$150**	**$150**	
Net Revenues							
Taxes and Fees	$2,314	$2,562	$2,787	$2,837	$2,916	$2,973	$16,389
Operating and Miscellaneous	561	600	654	690	680	592	3,777
Subtotal	***$2,875***	***$3,162***	***$3,441***	***$3,527***	***$3,596***	***$3,565***	***$20,166***
Bond Proceeds\Premiums	628	915	905	556	415	430	3,848
Total Net Revenues	**$3,503**	**$4,077**	**$4,346**	**$4,083**	**$4,011**	**$3,995**	**$24,015**
Expenditures							
Debt Service	$246	$292	$365	$398	$394	$418	$2,113
Operating Budget	1,841	1,939	2,014	2,092	2,173	2,258	12,318
State Capital	1,571	1,820	1,967	1,593	1,418	1,320	9,688
Total Expenditures	**$3,657**	**$4,052**	**$4,346**	**$4,083**	**$3,986**	**$3,995**	**$24,119**
Debt							
Debt Outstanding	$2,276	$3,020	$3,720	$4,065	$4,288	$4,515	
Debt Coverage – Net Income	2.9	2.9	2.7	2.8	2.6	2.5	
Local Highway User Revenue	**$169**	**$171**	**$173**	**$174**	**$176**	**$178**	**$1,041**
Capital Summary							
State Capital	$1,571	$1,820	$1,967	$1,593	$1,418	$1,320	$9,688
Net Federal Capital (Cash Flow)	909	934	886	720	556	471	4,476
Total Capital Expenditures	**$2,480**	**$2,754**	**$2,853**	**$2,313**	**$1,974**	**$1,791**	**$14,164**
GARVEE Debt Service	$87	$87	$87	$87	$87	$51	$489

GARVEE: Grant Anticipation Revenue Vehicle

Source: Department of Legislative Services

Revenues

Over the six-year forecast, DLS estimates that gross tax and fee revenue will total $20.2 billion with an average annual growth rate of 4.4%. This growth rate reflects the various motor fuel excise tax and wholesale sales tax equivalent rate increases scheduled to go into effect, including the contingent sales tax equivalent rate increases that will take effect should Congress fail to enact legislation authorizing the collection of sales taxes on online purchases by

December 1, 2015. The DLS revenue estimate is $360 million lower than the MDOT estimate, with the major differences consisting of lower expectations in titling tax revenues (-$239 million) and motor fuel tax revenues (-$145 million).

Revenue projections of the motor fuel tax derived from indexing the tax to the Consumer Price Index and imposing a wholesale sales and use tax equivalent rate are lower during the forecast period than original estimates due to lower than projected rates of inflation and lower than projected gasoline prices. **Exhibit 2** compares the rate and revenue projections from the fiscal note with the current forecast.

Exhibit 2

Motor Fuel Tax Increase Rate Components

Fiscal Note Estimate vs. Fiscal 2014 Actual and DLS Forecast

	2014	**2015**	**2016**	**2017**	**2018**
Rates					
House Bill 1515 of 2013 Fiscal Note					
Sales and Use Tax Equivalent	3.3¢	7.0¢	14.1¢	18.0¢	18.3¢
CPI Cumulative Rate	0.5¢	1.0¢	1.6¢	2.2¢	2.8¢
Combined Rate	**3.8¢**	**8.0¢**	**15.7¢**	**20.2¢**	**21.1¢**
2014 Actual and DLS Forecast					
Sales and Use Tax Equivalent	3.1¢	4.6¢	12.5¢	16.7¢	17.0¢
CPI Cumulative Rate	0.4¢	0.8¢	1.3¢	1.9¢	2.5¢
Combined Rate	**3.5¢**	**5.4¢**	**13.8¢**	**18.6¢**	**19.5¢**
Variance	**-0.3¢**	**-2.6¢**	**-1.9¢**	**-1.6¢**	**-1.6¢**

Revenue ($ in Millions)	**2014**	**2015**	**2016**	**2017**	**2018**	**Total**
House Bill 1515 of 2013 Fiscal Note						
Sales and Use Tax Equivalent	$100.4	$157.4	$383.3	$543.6	$560.4	$1,745.1
CPI Cumulative Rate	15.7	30.7	49.4	68.3	87.4	$251.5
Subtotal	***$116.1***	***$188.1***	***$432.7***	***$611.9***	***$647.8***	***$1,996.6***
2014 Actual and DLS Forecast						
Sales and Use Tax Equivalent	$99.7	$144.8	$348.8	$532.2	$543.4	$1,668.9
CPI Cumulative Rate	13.1	24.6	38.1	54.2	70.3	200.3
Subtotal	***$112.8***	***$169.5***	***$386.9***	***$586.4***	***$613.7***	***$1,869.1***
Variance	**-$3.3**	**-$18.6**	**-$45.8**	**-$25.5**	**-$34.1**	**-$127.5**

Note: Sales and use tax equivalent rates and revenues assume the contingent rate increases effective beginning in fiscal 2016 if Congress fails to enact legislation authorizing the collection of sales taxes on online purchases by December 1, 2015.

CPI: Consumer Price Index DLS: Department of Legislative Services

Source: Office of the Comptroller; Department of Legislative Services

Operating and Debt Service Expenditures

Operating and debt service expenditures are the first draw on TTF revenues. Over the six-year period, operating and debt service expenditures are estimated to total $14.4 billion. Operating budget expenditures are projected to grow by an annual average of 4.2%, which is more than the 3.9% estimated by MDOT. As a result, operating budget expenditures are projected to be $325 million higher than the MDOT estimate. As previously indicated, higher operating growth is due to higher estimates for employee compensation, transit services, and winter maintenance.

Debt Financing

Debt issued by MDOT supports the capital program. Debt issuances are limited by a total debt outstanding cap of $4.5 billion and two coverage tests that require the prior year's pledged taxes and net income to be at least two times greater than the maximum debt service for all bonds outstanding in the current fiscal year. DLS assumes the net income coverage ratio will be 2.5 times through fiscal 2020. Even with lower estimates of revenue and higher operating budget spending, the DLS forecast assumes a slightly higher level of debt issuances than MDOT. The total amount of debt to be issued during the DLS six-year forecast is $3.8 billion, an increase of $113 million over the six-year projection contained in the final MDOT forecast last year.

Capital Expenditures

DLS estimates that the total special and federal fund capital budget will total $14.2 billion, approximately $441 million less than MDOT's estimate contained in the draft 2015 to 2020 *Consolidated Transportation Program*. This is due to the lower estimated revenues and higher estimated operating budget expenditures discussed previously, only partially offset by the higher estimated bond issuances. The DLS projected capital program is 4.4% less over the six-year forecast than the MDOT projection.

Federal Funds Outlook

In fiscal 2015, the State anticipates $10.5 billion in federal funds. A Continuing Resolution signed by the President in September 2014 will fund the government through December 11, 2014. Recent federal budgets have been in the form of Continuing Resolutions and have stayed within limits set by the Budget Control Act of 2011, which implemented across-the-board reductions to numerous federal programs.

State Fiscal 2015 Appropriations of Federal Funds

The fiscal 2015 federal fund legislative appropriation totals $10.5 billion. **Exhibit 1** shows the distribution of the federal funds by department/service area.

Exhibit 1
Federal Funds in Fiscal 2015 Legislative Appropriation
($ in Millions)

Department/Service Area	Fiscal 2015 Allowance
Judicial and Legal Review	$3.7
Executive and Administrative Control	173.4
Budgetary and Personnel Administration	10.3
General Services	1.2
Transportation	941.0
Department of Natural Resources	30.5
Agriculture	4.2
Health and Mental Hygiene	5,799.2
Human Resources	1,955.6
Labor, Licensing, and Regulation	174.8
Public Safety and Correctional Services	27.3
Public Education	1,031.9
Housing and Community Development	263.2
Business and Economic Development	0.8
Environment	75.7
Juvenile Services	7.1
State Police	1.8
Public Debt	11.5
Total Federal Funds	**$10,513.3**

*Numbers may not sum due to rounding.

Source: *Fiscal Digest of the State of Maryland for the Fiscal Year 2015*

Federal Fiscal 2015 Budget

On September 19, 2014, the President signed a Continuing Resolution (CR) for federal fiscal year (FFY) 2015 which keeps the federal government running until December 11, 2014 (House Joint Resolution 124). The CR sets funding for discretionary programs at $1.102 trillion. This amount equals the FFY 2014 discretionary spending level specified in the Bipartisan Budget Act (BBA) of 2013, and is $1.392 billion less than the BBA allows for FFY 2015. This spending level is achieved by applying a 0.0554% across-the-board (ATB) rescission to most discretionary programs. The CR also allows mandatory and entitlement programs with budget authority provided in an appropriations bill to operate at the FFY 2015 current-law level, with a 7.3% cut for programs subject to sequestration.

Short-term Program Extensions

The CR extended the authorizations for several programs that were set to expire, including:

- the Internet Tax Freedom Act, which prohibits state and local governments from levying certain taxes on the Internet, from November 1, 2014 until December 11, 2014;
- operating authority of the Export-Import Bank from September 30, 2014 through June 30, 2015; and
- Temporary Assistance for Needy Families (TANF) programs, including the TANF block grant, healthy marriage promotion and responsible fatherhood grants, matching grants to territories, and the mandatory/matching portion of the Child Care Development Fund, from September 30, 2014, until December 11, 2014, at FFY 2014 levels. The TANF contingency fund is also extended until December 11, 2014, at an annualized amount of $598 million.

Budget Control Act of 2011 Sequester

The Budget Control Act of 2011 (BCA) put in place a process of automatic spending reductions, known as sequester, to reduce spending by up to $1.2 trillion over nine years if Congress and the President failed to enact deficit reduction legislation of at least that amount; these cuts were enacted in FFY 2013. In FFY 2015, sequestration of nonexempt mandatory programs resulted in a 7.3% ATB cut in nondefense programs, applied to current-law levels. Examples of mandatory programs subject to the ATB cuts include the Social Services Block Grant and highway funding outside of the obligation limitation.

For further information contact: Laura M. Vykol Phone: (410) 946/(301) 970-553

Operating Budget

Impact of Long-term Liabilities on the State Budget

The State's two significant long-term liabilities, debt service and pension cost, are increasing at a greater rate than the revenues that support them. Since pension costs are mandated, controlling debt service impact on the general fund is the key variable.

State Budget Includes Debt Service and Pension Payments That Are Long-term Liabilities

The State budget supports two substantial long-term liabilities: a large capital construction program and pension benefits for State employees and local teachers. State capital construction projects are supported by various bonds, including general obligation (GO), transportation, stadium authority, and bay restoration bonds. These bonds are long-term liabilities that require debt service payments for up to 15 years.

In recent years, the State has been expanding the GO bond program. The State's expansion began in 2001. From fiscal 2000 to 2015, annual GO bond authorizations increased from $460 million to $1,060 million. Debt service costs have increased from $459 million to $1,027 million. GO debt outstanding has increased from $3,349 million to $8,722 million.

GO bond debt service costs are supported by the Annuity Bond Fund (ABF). The fund's largest revenue sources include State property tax revenues and proceeds from bond sale premiums. Other revenue sources include interest and penalties on property taxes and repayments for local bonds. When the ABF has not generated sufficient revenues to fully support debt service, general funds have subsidized debt service payments. Until fiscal 2014, the fund was able to support debt service costs. The fiscal 2014 appropriation includes $83 million in general fund appropriations. This amount is expected to increase to $559 million by fiscal 2020. Over the period, debt service costs increase by 6.1% annually, while revenues increase by 1.3% annually.

The State also provides a defined benefit pension plan for State employees and local teachers. By offering these plans, the State is required to make annual payments that represent the normal cost (the cost of the annual increase in benefits earned by employees) and a share of the unfunded liability. These pension payments also are a long-term liability.

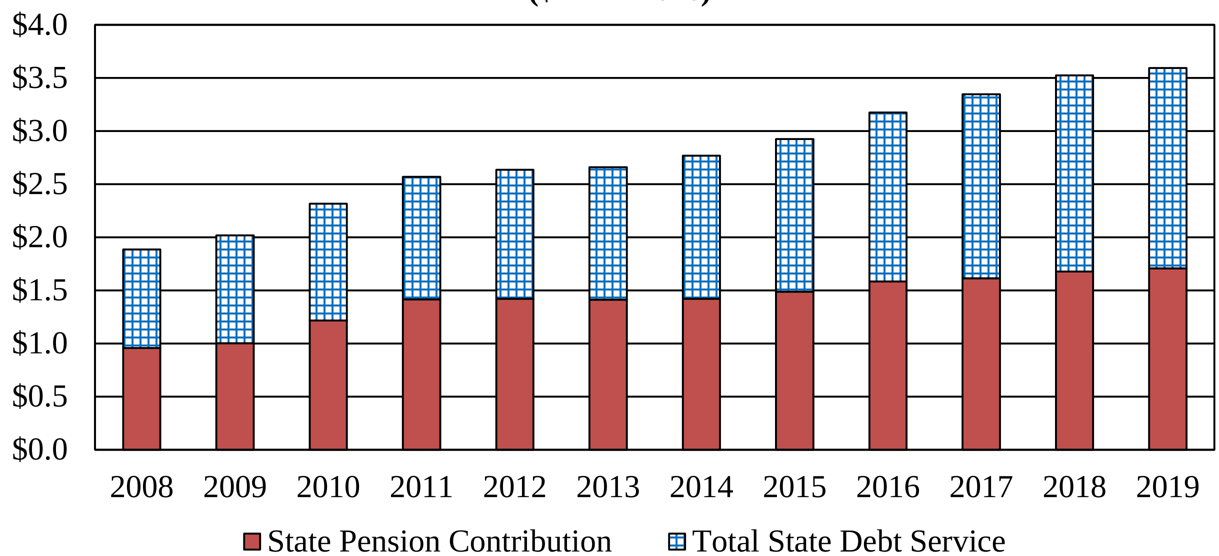
State pension costs have also increased in recent years. The primary reason for the increased costs are market losses suffered in fiscal 2008 and 2009, when the pension fund lost 5.4% and 20.0%, respectively. This reduced the funded ratio from 80.4% at the beginning of fiscal 2008 to 65.0% at the end of fiscal 2009. To reduce the unfunded liability, the State is now required to appropriate additional funds each year. The amount that the State appropriates each year is determined by the actuarial funding method. It is State policy for the Governor to propose and the General Assembly to appropriate the amount certified by the State Retirement and Pension System board.

To manage pension costs, the State has adopted a number of reforms. In 2011, the State reduced pension benefits earned beginning in fiscal 2012 and increased employee contributions from 5% to 7% for most employees (judges, for example, were excluded). The State also required local governments to begin sharing costs in fiscal 2013. The actuarial approach was also modified beginning in fiscal 2014 as the State phases out of the corridor method and adopts an actuarial approach. Taken together, these reforms reduce the State's out-year liabilities.

Debt and Pension Costs Are Expected to Continue Increasing

Exhibit 1 shows that total debt service and pension costs are expected to increase from $1.9 billion in fiscal 2008 to $3.6 billion in fiscal 2019. This is an annual increase of 6.0%.

Exhibit 1
Cumulative Debt Service and Pension Costs
Fiscal 2008-2019
($ in Billions)

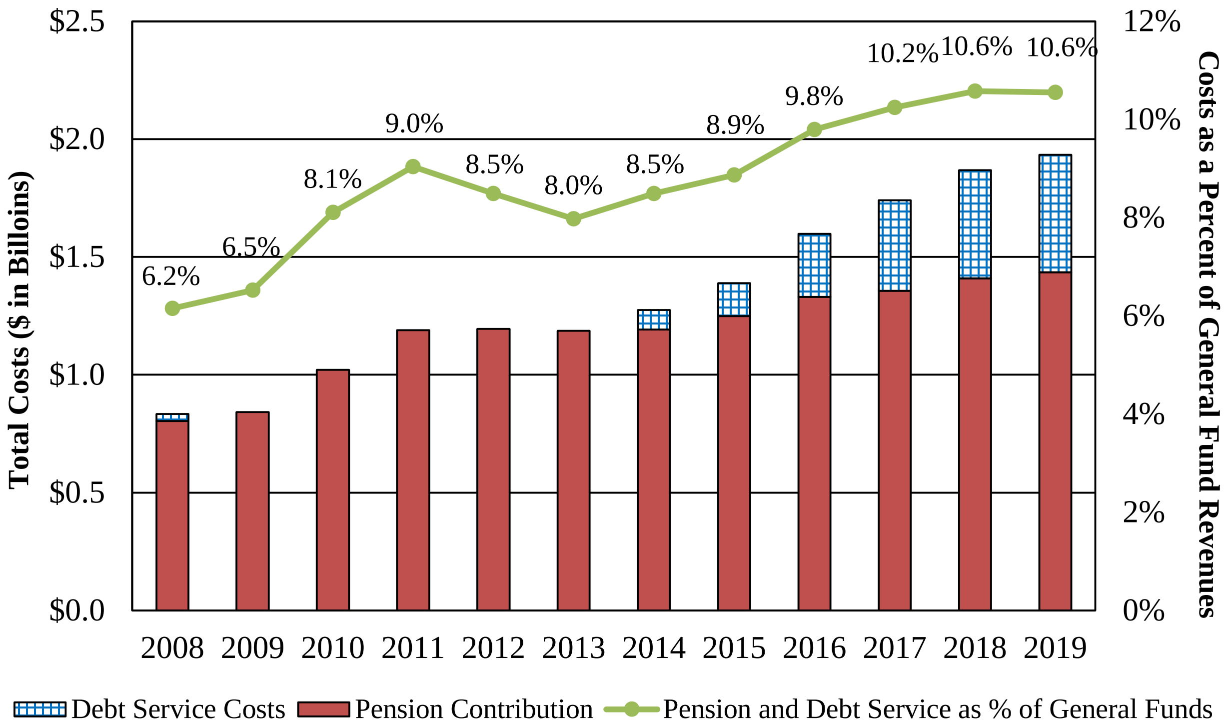


Note: Total State debt service includes transportation, bay restoration, capital leases, and stadium authority debt. State pension contribution excludes local teacher pension cost sharing.

Source: Gabriel Roeder Smith and Company; Cheiron, Inc.; Segal Consulting; State Treasurer's Office; Department of Legislative Services, October 2014

Moreover, these costs require an increasing share of general fund revenues. **Exhibit 2** shows that costs are less than 7% of general funds through fiscal 2009 but increase to more than 10% of general fund revenues by fiscal 2017. The State's pension reforms appear to have had some moderating effect on pension contributions. Much of the growth is attributable to debt service costs.

Exhibit 2
General Fund Debt Service and Pension Costs
As a Percentage of General Fund Revenues
Fiscal 2008-2019



Source: Gabriel Roeder Smith and Company; Cheiron, Inc.; Segal Consulting; State Treasurer's Office; Department of Legislative Services, October 2014

Conclusion

Bond and pension liabilities are long-term financial commitments that place a continuing burden on the State budget, particularly the general fund. The General Assembly has taken action in recent years to reduce the unfunded pension liability and slow the increase in annual pension costs. The State may next consider slowing the growth of debt. Debt service reduction can be accomplished in the long term through the Capital Debt Affordability Committee or the Spending Affordability Committee by constraining, rather than increasing, the level of debt to be incurred, by reconsidering the structure of the debt program through the Board of Public Works by increasing the property tax.

Capital Budget

Debt Affordability

The Capital Debt Affordability Committee (CDAC) recommended a general obligation (GO) bond debt limit totaling $1.17 billion for fiscal 2016, which is equal to the planning amount proposed by CDAC in its 2013 report. This is $75 million more than proposed by the Spending Affordability Committee. This level of capital spending keeps debt service payments below 8% of revenues. The Treasurer's Office estimates that total tax-supported debt service will be $1.59 billion in fiscal 2016. GO bond debt service is projected to total $1.13 billion in fiscal 2016. Total State debt outstanding is projected to be $12.92 billion at the end of fiscal 2016, of which $8.98 billion is GO bond debt.

Capital Debt Affordability Process

State law requires the Capital Debt Affordability Committee (CDAC) to review the size and condition of all tax-supported debt to ensure that the State's tax-supported debt burden remains affordable. The committee is composed of the Treasurer, the Comptroller, the Secretary of Transportation, the Secretary of Budget and Management, and a public member. The chairs of the Capital Budget Subcommittees for the Senate Budget and Taxation Committee and the House Appropriations Committee are nonvoting members.

Tax-supported debt consists of tax-exempt and taxable general obligation (GO) debt, transportation debt, Grant Anticipation Revenue Vehicles (GARVEE), bay restoration bonds, capital leases, Stadium Authority debt, and bond or revenue anticipation notes. The committee makes annual, nonbinding recommendations to the Governor and the General Assembly on the appropriate level of new GO and academic revenue debt for each fiscal year. The committee does not make individual recommendations on the levels of capital leases, transportation debt, bay restoration bonds, or Stadium Authority debt but does incorporate the anticipated levels of these types of debt in its analysis of total debt affordability.

Affordability Criteria and Ratios

CDAC began evaluating State debt in 1979. In consultation with rating agencies, investment bankers, and its financial advisor, CDAC has adopted policies to limit State debt outstanding to 4% of personal income and State debt service to 8% of State revenues. **Exhibit 1** shows the CDAC's State debt affordability analysis. The analysis assumes similar estimates for GO bonds, transportation debt, GARVEEs, bay restoration bonds, and Stadium Authority debt issuances.

Exhibit 1
Affordability Ratios
Fiscal 2015-2023

Fiscal Year	Projected Debt Outstanding As a Percent of Personal Income	Projected Debt Service As a Percent of Revenues
2015	3.43%	6.95%
2016	3.59%	7.44%
2017	3.67%	7.70%
2018	3.65%	7.93%
2019	3.64%	7.83%
2020	3.63%	7.77%
2021	3.63%	7.79%
2022	3.57%	7.90%
2023	3.49%	7.99%

Source: State Treasurer's Office, November 2014

Increasing New Debt Authorizations

On October 1, 2014, the committee recommended that fiscal 2016 GO debt authorizations be limited to $1.17 billion. This is equal to what the committee planned for the 2015 session in its 2013 report but is a $75 million increase over what the Spending Affordability Committee adopted in its 2013 recommendation. This increase was proposed by the Department of Budget and Management. The department asserted that it is affordable based on State criteria. The department also proposed to increase fiscal 2017 to 2020 authorizations by $75 million annually before returning to current programmed levels in fiscal 2021, resulting in $375 million in additional authorizations over the five-year period. The department noted that the increase will allow the State to accommodate expenses associated with the State Highway Administration's portion of the Chesapeake Watershed Implementation Plan. Total GO debt is projected to be $8.98 billion at the end of fiscal 2016. GO bond debt service payments are projected to total $1.13 billion in fiscal 2016.

Transportation bonds are limited obligation instruments, the proceeds of which fund highway and other transportation-related projects. Debt service on these bonds is funded from the Transportation Trust Fund (TTF), which is supported by motor vehicle fuel taxes, titling and registration fees, a portion of the corporate income tax, and other Maryland Department of Transportation (MDOT) revenues. The Transportation Infrastructure Investment Act of 2013 provided additional transportation revenues for the TTF. The Act also increased the gross outstanding aggregate principal amount of Consolidated Transportation Bonds limit to $4.5 billion. CDAC projects that total outstanding transportation debt will reach $2.9 billion in fiscal 2016. Transportation bond debt service is projected to be $291 million in fiscal 2016. The department also issued GARVEE bonds in fiscal 2008 and 2009. Chapters 471 and 472 of 2005 limit the total amount of GARVEEs that may be issued at $750 million. The State pledges anticipated federal revenues to support the GARVEE debt service, and the statute specifies that the bonds are considered tax-supported debt. GARVEE debt outstanding is projected to be $280 million at the end of fiscal 2016. GARVEE debt service costs are estimated to be $87 million.

The Bay Restoration Fund was created by Chapter 428 of 2004 to provide grants for enhanced nutrient removal pollution reduction upgrades at the State's major wastewater treatment plants. The fund has several revenue sources and expends funds for both operating and capital program purposes. In fiscal 2008, the first $50 million in bay bonds was issued, followed by another $100 million issuance in fiscal 2014. The Maryland Department of the Environment (MDE) indicates that the estimated issuance stream is $180 million in fiscal 2016 and $100 million in fiscal 2017. The department estimates that $301 million in bonds will be outstanding at the end of fiscal 2016. Debt service costs are projected to be $14 million in fiscal 2016. It is worth noting that MDE has decreased its total planned authorizations by $100 million, from $530 million to $430 million.

Capital leases for real property and equipment are also considered State debt if the revenues supporting the debt are State tax revenues. Examples of capital leases include the MDOT Headquarters Office Building and the Prince George's County Justice Center. Debt outstanding for leases is expected to be $293 million at the end of fiscal 2016. Capital lease payments are estimated to be $41 million in fiscal 2016.

The final category of State debt is Stadium Authority debt. Stadium Authority debt is also limited obligation debt and represents bonds sold for the construction of the Camden Yards baseball and football stadiums, the Baltimore and Ocean City convention centers, the Hippodrome Theater, and the Montgomery County Conference Center. The facilities' debt service is supported by lottery revenues and other general fund sources. Stadium Authority debt outstanding is expected to be $125 million at the end of fiscal 2016. Debt service payments are projected to be $26 million in fiscal 2016.

The University System of Maryland (USM), Morgan State University, and St. Mary's College of Maryland have the authority to issue debt for academic facilities, as well as auxiliary facilities. Unlike the other authorizations, Academic Revenue Bonds are not considered to be State debt; instead, they are a debt of the institutions. Proceeds from academic debt issues are used for facilities that have an education-related function, such as classrooms. Debt service for these bonds is paid with tuition and fee revenues. For fiscal 2016, CDAC recommends $34.5 million for academic facilities on USM campuses. This is a $2.5 million increase over the $32.0 million programmed by the committee for fiscal 2015, and is for the purpose of supporting additional USM capital projects.

Capital Budget

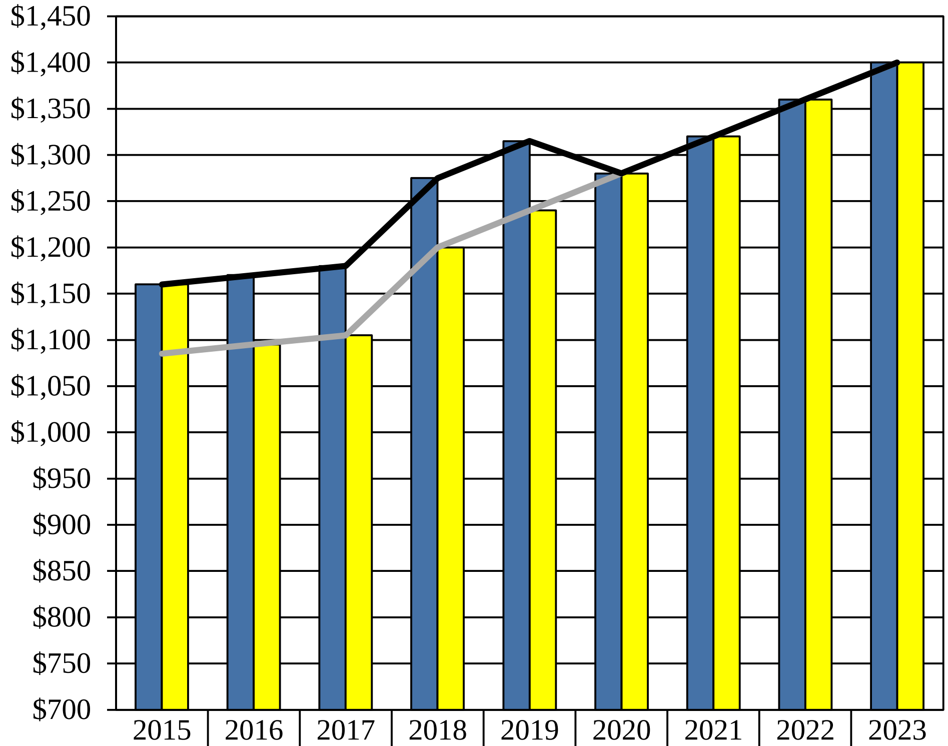
Capital Budget Outlook

On October 1, the Capital Debt Affordability Committee recommended to increase the proposed general obligation (GO) bond authorization by $75 million annually from fiscal 2016 through 2019. The increase is the same recommendation made by the committee last year, but the Spending Affordability Committee only approved a one-year $75 million increase for the fiscal 2015 capital budget. The increase is intended to provide additional authorizations to mitigate the impact of the continued use of GO bond authorizations as a source of repayment for transfer tax revenue diversions to the general fund and to assist with mandates such as infrastructure improvements required under the Watershed Implementation Plan. Although affordable under the State's debt affordability criteria, the recommendation does push the State very close to the limits on tax-supported debt.

The Capital Debt Affordability Committee (CDAC) voted to increase the amount of new general obligation (GO) bond authorizations by $75 million annually for the 2015 through 2018 sessions. CDAC made the same recommendation last year but the Spending Affordability Committee (SAC) only approved a one-year $75 million increase for the 2014 session and deferred any discussion of extending the annual increase through the five-year planning period. The increase is principally intended to provide additional GO authorizations to reduce the pressures on the GO bond-funded capital program created by the continued use of bonds as a source of repayment for transfer tax revenue diversions to the general fund. The increase also supports mandates such as infrastructure improvements required under the Transportation Infrastructure Act of 2013 (Chapter 429 of 2013) which mandates $350 million in capital spending from fiscal 2016 through 2019 to assist the State Highway Administration's (SHA) compliance with the Watershed Implementation Plan (WIP).

Exhibit 1 illustrates the CDAC's recommended GO bond authorization levels which reflects the same recommendation made by the committee leading up to the 2014 session with the Spending Affordability Committee only adopting a one-year increase for the 2015 session.

Exhibit 1
Effect of New Policy on General Obligation Bond Authorizations
Fiscal 2015-2020
($ in Millions)



	2015	2016	2017	2018	2019	2020	2021	2022	2023
Sept 2013 Recommendation	$1,160	$1,170	$1,180	$1,275	$1,315	$1,280	$1,320	$1,360	$1,400
December 2013 SAC	$1,160	$1,095	$1,105	$1,200	$1,240	$1,280	$1,320	$1,360	$1,400
Dec 2012 Recommendation	$1,085	$1,095	$1,105	$1,200	$1,240	$1,280	$1,320	$1,360	$1,400
Sept 2014 Recommendation	$1,160	$1,170	$1,180	$1,275	$1,315	$1,280	$1,320	$1,360	$1,400

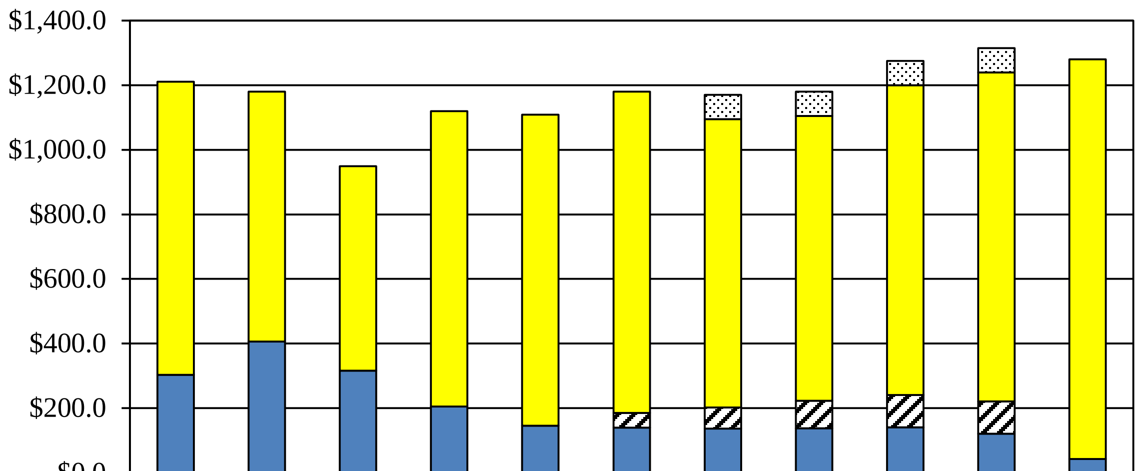
Source: *Capital Debt Affordability Committee Recommendation of GO Bond Authorizations*, September 2014.

Although the CDAC recommendation is currently affordable under the State's debt affordability criteria, which limits State tax-supported debt outstanding to no more than 4% of State personal income and debt service to no more than 8% of revenues, the recommendation would potentially move the debt service to revenue ratio very close to the 8% limit. The most recent Board of Revenue Estimates write-down in the various revenues used in the debt service to revenue calculation move the State closer to the limits than projected at this time last year. If the limit is breached it could have negative consequences on out-year GO authorization levels needed to fund State-owned infrastructure needs.

The Use of GO Bonds as a Source of Replacement Funds Diverts Funds Away from Traditional Capital Program Infrastructure Uses

Although the proposed authorization increases are intended to assist the State with funding projects already programmed in the five-year *Capital Improvement Program* (CIP) while also accommodating replacement funding and funding for the WIP, these pressures divert GO bonds away from other more traditional GO bond-funded capital infrastructure investments, such as schools and prisons. **Exhibit 2** shows the degree to which GO bonds have been used as a budget balancing and bond replacement instrument. For fiscal 2010 through 2015, approximately $1.56 billion, representing 23% of the total GO bond authorizations, have been allocated to replace the transfer of special funds such as the transfer tax and Bay Restoration funds to the general fund. Moreover, because the GO bond replacement of prior transfers is scheduled over multiple fiscal years, another $960 million of GO authorizations are proposed to be used as a source of bond replacement through fiscal 2020.

Exhibit 2
Use of GO Bonds for Operating Budget Relief
Fiscal 2010-2015 Actual and Fiscal 2016-2020 Estimated
($ in Millions)



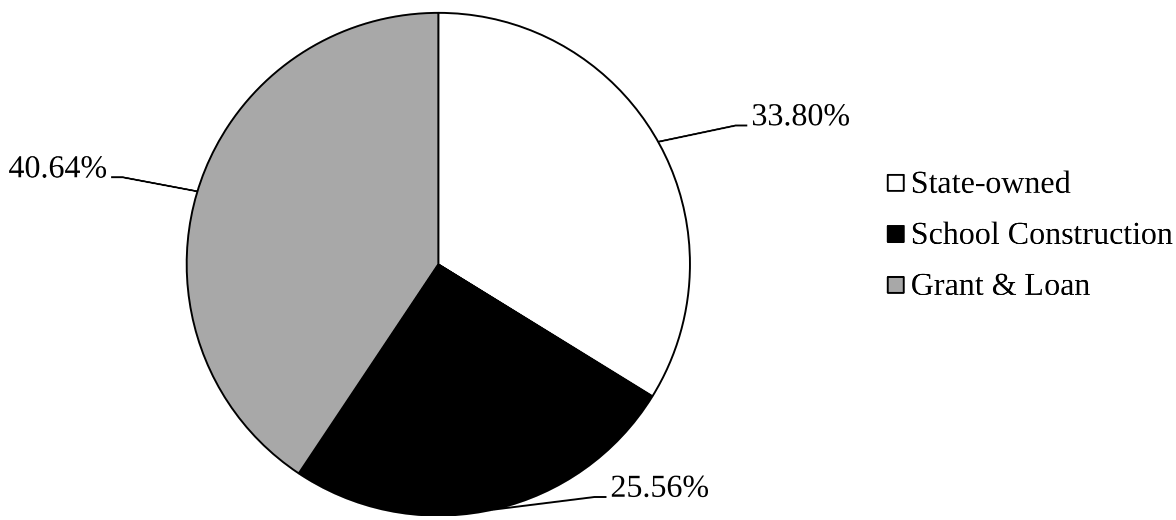
	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Est	FY 2017 Est	FY 2018 Est	FY 2019 Est	FY 2020 Est
Additional Authorizations	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$75.0	$75.0	$75.0	$75.0	$0.0
Program Funding Current GO Limit	$907.4	$774.0	$633.3	$914.6	$963.5	$995.4	$892.9	$882.0	$959.1	$1,018.8	$1,237.0
MDOT WIP Relief	$0.0	$0.0	$0.0	$0.0	$0.0	$45.0	$65.0	$85.0	$100.0	$100.0	$0.0
Operating Relief	$303.4	$405.7	$315.8	$204.8	$145.7	$140.1	$137.1	$138.0	$140.9	$121.2	$43.0

GO: general obligation
MDOT: Maryland Department of Transportation
WIP: Watershed Implementation Plan

Source: Department of Legislative Services

Although additional authorizations approved in recent years and under consideration this year have assisted the State with budget priorities, funds have been diverted away from traditional capital infrastructure spending particularly for State-owned projects. **Exhibit 3** illustrates that just 33.8% of GO bond funding is used to support State-owned projects and of this 80% is provided for higher education and only 20% for all remaining State-owned capital needs. This results in increased pressure to find alternative means of funding State projects through capital leases which increases cost, puts additional pressures on the general fund, and can still impact debt affordability. Examples include the soon-to-be-completed Department of Health and Mental Hygiene Public Health Laboratory, the multi-year multi-phased redevelopment of State Center, and the recent Maryland Economic Development Corporation financing for a new Maryland State Archives storage facility.

Exhibit 3
Funding Shares for State-owned Projects, Public School Construction, and Grants and Loans Program – GO Bond Funds
Fiscal 2011-2015
($ in Millions)



Source: Department of Legislative Services

Status of State Center

The redevelopment of State Center was conceived in 2005 as a transit-oriented mixed-use development to revamp 1.5 million square feet of old State office space on the west side of Baltimore City. In July 2010, the State approved the ground and occupancy leases for the first of five development phases, but the project was delayed pending the outcome of a lawsuit filed later that year by downtown business owners claiming that the project had not been competitively bid. After a lengthy litigation, in March 2014, the Court of Appeals ruled in favor of the State paving the way for a re-initiation of the redevelopment project.

Status of State Center

Located in close proximity to the State Center Metro in Baltimore City, State Center consists of a grouping of State-owned office buildings that house a number of State agencies. After several years of predevelopment efforts, including the execution of a Master Development Agreement (MDA), and several years of significant involvement from the legislative budget committees, in July 2010, the State approved ground and occupancy leases with the development team. The basic concept underpinning the proposed multi-phase development included the State ground leasing parcels in several phases to State Center LLC, with the State then renting office space from the developer. In addition to office space for the State, the development plan includes the construction of private commercial office space; retail space including a grocery store, a mix of low- and moderate-income rental and market rates for sale housing; and parking.

Efforts to start Phase I were blocked due to litigation filed by a group of downtown Baltimore City businesses principally on the grounds that the State did not comply with competitive bidding requirements and procedures. A ruling handed down by the Baltimore City Circuit Court in January 2013 voided the development contract, citing the State's failure to competitively bid the development. However, in March 2014, the State Court of Appeals reversed the decision in the State's favor allowing the development to proceed. As the legal proceedings continued, the State enacted public-private partnership (P3) legislation (Chapter 5 of 2013). The State Center redevelopment was exempted from the numerous reporting and approval processes that now govern P3 development as set forth in the legislation and codified in the State Finance and Procurement Article. After the lengthy delay, the Department of General Services (DGS), which is responsible for representing the State and development team, is in the process of reevaluating and reaffirming the commitments including the financial underpinnings of the project.

Development Milestones

Master Development Agreement

In June 2009, the State Center MDA was approved by the Board of Public Works (BPW). This agreement allows for ground and occupancy lease negotiations with the developer at each stage of the multi-phased redevelopment project. Due to the lengthy delay and reevaluation of the State's commitment to the project, modifications to the MDA may be necessary and would also require BPW approval. Perhaps of greater importance is a provision in the MDA that provides opportunities for the State to negotiate a buy-out and discontinue its participation in the project should the State determine that the development is no longer viable or in its best interest.

Ground and Occupancy Leases – Phase I

The ground and occupancy leases for Phase I, approved by BPW in July 2010, extend for up to 90 years to include a 50-year base ground lease, a 25-year extension subject to approval by State Center LLC, and a 15-year extension subject to BPW approval. The first phase entails the development of two new office towers and one underground parking garage on Parcels G and I-2. Overall Phase I development would provide the following: 500,000 square feet (sq. ft.) of State office space; 5,000 sq. ft. of State conference space; 15,000 sq. ft. of private office space that could be expanded by upwards of 125,000 sq. ft. depending upon market conditions; 65,000 sq. ft. of retail space that would include a grocery store; and a 928-space parking garage.

Exhibit 1 illustrates the estimated base, pass-through, and total rent for the 20-year operating lease. The estimated all-in cost per sq. ft. would be approximately $37/sq. ft. and increase to $56/sq. ft. for the final 5 years of the 20-year term.

Exhibit 1
Estimated State Operating Lease Payments
Parcels G and I-2 Combined
($ in Millions – Except Square Foot Cost)

Fiscal Year	Base Rent	Pass-through Rent	Total Estimated Rent	Estimated Cost Per Square Foot
2014-2018	$13.312	$6.370	$19.682	$37
2019-2023	15.309	7.325	22.634	42
2024-2028	17.605	8.424	26.029	49
2029-2033	20.246	9.772	30.018	56

Note: Pass-through rent includes additional charges for taxes, maintenance, and security. The State would also be responsible for moving expenses, estimated at $2.4 million for this phase only, as well as $5.8 million over four years for mothballing costs for existing State Center space pending renovation by the developer.

Source: Department of General Services

As it stands, even if phase I is reinitiated within the next year the State would be facing annual rents in excess $30 million for just the Phase I occupancy leases with future proposed phases adding on the State's annual general funded carrying cost.

Construction of a New Parking Garage

As approved, phase I development of State Center included the construction of a 980-space underground parking garage on lot G. The leases entered into by the State provided the State with 500 spaces for employees and 50 spaces on a 24/7 basis for fleet vehicles. The remaining parking spaces would support the anticipated private retail, commercial, and housing portion of the project. The cost of the parking garage was capped at $28.3 million to be financed with 20-year tax-exempt Maryland Economic Development Corporation (MEDCO) bonds with debt service payments in the form of annual appropriations from the Transportation Trust Fund (TTF). Based on the initial costs, the debt service would be roughly $2.5 million annually through the term of the bonds which, after additional costs for garage operations and offsetting parking revenue, would result in an estimated annual loss of about $2.0 million to the TTF. On November 1, 2014, DGS and MEDCO advised that increased cost estimates for constructing a sub-surface parking garage would require a reduction in scope down from the original 980-spaces to not-less-than 580 spaces. Although reduced in size, the garage would still provide the State with 500 spaces for employees and 50 spaces on a 24/7 basis for fleet vehicles as originally approved. The construction of the parking garage represents the initial construction that would take place under a ready to proceed phase I State Center redevelopment. The scope modifications will require BPW approval of amendments to the parcel G ground lease, originally approved by the board on July 28, 2010, which DGS intends to take to BPW for consideration on December 17, 2014.

Fiscal Issues

Debt Affordability Implications – Operating vs. Capital Lease

The Capital Debt Affordability Committee (CDAC) currently considers tax-supported capital leases but not operating leases in its affordability analysis. Phase I is assumed by the O'Malley Administration to constitute an operating lease, based in part on the requirement for annual appropriations in the budget. However, an analysis performed by the State Treasurer's Office in July 2010, while stopping short of determining that the lease constitutes a capital lease, suggested that (1) applying the Government Accounting Standards Board criteria for determining the classification of a lease as operating or capital could result in the lease being scored as a capital lease; (2) prudently the State may wish to count it as such to avoid any future complications if the lease is construed as debt of the State by the rating agencies; and (3) if the actual amount of fair value of the project, as determined by the final project costs, is different from the estimated amounts, and if the actual discount rate is less than the 7% used in the initial debt calculation analysis, the final calculation may determine that the leases would need to be scored as capital leases by the State. To the extent that the project costs have likely increased which could change the underlying lease terms, and to the extent that the discount rate in the current economic climate is likely to be much lower than the 7% used in the initial analysis, it will be imperative that a follow-up capital lease determination analysis is conducted once updated project costs are provided. To the extent that future State Center development phase are also deemed capital leases the State's already-precarious debt affordability situation would worsen.

Net Effect on the General Fund Budget

The Administration assumes that additional rent expenses will be offset by a reduction in the level of current general fund spending for utilities, security, maintenance, and other related expenses. Even if these offsets do materialize, the Phase I development and all future phases will require a significant amount of annual general fund appropriations that could be avoided if the State instead constructed new or renovated space to replace the aging State Center infrastructure.

Future Options

At some point, whether it be in the present form of the negotiated P3 redevelopment or under some other redevelopment proposal, the State may wish to consider other options for State Center, including:

- **Defer Major Reinvestment and Continue with a Band-aid Approach to Extending the Useful Life of the Facilities:** The State could continue to occupy State Center under the current State-ownership structure and defer any decision regarding the long-term solution to the problem. This would require continued annual funding to address the center's facility maintenance needs. The State would need to perform some strategic facility renewal of the buildings in order to keep the buildings occupiable and extend the useful life of the facilities until such time that a more comprehensive renovation/infrastructure replacement plan could be considered, funded, and completed. The amount of investment would depend upon the urgency of repairs and an annual assessment of what it would take to keep certain buildings operational. The drawback is that the State would continue to occupy space that is considered less than adequate and functionally inefficient.

- **State Fund the Renovation/Replacement of State Center in a Phased Development Plan:** Another option is for the State to undertake its own infrastructure replacement plan for State Center. This would require a substantial capital investment from the State and a reprioritization of the State's long-term capital infrastructure plans. The current five-year *Capital Improvement Program* (CIP) does not contemplate a State-funded renovation/replacement plan for State Center. Unless the State increases the amount of new debt over and above the CDAC-recommended level to accommodate such a proposal, which under current estimates would not be affordable under the State debt affordability criteria, decisions would have to be made regarding how to fit such a large capital investment within the confines of the recommended annual new debt authorization limits. Inasmuch as the five-year CIP is essentially fully subscribed, such decisions would have ramifications for other projects already in the CIP. Estimates from 2009 put the cost of renovations and some new construction in the ballpark of $215 million, but these assumptions and estimates would need to be re-evaluated and revised accordingly.

- **Sell Off the State Center Land and Facilities and Rent Office Space:** The State could choose to simply sell off State Center and move the agencies currently occupying the site into leased office space. The State could take advantage of commercial office space vacancies in Baltimore and also potentially negotiate favorable lease terms due to the large amount of space that the State would pursue. Leasing space impacts the operating budget, but these costs could be partially offset by whatever the State collects in the sale of State Center and in the avoidance of any continuing deferred facility renewal and maintenance required to keep the facilities operational. Moreover, in this option, the cost of renovating and replacing the buildings is avoided. The downside is this creates a vast empty large tract of land in Baltimore City, pending any future development of the site.

- **P3 – Transit-oriented Development:** The State could also consider initiating an entirely new redevelopment plan under a new P3 arrangement guided by the current P3 statutory requirements created under Chapter 5 of 2013. The project would remain unhinged from the capital budgeting and funding process and delivered as either an operating or capital lease. As under the current approved Phase I development, this option would have a significant impact on the general fund to fund the annual operating leases, which would increase significantly as future development phases were brought on line. In addition, the P3 financing could still impact the State's debt affordability ratios, depending upon the financials of the development proposal and determination of either an operating or capital lease.

For further information contact: Matthew D. Klein Phone: (410) 946/(301) 946-5530

Revenues and Taxes

Taxation of Retirement Income

Maryland allows individuals who are at least 65 years of age or totally disabled to exempt a certain amount of retirement income from income taxes (pension exclusion). In addition, certain military retirees can exempt up to $5,000 in military retirement income from income taxes. A variety of legislative proposals to provide additional retirement income tax relief and to increase or expand the military retirement income exemption were introduced in recent years, but none of these proposals were passed into law.

Maryland Tax Treatment of Pension Income

Pension Exclusion

Maryland law provides an income tax pension exclusion (in the form of a subtraction modification) for individuals who are at least 65 years old or who are totally disabled. Under this subtraction modification, up to a specified maximum amount of taxable pension income ($27,100 for 2014) may be exempt from tax. The maximum exclusion allowed is indexed to the maximum annual benefit payable under the Social Security Act and is reduced by the amount of any Social Security payments received (Social Security offset).

The Social Security offset is the reduction in the maximum pension exclusion allowed under current law for an individual. The Social Security offset was established at the same time as the pension exclusion. Given that Social Security benefits are exempt from Maryland income tax even though benefits are partially taxable for federal purposes, the offset works to equalize the tax treatment of individuals who receive their retirement benefits from different sources by reducing the amount of the allowable exclusion by the amount of any Social Security benefits received.

One significant feature of the current pension exclusion is that it is limited to income received from an "employee retirement system." Eligible employee retirement systems are retirement plans established and maintained by an employer for the benefit of its employees and qualified under sections 401(a), 403, or 457(b) of the Internal Revenue Code. These include defined benefit and defined contribution pension plans, 401(k) plans, 403(b) plans, and 457(b) plans. However, individual retirement arrangements (IRA), Keogh plans, and simplified employee pension plans are not considered employee retirement systems. **Exhibit 1** lists the plans that are eligible and ineligible for the pension exclusion.

Exhibit 1
Maryland Pension Exclusion
Eligible and Ineligible Retirement Plans

Eligible	Ineligible
• 401(k) Cash or Deferred Arrangement Plans	• Traditional Individual Retirement Arrangements (IRAs)
• 403(b) Plans	• Rollover IRAs
• 457(b) Plans	• Roth IRAs
• Thrift Savings Plans	• Keogh Plans
• Savings Incentive Match Plan for Employees (SIMPLE) Retirement Plans Under § 401(k) of the IRC	• Simplified Employee Pensions (SEPs)
	• SIMPLE Retirement Plans Under § 408 of the IRC

IRC: Internal Revenue Code

Source: Department of Legislative Services

In addition to the special treatment of Social Security and other retirement income, additional income tax relief is provided to senior citizens regardless of the source of their income. Each individual age 65 and older is allowed a $1,000 personal exemption in addition to the regular personal exemption allowed for all individuals.

Military Retirement Income

In addition to the pension exclusion, certain military retirement income is also exempt from taxation. Chapter 226 of 2006 allowed an individual to exempt the first $5,000 of military retirement income from State and local taxation if the retirement income resulted from service in an active or reserve component of the Armed Forces of the United States or in the Maryland National Guard. Under Chapter 226, retirees from active duty with the Commissioned Corps of the Public Health Service, National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey qualified for the subtraction modification but only if separated from service after July 1, 1991. Chapters 552 and 553 of 2007 eliminated this restriction and allowed all of the individuals described previously to qualify for the subtraction modification without regard to the date of separation from employment.

Recent Retirement Income Legislation

During the 2011 to 2014 term, numerous legislative measures were introduced concerning the taxation of retirement income in general or military retirement income. These measures were usually introduced in an attempt to keep Maryland retirees from moving to states where retirement income is fully exempt from income tax, such as Pennsylvania, or to states without an income tax, such as Florida. While anecdotal evidence has been offered that some retirees leave Maryland because of its tax policies, there is no clear empirical evidence or data to support that assertion. None of the measures introduced were passed into law.

Measures concerning the general taxation of retirement income introduced in recent years included:

- increasing the maximum amount that can be exempt from tax (HB 75 and SB 451/HB 868 of 2014);
- permitting income from additional retirement plans to be included (HB 75, SB 233/HB 424, and HB 558 of 2014);
- creating a new subtraction modification for retirement income received by a taxpayer from a traditional IRA or annuity or a Roth IRA (HB 422 of 2013);
- increasing the additional exemption amount for elderly individuals (HB 874 and SB 730 of 2012); and
- exempting 100% of the income received by an individual who is at least 65 years old (HB 1216 of 2014).

Due to data limitations, determining the fiscal impact of proposals to alter the pension exclusion is difficult. However, the fiscal notes for various bills have estimated that total State and local revenue losses could range anywhere from $60 million to $1.7 billion annually depending on the scope of the measure.

Measures concerning the taxation of military retirement income included:

- increasing the maximum amount of the subtraction modification (SB 278, HB 770, and HB 1420 of 2014) or increasing the maximum amount only for retirees at least 65 years old on the last day of the taxable year (SB 143/HB 353 and HB 1424 of 2014);
- expanding the subtraction modification to exempt 100% of specified military retirement income (HB 442 and HB 1419 of 2014) or removing the limitation on the existing subtraction modification only for retirees at least 65 years old on the last day of the taxable year (HB 1422 of 2014);

- exempting 50% of the specified military retirement income of a taxpayer who commits to living and working in the State for a period required by the Comptroller and works in a health care field identified as having a health care workforce shortage (HB 195 of 2013); and

- allowing military retirement income to qualify for the pension exclusion if the taxpayer is at least 50 years old and is a health care practitioner licensed by the State and employed in a county in which the Department of Health and Mental Hygiene provides financial incentives to promote access to medical care in rural areas (HB 479 of 2014).

Fiscal notes for bills to increase the amount of the military retirement income subtraction modification have estimated that total State and local revenue losses could range anywhere from $4 million to $50 million annually depending on the scope of the measure. The proposals to exempt specified military retirement income of certain health care practitioners are estimated to reduce total State and local revenues by a minimal amount.

For further information contact: Benjamin A. Blank/George H. Butler, Jr. Phone: (410) 946/(301) 970-5350

Revenues and Taxes

Significant Revenue Measures During the 2011 through 2014 Legislative Term

A variety of significant revenue measures enacted during the 2011 through 2014 legislative term and the continued implementation of gaming in the State are estimated to generate over $1.8 billion in general and special fund revenues in 2016.

Revenue Summaries

A number of revenue measures were enacted during the 2011 through 2014 legislative term, including during the two special sessions of 2012. While this paper focuses on these revenue actions, additional actions to alter spending levels were also taken during the four-year legislative term.

Exhibit 1 outlines the major revenue actions enacted in each session and their effect from fiscal 2012 through 2016. As the exhibit shows, total annual revenue increases range from a low of just under $600 million in fiscal 2012 to a high of over $1.8 billion in fiscal 2016, and total almost $7.0 billion for the five-year period. Over 80% of the revenues are for special funds (primarily Medicaid, the Transportation Trust Fund, and the Education Trust Fund), with the remaining revenues for the general fund.

Exhibit 1
Significant Revenue Measures
Fiscal 2012-2016
($ in Millions)

	2012	2013	2014	Est. 2015	Est. 2016	Five-year Cumulative Totals
2011 Session						
Hospital Assessments	$383.0	$387.7	$412.4	$389.8	$389.8	$1,962.8
Nursing Facility Assessments	29.4	123.1	138.6	134.6	137.3	563.0
Certificate of Title Fee Increase	46.4	47.8	48.2	48.7	49.2	240.3
Sales Tax – Cap on Vendor Discount	17.3	17.4	17.8	18.7	19.8	91.0
Tax Clearance for Drivers Licenses/Registration	15.0	20.0	7.5	7.5	7.5	57.5
Sales Tax on Alcoholic Beverages	76.0	83.0	86.7	89.8	94.0	429.5

Exhibit 1 (continued)

	2012	2013	2014	Est. 2015	Est. 2016	Five-year Cumulative Totals
Invest Maryland Program	23.3	23.3	13.3	-20.0	-20.0	19.9
Film Production Tax Credit	-7.5	-7.5	-7.5	0.0	0.0	-22.5
Subtotal 2011 Session	***$582.9***	***$694.9***	***$717.0***	***$669.1***	***$677.6***	***$3,341.5***
2012 Regular and Special Sessions						
Income Tax – Rate Increases/Exemption Reductions	$0.0	$275.2	$195.4	$209.5	$226.2	$906.4
Telecommunications Tax Credit for Utilities – Repeal	0.0	9.6	9.9	10.2	10.5	40.1
Other Tobacco Products – Rate Increase	0.0	5.0	4.8	4.9	5.0	19.7
Nursing Facility Assessments	0.0	11.2	12.6	12.2	12.5	48.5
Bay Restoration Fee Increase	0.0	57.4	61.8	62.4	63.1	244.7
Electronic Gaming Machines − Permanent Extension	0.0	10.7	11.7	11.9	11.7	46.0
Gaming – VLTs and Table Games*	0.0	311.8	401.5	498.3	514.2	1,725.8
Gaming – Lottery Commissions	0.0	-4.4	0.0	-8.8	-8.8	-22.0
Subtotal 2012 Sessions	***$0.0***	***$676.5***	***$697.7***	***$800.7***	***$834.3***	***$3,009.3***
2013 Session						
Motor Fuel Tax – Sales Tax Equivalent Rate	$0.0	$0.0	$97.0	$146.0	$303.0	$546.0
Motor Fuel Tax – Indexing	0.0	0.0	13.0	22.0	39.0	74.0
Vehicle Registration Fee Surcharge Increase	0.0	1.4	16.7	16.9	17.1	52.1
Civil Case Surcharges	0.0	0.0	5.7	5.7	5.7	17.2
Handgun Qualification License Fees	0.0	0.0	3.4	3.7	4.0	11.0
Seat Belt/Child Safety Seat Violation Fees	0.0	0.0	3.1	4.2	4.2	11.5
911 Surcharge on Prepaid Phone Service	0.0	0.0	2.0	4.0	4.1	10.1
Commercial Fishing License Fees	0.0	0.0	1.6	1.6	1.6	4.8
Film Production Activity Tax Credit	0.0	0.0	-17.5	-7.5	-7.5	-32.5
Research and Development Tax Credit	0.0	0.0	-1.5	-1.8	-2.2	-5.4

Exhibit 1 (continued)

	2012	2013	2014	Est. 2015	Est. 2016	Five-year Cumulative Totals
Electric Vehicle Tax Credits	0.0	0.0	-1.3	0.0	-0.6	-1.9
Cybersecurity Investment Tax Credit	0.0	0.0	-3.0	-2.0	-2.0	-7.0
Subtotal 2013 Session	***$0.0***	***$1.4***	***$119.3***	***$192.8***	***$366.4***	***$679.9***
2014 Session						
Estate Tax Recoupling	$0.0	$0.0	$0.0	$0.0	-$21.3	-$21.3
Income Tax Subtraction – Mortgage Debt Relief	0.0	0.0	0.0	-6.6	-6.6	-13.3
Refundable Earned Income Credit	0.0	0.0	0.0	0.0	-4.2	-4.2
Fee Increase on Oil Transferred into the State	0.0	0.0	0.0	3.6	4.7	8.3
E-Nnovation Initiative	0.0	0.0	0.0	-2.7	-2.7	-5.4
Sustainable Communities Tax Credit	0.0	0.0	0.0	-10.9	-12.3	-23.2
Electric Vehicle Tax Credits	0.0	0.0	0.0	-1.8	-1.8	-3.6
Research and Development Tax Credit	0.0	0.0	0.0	-0.5	-0.7	-1.2
Lottery Commissions	0.0	0.0	0.0	7.5	9.1	16.6
Certificate of Title for Rental Vehicles	0.0	0.0	0.0	-4.2	-4.2	-8.4
Biotechnology Tax Credit	0.0	0.0	0.0	-2.0	0.0	-2.0
Cybersecurity Tax Credit	0.0	0.0	0.0	-1.0	0.0	-1.0
Subtotal 2014 Session	***$0.0***	***$0.0***	***$0.0***	***-$18.6***	***-$40.0***	***-$58.6***
Grand Total	**$582.9**	**$1,372.8**	**$1,534.0**	**$1,644.0**	**$1,838.3**	**$6,972.0**

VLT: video lottery terminal

*Includes actual total gross revenue from VLTs and table games through fiscal 2013 and estimates for fiscal 2014 through 2016 from the Board of Revenue Estimates, excluding amounts provided to licensees.

Note: Estimates include the impact on both general and special fund revenues. For some provisions, estimates have been revised to reflect updated information and tax collection data.

Source: Department of Legislative Services

2011 Session

Several revenue increases were adopted during the 2011 session, increasing overall revenues by $583 million in fiscal 2012 and over $3.3 billion for the five-year period. The primary revenue increase was related to changes in assessments paid by hospitals and nursing homes, which increased revenues by over $400 million in fiscal 2012 and approximately $2.5 billion over the five-year period. Another significant revenue measure during the 2011 session was the increase in the alcoholic beverage sales tax rate from 6% to 9%, which increased revenues by $76 million in fiscal 2012 and by an estimated $430 million over the five-year period.

2012 Regular and Special Sessions

During the 2012 regular session and the two special sessions later that year, a number of revenue measures were adopted, including legislation to provide for additional gaming in the State (subject to voter approval at the November 2012 election), legislation to significantly alter the State individual income tax, and legislation to alter nursing facility assessments. Overall, legislative measures passed during the 2012 regular and special sessions increased revenues by approximately $677 million for fiscal 2013, by almost $700 million for fiscal 2014, and by an estimated total of $3.0 billion over the five-year period.

The continued implementation of gaming in the State, including the authorization of table games and 24-hour-a-day operations at gaming facilities (subsequently approved by voters), provides over half of the revenues generated for fiscal 2012 through 2016 ($1.7 billion). Most of the remaining revenues result from legislation that altered several individual income tax brackets and rates as well as personal exemption amounts for some taxpayers beginning in tax year 2012, which is estimated to yield just over $900 million over the five-year period.

2013 Session

During the 2013 session, legislation resulted in an overall revenue increase of $119 million for fiscal 2014 and an estimated total increase of $680 million over the five-year period. This is primarily due to the Transportation Infrastructure Investment Act (Chapter 429), which provided additional transportation funding by indexing the motor fuel tax rates to the Consumer Price Index and imposed a sales and use tax equivalent rate on motor fuel sales, among other provisions.

2014 Session

Revenue actions during the 2014 session are estimated to result in a small overall revenue decrease in fiscal 2015 and 2016. Additional funding for a variety of tax credits and an income tax subtraction modification for certain mortgage debt relief are estimated to reduce revenues by approximately $25 million in fiscal 2015, partially offset by revenues resulting from an increase in the fee imposed on oil transferred into the State and a reduction in lottery agent commissions.

A revenue reduction of approximately $21.3 million in fiscal 2016 is expected from the first year of a phased-in recoupling of the State estate tax exemption amount to the federal estate tax, with full recoupling scheduled for calendar 2019. A reduction of $4.2 million is also expected in fiscal 2016 from the first year of a phased-in increase in the value of the refundable earned income credit; the value will increase from 25% to 28% of the federal earned income credit over a four-year period beginning in tax year 2015.

Revenues and Taxes

Implementation of Casino Gaming

Casinos in Baltimore City and Allegany, Anne Arundel, Cecil, and Worcester counties are currently operating, with a Prince George's County facility scheduled to open in 2016. Maryland's gaming expansion has negatively impacted gaming revenues in surrounding states, and Delaware is one of three states to have authorized online gaming as a way to enhance gaming revenues.

Implementation of Video Lottery Terminals and Table Games

There are currently five casinos operating in Baltimore City and Allegany, Anne Arundel, Cecil, and Worcester counties, as originally authorized by the voters by constitutional amendment in 2008. **Exhibit 1** shows the number of video lottery terminals (VLTs) and table games in operation at each facility as of September 30, 2014.

Exhibit 1
Number of VLTs and Table Games in Operation by Facility

Facility	VLTs	Table Games
Anne Arundel	4,220	189
Baltimore City	2,500	147
Cecil	1,158	22
Worcester	800	-
Allegany	577	17
Total	**9,255**	**375**

VLT: video lottery terminal

Source: State Lottery and Gaming Control Commission

A sixth facility in Prince George's County was authorized by voter referendum in 2012 and is scheduled to open in summer 2016 with 3,600 VLTs and 140 table games.

VLT and Table Game Revenues

Exhibit 2 shows actual and anticipated gross VLT and table game revenues for fiscal 2011 through 2017 (not including one-time initial license fees) by facility. **Exhibit 3** shows the same revenues (not including one-time initial license fees) by fund.

Exhibit 2
Gross Gaming Revenues Generated by Facility
Fiscal 2011-2017
($ in Millions)

	2011	2012	2013	2014	Est. 2015	Est. 2016	Est. 2017
VLTs							
Anne Arundel		$28.5	$431.1	$419.0	$354.5	$333.9	$289.8
Baltimore City					193.8	280.3	267.4
Cecil	$82.7	118.1	76.0	72.1	69.7	68.2	66.9
Worcester	20.4	48.0	50.4	52.0	53.2	54.1	54.4
Allegany			2.8	35.3	44.1	45.0	45.1
Prince George's							428.9
Total VLTs	**$103.1**	**$194.5**	**$560.3**	**$578.4**	**$715.3**	**$781.3**	**$1,152.5**
Table Games							
Anne Arundel			$41.6	$235.4	$200.3	$186.6	$155.3
Baltimore City					110.6	159.5	146.7
Cecil			6.0	13.6	11.8	11.6	10.8
Worcester							
Allegany			0.5	5.9	6.2	6.3	6.2
Prince George's							183.1
Total Table Games			**$48.0**	**$254.9**	**$328.9**	**$363.9**	**$502.2**
Total VLT and Table Games	**$103.1**	**$194.5**	**$608.3**	**$833.3**	**$1,044.2**	**$1,145.2**	**$1,654.7**

VLT: video lottery terminal

Note: Figures may not sum due to rounding.

Source: Department of Legislative Services

Exhibit 3
Gaming Revenues Generated by Fund
Fiscal 2011-2017
($ in Millions)

	2011	2012	2013	2014	Est. 2015	Est. 2016	Est. 2017
VLTs							
Education Trust Fund	$50.1	$94.3	$274.7	$277.1	$330.2	$341.4	$457.0
Lottery Operations	2.1	3.9	11.2	11.6	12.5	8.3	12.0
Purse Dedication Account	7.2	13.6	39.1	38.9	48.1	52.7	67.6
Racetrack Renewal Account	2.6	4.9	10.8	9.5	7.4	7.4	11.1
Local Impact Grants	5.7	10.7	30.7	30.8	38.1	41.7	62.1
Business Investment	1.5	2.9	8.4	8.4	10.4	11.4	16.9
Licensees	34.0	64.2	185.4	202.1	268.6	318.5	525.8
Total VLTs	**$103.1**	**$194.5**	**$560.3**	**$578.4**	**$715.3**	**$781.3**	**$1,152.5**
Table Games							
Education Trust Fund			$9.6	51.0	$65.8	$72.8	$75.3
Local Impact Grants							25.1
Licensees			38.4	203.9	263.1	291.1	401.7
Total Table Games			**$48.0**	**$254.9**	**$328.9**	**$363.9**	**$502.2**
VLT and Table Games	**$103.1**	**$194.5**	**$608.3**	**$833.3**	**$1,044.2**	**$1,145.2**	**$1,654.7**
Education Trust Fund	**$50.1**	**$94.3**	**$284.3**	**$328.1**	**$396.0**	**$414.2**	**$532.3**

VLT: video lottery terminal

Source: Department of Legislative Services

Gaming in Surrounding States

The implementation of additional gaming in Maryland, particularly with the introduction of table games, has contributed to recent declines in gaming revenue at facilities in Delaware, Pennsylvania, and West Virginia.

Delaware

Delaware's total fiscal 2014 VLT revenues declined by 11.8% from the prior year while table game revenues declined by 20.1%. Facing declining revenues and increased competition, Delaware agreed to give its casinos an additional $8 million in fiscal 2014 to help those facilities cover anticipated increases in slot machine vendor fees.

West Virginia

West Virginia's fiscal 2014 table game revenues decreased by $56.5 million from the prior year, a 28.2% year-over-year decrease, while fiscal 2014 VLT revenues decreased by 9.6%. VLT and table game revenues at the Charles Town casino decreased by 10.3% and 35.0%, respectively, in fiscal 2014.

Pennsylvania

Pennsylvania's overall gaming revenues have fared better than in Delaware and West Virginia, as Pennsylvania's table game revenues increased by 2.6% in fiscal 2014 and VLT revenues only decreased by 4.5%. However, VLT revenues decreased at all three Philadelphia area casinos, and table game revenues decreased at one of those casinos in fiscal 2014.

Recent Developments in Online Gaming

The U.S. Department of Justice opened the door to online gaming in 2011 when it ruled that the Interstate Wire Act of 1961 only applied to sports betting. Three states have implemented some form of online gaming. Nevada authorized online poker and Delaware and New Jersey have launched full-scale online gaming operations. Generally, online gaming in each state is limited to residents and visitors physically located in the state. In February 2014, in order to create a larger pool of poker players, Delaware and Nevada entered into a Multi-State Internet Gaming Agreement. The agreement, which is the country's first gaming compact, will allow bettors in both states to compete for the same winnings. Each state will receive a percentage of the rake (commission) attributable to the players from that state.

Delaware and Nevada impose the same tax rate on online gaming as is imposed on gaming in casinos. In addition, Delaware collects the first $3.75 million of online gaming revenue each year. New Jersey taxes online gaming at 15% of gross gaming revenue, higher than the 8% rate imposed on casino gaming. Delaware has collected almost $1.5 million in revenue from online gaming in the first eight months of 2014. New Jersey, by far the largest of the three states, has collected almost $15 million in tax revenue from online gaming in the first nine months of 2014.

According to the National Conference of State Legislatures, California, Mississippi, New York, and Pennsylvania all considered but did not approve legislation to authorize online gaming in 2014. The Maryland General Assembly has not yet considered legislation that would allow for online gaming in the State. In addition, it is unclear if online gaming would be considered an "additional form or expansion of commercial gaming" that would require voter approval by referendum under Section 1 of Article XIX of the Maryland Constitution.

Revenues and Taxes

Evaluation of the Earned Income and Film Production Activity Tax Credits

The Tax Credit Evaluation Act of 2012 requires an evaluation of the earned income and film production activity tax credits by July 1, 2015. The Department of Legislative Services (DLS) evaluated each credit during the 2014 interim. DLS recommends several changes to improve the effectiveness of the earned income tax credit but recommends that the film production activity tax credit be allowed to expire on its currently scheduled sunset date of July 1, 2016.

Tax Credit Evaluation Act

In response to concerns about the fiscal impact of tax credits on State finances, Chapters 568 and 569 of 2012, the Tax Credit Evaluation Act, established a legislative process for evaluating certain tax credits. The evaluation process is conducted by a legislative evaluation committee that is appointed jointly by the President of the Senate and the Speaker of the House of Delegates. The Act requires that the evaluation committee review specified tax credits each year.

To assist the committee in its work, the Department of Legislative Services (DLS) is required to publish a report evaluating the tax credit, which must discuss (1) the purpose for which the tax credit was established; (2) whether the original intent of the tax credit is still appropriate; (3) whether the tax credit is meeting its objectives; (4) whether the goals of the tax credit could be more effectively carried out by other means; and (5) the cost of the tax credit to the State and local governments. DLS recently conducted an evaluation of the State earned income tax credit and the film production activity tax credit, as the evaluation committee is required to review these credits by July 1, 2015.

Evaluation of the Earned Income Tax Credit

First enacted in 1975, the federal earned income tax credit is a refundable tax credit offered to low-income workers. The federal credit has expanded significantly over time and is now one of the largest federal antipoverty programs. Maryland and about half of all states and the District of Columbia offer a state earned income tax credit that supplements the federal credit. The fiscal impact of the Maryland earned income tax credit has expanded significantly over time, with approximately $300 million in State and local earned income tax credits claimed in tax year 2012. While there is general consensus that earned income tax credits are effective in raising low-income households out of poverty, credit effectiveness is limited by high rates of improper payments, the use of paid tax preparers that charge for high-cost products, and participation rates that could be improved. Additionally, the ability of the credits to reduce concentrated poverty and deep poverty is limited given the credit's work component.

Based on the information and analysis provided in the report, DLS recommends several changes to improve the State earned income tax credit. These recommendations include (1) designating the Department of Human Resources to promote the credit and gather information regarding participation rates and the credit's effectiveness; (2) examining the feasibility of simplifying the administration and claiming of the State credit; (3) requiring the Office of the Comptroller to institute additional educational and outreach efforts to both taxpayers and tax preparers and to investigate improper payments and develop strategies to address those payments; (4) examining additional measures to limit the adverse effects of refund anticipation products on the effectiveness of the credit; and (5) providing additional funding for free tax preparation services in order to combat the erosion of credit funds by tax preparation costs.

Evaluation of the Film Production Activity Tax Credit

Film production incentives have gained popularity in the past decade, with 37 states and the District of Columbia offering incentives in 2014. Maryland began offering financial assistance to encourage film production activities in 2001 and adopted the current film production activity tax credit beginning in 2012. A qualified film production entity that meets specified requirements and is approved by the Department of Business and Economic Development may receive a refundable tax credit of up to 27% of the qualified direct costs of a film production activity.

The DLS evaluation report concludes that the economic development activity generated by film productions is of a short duration. As soon as a film production ends, all positive economic impacts cease too. As such, the film production activity tax credit does not provide long-term employment. Maryland has provided $62.5 million in tax credits between fiscal 2012 and 2016 while only receiving a fraction of the tax credit amounts back in revenues to the State and local governments. Additionally, states are fiercely competing with one another to draw productions into their state. This type of competition is not only expensive, but promotes unhealthy competition among states.

The cost of film incentives to states has risen dramatically as a result of both the increase in the number of states offering incentives and increase in the generosity of programs as states try to remain competitive with each other. With increased competition among states, Maryland's return on investment for film production incentives has decreased over time. When analyzing incentives in other states, it is clear that the economic benefits of film production activity tax credits cannot be sustained in the absence of continued significant funding of industry subsidies each year. Since the credit does not provide sustainable economic development and provides a small return on investment to the State and local governments, DLS recommends that the General Assembly allow the film production activity tax credit to sunset as scheduled on July 1, 2016. If the General Assembly decides to extend the film production activity tax credit beyond July 1, 2016, the report includes several recommendations to improve the credit.

For further information contact: Heather N. Ruby/Robert J. Rehrmann Phone: (410) 946/ (301) 970-5510

State Retirement and Pension System Investment Performance and Contribution Rates

The pension fund's fiscal 2014 return on investments was 14.4%, which is the fourth time in five years return on investments exceeded the assumed rate of return. The system's asset valuation policy smooths gains and losses over five years. Consequently, the plan recognizes only a small portion of the gains. The plan's funded status increased to 67.7%, compared to 64.6% at the end of fiscal 2013. To improve the system's funded status, the legislature adopted pension reform in the 2011 session. Legislation phasing out the "corridor" funding method, changing the amortization of unfunded liabilities, and providing for supplemental contributions has also been enacted.

Investment Performance Exceeds Assumed Rate of Return

The State Retirement and Pension System's (SRPS) investment return for the year that ended on June 30, 2014, was 14.39%, exceeding the system's investment return target for the fourth time in five years.[1] The strong performance was driven primarily by domestic and international equities; the system's public equity holdings, which made up 38.91% of the portfolio, returned 22.14% for the year. While U.S. public equity holdings returned an excess of 0.86% over the benchmark, total public equity holdings (U.S., international, and global) were 1.0% below the pension plan's return benchmark. The pension fund's real estate and private equity holdings also contributed strong performance, returning 14.16% and 19.56%, respectively, with both exceeding their return benchmarks. By contrast, fixed-income holdings, which made up almost 15.0% of the system's holdings, returned only 4.61%.

The system's investment returns lagged those of most comparable large state pension plans due to a relative underweight to public equities, which were the strongest performing asset class in the fiscal year just ended. However, in total, the plan did outperform its policy benchmark by 21 basis points. The credit/debt, fixed income, and private equity categories, which comprise 31.81% of plan holdings, all exceeded their plan benchmarks by at least 100 basis points (1.0%).

[1] All returns are net of fees. The assumed rate of return for fiscal 2014 is 7.65%. In 2012, beginning with the 2013 valuation, the Board of Trustees decided to reduce the 7.75% assumed rate of return by 0.05% each year until it is 7.55%.

Improvements to the System's Financial Condition Driven by Investment Returns and Policy Changes

From fiscal 2013 to 2014, SRPS's funded status (the ratio of projected actuarial assets to projected actuarial liabilities) improved from 64.6% at the end of fiscal 2013 to 67.7% at the end of fiscal 2014 (these figures exclude funding for local governments that participate in the State plan). Total State liabilities increased from $55.7 billion to $58.0 billion, with the unfunded liability decreasing from $19.6 billion to $18.8 billion due to the corresponding increase in system assets.

The June 30, 2013 valuation was the final year that the system recognized a portion of the investment losses totaling $10.1 billion incurred in fiscal 2009 as a result of the crisis in financial markets. Due to the system's policy of spreading out, or smoothing, recognition of investment gains and losses over five years, the system was recognizing more than $860 million in losses from fiscal 2009 alone in each of the last five valuations. Fiscal 2014 is the first year in which those losses are not reflected in the valuation. For the fiscal 2010 through 2014 valuation period, fiscal 2012 is the only year in which plan investments did not exceed the assumed rate of return. Total system return for fiscal 2010 through 2014 is 11.68%, which is 90 basis points above the plan return benchmark for that period.

Several combined factors mean that the system is now poised to show accelerated improvement in its funding status, including (1) the great recession investment losses being fully recognized in the system valuation; (2) unrecognized investment gains due to be recognized in this and subsequent year's valuations; (3) the increasing number of new members entering the system under the reformed benefit structure enacted in 2011, which constrains the growth in system liabilities; and (4) the phase-out of the corridor funding method.

Funding Reforms Bring Contributions Closer to Full Funding Rates

System Contribution Rates Nearing Actuarial Determined Contribution Rates

Exhibit 1 shows that the employer contribution rate for teachers will increase from 16.53% in fiscal 2015 to 17.27% in fiscal 2016, and the contribution rate for State employees will increase from 16.45% in fiscal 2015 to 17.70% in fiscal 2016. The aggregate State contribution rate, including contributions for public safety employees and judges, increases from 17.44% in fiscal 2015 to 18.32% in fiscal 2016. Based on projected payroll growth and other factors, the SRPS actuary estimates that total employer pension contributions will increase by $141.4 million, from $1.70 billion in fiscal 2015 to $1.85 billion in fiscal 2016. These funding rates and contribution amounts are inclusive of the required supplemental contributions required by Chapter 464 of 2014 and the adjustment for the corridor funding method for the Teachers' and Employees' Systems.

Exhibit 1
State Pension Contributions
Fiscal 2015-2016

	2015		2016	
Plan	**Rate**	**$ in Millions**	**Rate**	**$ in Millions**
Teachers	16.53%	$1,057.6	17.27%	$1,126.6
Employees	16.45%	523.9	17.70%	591.3
State Police	84.73%	71.2	81.24%	73.2
Judges	42.74%	18.0	40.70%	18.1
Law Enforcement Officers	43.10.%	38.4	42.14%	41.2
Aggregate	**17.44%**	**$1,709.0**	**18.32%**	**$1,850.4**

Note: Except for the Teachers' Combined System (TCS), contribution rates and dollar amounts reflect State funds only, excluding municipal contributions. For TCS, they reflect the combined total of State and local contributions. The figures also reflect the supplemental contributions established by Chapter 464 of 2014.

Source: Gabriel, Roeder, Smith & Co.

Employer contribution rates were subject to multiple influences this year, some exerting upward pressure and others downward pressure. For the first time in recent memory, investment returns exerted downward pressure on contribution rates. Chapters 475 and 476 of 2013 replaced the previous tiered amortization schedule with a single 25-year closed amortization period. By spreading out payment of existing unfunded liabilities over 25 years, Chapters 475 and 476 continue to exert downward pressure on contribution rates.

Going forward, another provision of Chapters 475 and 476 will continue to exert mild upward pressure on contribution rates, thereby helping to improve the system's financial condition. In addition to altering the amortization policy, Chapters 475 and 476 phase out the corridor funding method over 10 years, which has restricted the growth of contribution rates for the Teachers' Combined System (TCS) and the Employees' Combined System, the two largest plans within SRPS. Under the corridor method (adopted during the 2002 legislative session), the employer contributions in the two plans increase by an amount equal to 20% of the difference between the prior year's rate and the actuarially determined rate required to fully fund the systems. By phasing out the corridor method, Chapters 475 and 476 ensure that in each succeeding year the budgeted corridor contribution rate will move closer to the higher actuarially determined rate necessary to fully fund the system until they are equal in fiscal 2024.

Supplemental Contributions Increase Contribution Rates Above the Actuarially Determined Rates

Chapter 397 of 2011 required a supplemental contribution of $300 million starting in fiscal 2013, which was intended to begin closing the gap between the lower corridor funding rate and the actuarially determined contribution rate as a means of improving the system's financial condition. Actions taken to balance the fiscal 2014 and 2015 budgets altered the amount of the supplemental contributions. Chapter 464 of 2014 requires a supplemental contribution of $100 for fiscal 2014 and 2015 and a supplemental contribution of $150 million for fiscal 2016. The amount of the supplemental contribution increases by $50 million each fiscal year until it reaches $300 million. The supplemental contribution is required until the system is 85% funded and fully phased out of the corridor funding method.

As shown in **Exhibit 2**, in the absence of the supplemental contributions and corridor method, the actuarially determined contribution rate for TCS would be 16.15%. Without the supplemental contribution, the rate under the corridor calculation is 15.71%. The supplemental contribution rate of 1.56%, brings the total budgeted rate to 17.27%, exceeding the actuarially determined rate by 1.12 percentage points. The same is true for the system as a whole – the budgeted contribution rate of 18.32%, which includes the corridor calculation (16.83%) and the reinvested savings (1.49%), exceeds the actuarially determined rate of 17.61% by 71 basis points. Due in part to the changes made to the amortization policy and the phasing out of the corridor funding method, the supplemental contribution is providing excess contribution over the actuarially determined rates. However, the excess that the supplemental contribution provides remains necessary to achieve the General Assembly's goal of achieving an 80.0% funded ratio by fiscal 2024.

Local School Board Contributions to the Teachers' Pension System

Chapter 1 of the first special session of 2012 requires local school boards to make contributions for members of the Teachers' Retirement and Pension systems (TRS/TPS). The contribution amounts are the amounts associated with the normal cost for local employees in the TRS/TPS. The normal cost is the portion of the yearly contribution rate, which reflects the amounts needed to fund liabilities that will be accrued in the upcoming year. For fiscal 2013 through 2016, the dollar amounts required to be paid by each local school board were set in statute. For fiscal 2016, local employers will pay $254.8 million of the $334.0 million normal cost. The total State contribution to the TCS will be $871.8 million, which consists of $79.2 million of the normal cost, $691.1 million for unfunded liabilities, and $101.5 million in supplemental contributions.

Exhibit 2
Effect of Supplemental Contributions
Fiscal 2016

Plan	Actuarially Determined Rate	Corridor Rate	Supplemental Contribution	Budgeted Rate	Difference between Budgeted and Actuarial Rates
ECS	17.89%	16.38%	1.32%	17.70%	-0.19%
TCS	16.15%	15.71%	1.56%	17.27%	1.12%
State Police	78.91%	n/a	2.33%	81.24%	2.33%
Judges	40.70%	n/a	n/a	40.70%	0.00%
LEOPS	39.77%	n/a	2.37%	42.14%	2.37%
Weighted Total	**17.61%**	**16.83%**	**1.49%**	**18.32%**	**0.71%**

ECS: Employees' Combined System
LEOPS: Law Enforcement Officers' Pension System
TCS: Teachers' Combined System

Note: Budgeted rates for the Employees' and Teachers' Combined Systems are the sum of the contribution rates determined under the corridor method and the supplemental contribution. Budgeted rates for State Police and LEOPS are the actuarially determined rates plus the supplemental contribution. The Judges system does not participate in the supplemental contribution.

Source: Gabriel, Roeder, Smith & Co., September 2014

Personnel

State Workforce and Payroll

Since fiscal 2006, the total number of budgeted State positions has increased from 78,673 to 80,787. Declines in State agency positions were offset by increases in higher education and judicial positions. Personnel costs increased by 37.5% from fiscal 2006 to 2015. Salary costs increased 29.2%, budgeted State health insurance subsidies increased 35.5%, and retirement contributions increased 176.7%.

Budgeted Regular Positions

Regular full-time equivalent positions are requested by the Administration and authorized by the General Assembly when the State budget is passed. Section 31 of the fiscal 2014 budget bill limits position growth above that level by allowing the Board of Public Works to authorize no more than 100 additional positions during fiscal 2015, outside of exempted provisions for hardship, manpower, statutes, block grants, new facilities, and/or emergencies. The total does not include higher education institutions, the Maryland Aviation Administration, and the Maryland Port Administration.

To date, the board has created 47 new positions. The Department of Human Resources (DHR) received 45 positions in October to support the Maryland Health Benefit Exchange. The Department of Health and Mental Hygiene (DHMH) also received 1 position to support the exchange, while the Maryland Institute for Emergency Medical Services Systems and the State Board of Elections received part-time positions to support a higher workload.

Budget spending limits, position caps restricting growth, attrition, and abolitions prompted by budgetary constraints have decreased the nonhigher education Executive Branch workforce from 52,924 positions in fiscal 2006 to 50,480 in the fiscal 2014 working appropriation. The number of positions increased to 51,025 in fiscal 2015. **Exhibit 1** shows that the number of positions increased from fiscal 2006 to 2015. The increase in the State workforce since fiscal 2006 is attributable to additional higher education positions. From fiscal 2006 to 2015, approximately 2,100 positions were added. Higher education added almost 3,600 positions while other agencies have eliminated almost 1,500 positions. Somewhat offsetting these increases are reductions in DHMH and DHR, which lost over 1,200 and 500 positions, respectively.

Exhibit 1
Regular Full-time Equivalent Positions Changes
Fiscal 2006 Actual to Fiscal 2015 Legislative Appropriation

Department/Service Area	2006 Actual	2014 Working Approp.	2015 Legis. Approp.	2014-2015 Change
Health and Human Services				
Health and Mental Hygiene	7,631	6,407	6,388	-19
Human Resources	7,005	6,529	6,487	-42
Juvenile Services	2,081	2,078	2,074	-4
Subtotal	**16,717**	**15,014**	**14,949**	**-65**
Public Safety				
Public Safety and Correctional Services	11,279	11,046	11,126	80
Police and Fire Marshal	2,464	2,424	2,445	21
Subtotal	**13,742**	**13,470**	**13,571**	**101**
Transportation	**9,012**	**8,784**	**9,179**	**395**
Other Executive				
Legal (Excluding Judiciary)	1,563	1,505	1,503	-2
Executive and Administrative Control	1,650	1,635	1,650	16
Financial and Revenue Administration	2,028	2,054	2,107	53
Budget and Management and DoIT	431	441	450	9
Retirement	186	205	205	0
General Services	643	580	592	12
Natural Resources	1,367	1,295	1,302	7
Agriculture	428	383	385	2
Labor, Licensing, and Regulation	1,460	1,647	1,641	-5
MSDE and Other Education	2,140	1,973	1,980	6
Housing and Community Development	318	337	339	2
Business and Economic Development	292	222	219	-3
Environment	949	937	955	18
Subtotal	**13,453**	**13,213**	**13,327**	**114**
Executive Branch Subtotal	**52,924**	**50,480**	**51,025**	**545**
Higher Education	**21,714**	**25,355**	**25,282**	**-74**
Executive and Higher Education Subtotal	**74,638**	**75,835**	**76,307**	**472**
Judiciary	**3,291**	**3,639**	**3,733**	**94**
Legislature	**744**	**748**	**748**	**0**
Grand Total	**78,673**	**80,222**	**80,787**	**566**

DoIT: Department of Information Technology MSDE: Maryland State Department of Education

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

Higher Education Positions Offset Reductions in Other Agencies

Chapters 239 and 273 of 2004 provided the University System of Maryland (USM) and Morgan State University with autonomy from the General Assembly to establish staffing levels absent specific legislative constraints, as did Chapter 401 of 2003 for St. Mary's College of Maryland. By the end of October 2014, the fiscal 2015 impact of these laws was the addition of 301 positions in USM institutions. This is consistent with trends in previous years. As previously discussed, higher education institutions have been continuously adding positions while other agencies reduce them.

Regular Position Compensation Expenditures

The budgeted expenditure for salaries totals $5 billion in fiscal 2015. **Exhibit 2** shows that total salaries have increased on average 2.9% annually since fiscal 2006. The cost of fringe benefits continues to grow at a much greater pace than that of salaries.

Retirement contributions made by the State have grown by 12.0% annually since fiscal 2006, making it the area of employee compensation with the largest percent increase over the time period. The increase is primarily due to investment losses in fiscal 2008 and 2009 that raise the required employer contribution level. There were also enhancements enacted in fiscal 2006 that raised the benefit multiplier. In light of these accelerating long-term liabilities and their associated current expenditure requirement, pension reform enacted in the 2011 session made significant changes to the benefit structure and funding mechanism of the pension system to slow future increases. For more detail on the status of the pension system, see the Pension Performance Issue Paper.

Exhibit 2
Regular Employee Compensation
($ in Millions)

	2006 Actual	2015 Leg. Approp.	$ Change 2006-2015	Total Increase	Annual % Change 2006-2015
Earnings					
Salary	$3,811.7	$4,993.4	$1,181.7	31.0%	3.05%
Other Earnings[1]	348.1	382.8	34.7	10.0%	1.06%
Earnings Subtotal	***$4,159.8***	***$5,376.2***	***$1,216.4***	***29.2%***	***2.89%***
Other Compensation					
Health[2]	$743.3	$1,007.3	$264.0	35.5%	3.43%
Retirement/Pensions[3]	275.8	763.0	487.2	176.7%	11.97%
Salary-dependent Fringe[4]	292.1	372.5	80.4	27.5%	2.74%
Agency-related Fringe[5]	183.5	255.5	72.1	39.3%	3.75%
Other Compensation Subtotal	***$1,494.6***	***$2,398.3***	***$903.7***	***60.5%***	***5.39%***
Total Compensation	**$5,654.3**	**$7,774.5**	**$2,120.1**	***37.5%***	***3.60%***

[1]Other Earnings – Overtime and Shift Differentials
[2]Health – Employee and Retiree Health Insurance
[3]Retirement/Pensions – All Pension/Retirement Systems
[4]Salary-dependent Fringe – Social Security and Unemployment Compensation
[5]Agency-related Fringe – Other Post Employment Benefits, Deferred Compensation Match, Workers' Compensation, and Tuition Waivers

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

Update on Other Post Employment Benefits

The State offers subsidized health care benefits for certain retirees. For accounting purposes these are classified as Other Post Employment Benefits (OPEB). These costs are paid for on a pay-as-you-go basis, and there is a $8.7 billion unfunded liability as of June 30, 2014. Since fiscal 2008, states have been required to report the net OPEB obligation on the balance sheet.

Financial Obligation for Retiree Health Care Benefits Grows

A combination of legislative changes, positive claims experience, and updated actuarial assumptions helped reduce the State's overall unfunded liability for Other Post Employment Benefits (OPEB) by almost 50% from fiscal 2010 levels, but the State's financial obligation for those benefits continues to grow due to repeated underfunding. OPEB refers to Other Post Employment Benefits besides pensions; in Maryland's case, it refers to the subsidized health benefits currently provided to retired State employees. Chapter 397 of 2011 altered eligibility for those retiree health benefits for State employees hired after June 30, 2011, and eliminated prescription drug coverage for all Medicare-eligible retirees beginning in fiscal 2020. As shown in **Exhibit 1**, these changes dramatically reduced the State's unfunded liability for those benefits from $15.9 billion in fiscal 2010 to $9.5 billion in fiscal 2011; the unfunded liability dropped again to $8.1 billion in fiscal 2013 due to positive claims experience and updated actuarial assumptions. A modest increase in unfunded liabilities in fiscal 2014 can be attributed to multiple factors, including negative claims experience, a decrease in the rate used to discount liabilities, and recognition of the excise tax that will likely be assessed under the federal Patient Protection and Affordable Care Act, beginning in 2018.

Exhibit 1
State Retiree Health Liabilities and Required Contributions
Fiscal 2010-2014

	2010	2011	2012	2013	2014
OPEB Actuarial Liability	$16,099	$9,732	$9,825	$8,344	$8,964
Actuarial Value of Assets	183	196	209	223	250
Unfunded OPEB Liability	**$15,915**	**$9,536**	**$9,617**	**$8,121**	**$8,714**
Normal Cost	$583	$323	$274	$229	$224
Amortization Payment	642	381	382	347	350
Annual Required Contribution	**$1,225**	**$704**	**$656**	**$576**	**$574**

OPEB: Other Post Employment Benefits

State Underfunds Its OPEB Costs

Exhibit 1 also shows that the annual required contribution (ARC) necessary to pay off the State's liabilities over 25 years has dropped to $574 million in fiscal 2014. However, this figure now understates Maryland's financial obligation to pay for the benefits it provides because it has never fully funded the ARC in previous years. From an accounting standpoint, the cumulative underfunding of the ARC results in interest charges on the unpaid balance. Under Governmental Accounting Standards Board (GASB) accounting standards, the State's net OPEB obligation (NOO) that is reported on its financial statements reflects the cumulative effect of underfunded ARCs and interest charges on the unfunded balances. **Exhibit 2** shows the calculation of the State's NOO since new GASB standards were implemented in fiscal 2008.

Exhibit 2
Maryland's Net OPEB Obligation
Fiscal 2008-2014

	2008	2009	2010	2011	2012	2013	2014
Beginning NOO	n/a	$695,921	$1,478,130	$2,332,502	$3,198,691	$3,531,520	$3,786,997
Adjusted ARC	$1,086,240	$1,118,672	$1,127,220	$1,134,735	$581,198	$498,465	$419,525
Interest on NOO	0	29,925	63,560	100,298	137,544	150,090	160,948
Annual OPEB Cost	**$1,086,240**	**$1,148,597**	**$1,190,780**	**$1,235,033**	**$718,742**	**$648,555**	**$580,473**
PAYGO costs	$271,435	$315,257	$336,408	$368,844	$385,913	$393,078	$402,794
Pre-funding	118,884	51,131	0	0	0	0	0
Annual Payments	**$390,319**	**$366,388**	**$336,408**	**$368,844**	**$385,913**	**$393,078**	**$402,794**
End-of-year NOO	**$695,921**	**$1,478,130**	**$2,332,502**	**$3,198,691**	**$3,531,520**	**$3,786,997**	**$3,964,676**

ARC: annual required contribution
NOO: net Other Post Employment Benefits obligation
OPEB: Other Post Employment Benefits

As Exhibit 2 shows, the NOO continues to grow because the State's annual payments since fiscal 2008 have been less than the respective ARCs, resulting in cumulative unfunded costs and annual interest charges on those amounts. In fiscal 2008 and 2009, the State made modest pre-funding payments toward its OPEB liability in an effort to control the growth of the NOO, but beginning in fiscal 2010, the State's only payments toward the OPEB cost have been claims cost reimbursements (*i.e.,* pay-as-you-go costs (PAYGO)). Although the gap between claims costs and the ARC has narrowed substantially, the State has never fully paid the ARC in any fiscal year, so each year the interest charges and NOO continue to grow. In fiscal 2014, projected claims costs of $402.7 million fall $177.7 million short of the OPEB cost for the year, and that figure will continue to grow as interest charges on underfunded ARCs continue to accumulate.

As of September 30, 2014, the Postretirement Health Benefits Trust Fund, which was established to hold assets paid by the State against future OPEB liabilities, holds $266 million, or 2.8%, of assets needed to pay future OPEB liabilities on an actuarial basis. These funds reflect the amount contributed in excess of PAYGO costs in fiscal 2008 and 2009, plus accumulated investment returns. Few states have taken steps to address their OPEB liabilities, and rating agencies have not downgraded any state's credit rating solely on the basis of those liabilities. However, continued inaction to address long-term OPEB liabilities may have negative budgetary as well as credit rating repercussions as baby boomers retire and claim their health benefits.

Personnel

New Employee and Retiree Health Insurance Plan

A new employee and retiree health care plan is effective on January 1, 2015. The plan includes many of the same benefits as previous plans. A key new feature is a wellness plan that requires employees, retirees, and covered spouses to complete a State-administered health risk assessment and discuss it with their physician. Individuals with chronic conditions may be identified to participate in a disease management plan. Individuals that do not take assessments and follow plans will be assessed penalties. The goal of the plan is to improve health outcomes and reduce costs.

State Employee and Retiree Health and Welfare Benefits Program

State employees' and retirees' new health care plan begins on January 1, 2015. This plan will be effective throughout the calendar year. As with previous plans, medical, mental health, vision, dental, life insurance, and accidental death and dismemberment benefits are offered.

Prescription drug, life insurance, and accidental death and dismemberment services are each offered through a single vendor. Dental insurance is provided through a dental health maintenance organization (HMO) or a preferred provider organization (PPO). An HMO is a network of providers that provide care. Individuals who elect an HMO only receive benefits if they use this network. A PPO allows individuals to see any provider. HMO plans tend to have lower costs, deductibles, and copayments.

Mental health and vision benefits are provided through the medical plan. Employees and retirees have three choices: an exclusive provider organization (EPO) plan; a PPO plan; and an Integrated Health Model (IHM) plan. EPOs are State-insured HMOs. PPOs are also State insured. IHM services are provided by an organization that allows doctors, hospitals, and the plan to work together to coordinate a patient's care. Selecting this option requires an individual to use the provider's facilities, except in the case of an emergency. With an IHM, the State pays a fixed rate, and the provider assumes the cost risk.

New Wellness Program

In a substantial departure from previous health insurance plans, the new plan includes a wellness program. Chapter 208 of 2013 requires the Secretary of Budget and Management to include a wellness program with this new health plan. The goal of the wellness program is to improve the health of State employees. To do this, the wellness plan includes several new plan design elements that will change the type of care that individuals receive and the level of information collected about their health.

The Department of Budget and Management (DBM) is concerned that the State pays a substantial amount of its health care budget to support chronic conditions and that the employees and retirees are not complying adequately with treatment options. For example, DBM advises that 30% of patients keep glucose under control (diabetes care) compared to 62% nationally, and 46% of patients receive cholesterol testing, compared to over 80% in other providers. The hypothesis is that a wellness program can improve statistics like these, which will improve health and reduce costs.

The new plans provide additional services and include incentives to encourage healthier outcomes. The wellness program is for employees, retirees, and their covered spouses. In the new plan, the physician that each patient sees most often will be designated a primary care physician (PCP). Patients will be required to complete a State-administered health risk assessment. The assessment's questions relate to age, diet, and exercise, as well as alcohol and tobacco usage. Individuals will receive a report and provide an overview of current health that also identifies potential current risks. This report should be discussed with their PCP. After the assessment is completed, the individuals' visits to their PCP will not require a copayment. If the assessment is not completed and discussed with their PCP, an additional $50.00 ($2.08 from a biweekly paycheck) will be assessed on January 1, 2016.

The assessment is required to be completed annually. In 2016, individuals will be also be required to complete an online nutrition education or weight management program. Individuals will also be required to complete all recommended age- and gender-specific biometric screenings. If they do not complete these, individuals will be assessed $75.00 ($3.12 from a biweekly paycheck), beginning on January 1, 2017. After the assessment is completed, the individuals' visits to their PCP will not require a copayment.

Individuals with chronic conditions could be identified to participate in the Disease Management Program. If identified, patients are required to engage with the plan's nurse and follow the recommended treatment. Identified patients that do not follow the treatment plan will be assessed $250.00 ($10.42 from a biweekly paycheck), beginning on January 1, 2017.

Other Changes

Other change to the plan include:

- The State no longer offers a point of service (POS) plan. POS plans have member care managed by a PCP, but services are not necessarily required to be provided by a network.

- An IHM was not offered in recent plans.

- Prior plans had a separate mental health plan. The current plan integrates it into the medical plan.

Personnel

Succession Planning in State Agencies

Insofar as almost 38% of the State workforce will be eligible to retire in the next five years, succession planning for key positions is important for a number of agencies. In Maryland, workforce planning is decentralized. Thus, succession planning is the responsibility of each agency. The Governor's StateStat office notes that only a quarter of agencies have formal succession plans in place. To manage the turnover of key staff, more succession planning will need to be implemented in some agencies. Two agencies, the Department of Human Resources and the Motor Vehicle Administration, implemented succession plans.

Minimal Planning for Possible "Silver Tsunami"

Even though more than one-third of the State workforce will be eligible to retire within 5 years, and more than one-half will be eligible within 10 years (see **Exhibit 1**), few State agencies are developing succession plans to place qualified personnel in key management positions. The prospect of substantial turnover among political appointees in leadership positions following the November 2014 election, adds to the sense of urgency to develop succession plans to replace personnel in critical management positions. Yet, according to the Governor's StateStat office, only one-quarter of Executive Branch agencies have formal succession plans in place or under development to address the looming "silver tsunami" of retiring State personnel.

Exhibit 1
Percentage of Employees Eligible for Retirement by Agency

		2014		2019		2024	
Agency	**Total**	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
Public Safety and Correctional Services	10,424	2,149	20.6%	3,986	38.2%	5,759	55.2%
Health and Mental Hygiene	8,289	1,786	21.5%	3,345	40.4%	4,678	56.4%
Human Resources	6,043	1,078	17.8%	2,053	34.0%	2,938	48.6%
Judiciary	3,396	653	19.2%	1,196	35.2%	1,669	49.1%
State Police	2,241	395	17.6%	751	33.5%	1,169	52.2%
Juvenile Services	1,921	221	11.5%	405	21.1%	594	30.9%
Labor, Licensing, and Regulation	1,612	402	24.9%	650	40.3%	899	55.8%

		2014		2019		2024	
Agency	**Total**	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
Education	1,330	358	26.9%	560	42.1%	732	55.0%
Natural Resources	1,195	301	25.2%	548	45.9%	706	59.1%
Comptroller	1,075	240	22.3%	431	40.1%	589	54.8%
Morgan State University	1,039	268	25.8%	439	42.3%	561	54.0%
Other (<1,000 Employees)	8,438	1,916	22.7%	3,324	39.4%	4,597	54.5%
Total	**47,003**	**9,767**	**20.8%**	**17,688**	**37.6%**	**24,891**	**53.0%**

Source: Department of Budget and Management

Workforce Planning Has Been Decentralized

In 2009, the Department of Budget and Management (DBM) developed a workforce planning model but delegated implementation of workforce planning to each Executive Branch agency. In recent communication encouraging agencies to use the model, DBM explained that "we also recognized that a one-size-fits-all approach did not necessarily work. The decentralization of workforce planning activities allowed for an approach that was more tailored to fit individual agency needs." Based on StateStat's findings, the vast majority of agencies have determined either that workforce planning is not a priority or that succession planning does not need to be a component of that effort.

In common parlance, workforce planning entails ensuring that the right people are in the right jobs at the right time. Maryland's workforce planning model consists of five phases:

- to define and set the agency's strategic direction;
- to perform detailed workforce analysis;
- to develop gap-closing strategies;
- to implement gap-closing strategies; and
- to evaluate and revise gap-closing strategies.

Succession Planning Is a Potential Gap-closing Strategy

Although the terms, workforce planning and succession planning, are sometimes used interchangeably, they are not synonymous. Workforce planning is concerned with the entire workforce, whereas succession planning focuses on having the right leadership in place. Under Maryland's workforce planning model, to the extent that an agency identifies potential vacancies in critical leadership positions, it might engage in succession planning as a gap-closing strategy to prepare for those vacancies.

There are many different approaches to succession planning but they share many common characteristics, including:

- identifying known and potential vacancies in key positions;
- developing comprehensive inventories of the knowledge and skills necessary to perform those jobs;
- evaluating the readiness of current staff to assume those responsibilities; and
- addressing gaps in the competency of existing staff, either through recruitment efforts or training.

Two Agencies Leading the Way

StateStat has identified the Department of Human Resources (DHR) and the Motor Vehicle Administration (MVA) as the two Executive Branch leaders in applying best practices in succession planning. DHR launched its Leadership Development Initiative in January 2014 to prepare emerging leaders to assume greater responsibility. DHR employees nominated 123 colleagues for 25 slots, with the inaugural class chosen by a selection committee. The first cohort meets once a month. Leadership Reach is a DHR training program that consists of three modules to develop the next generation of DHR leaders. Employees complete required in-person classroom sessions and review supplemental online materials. Through July 2014, 47 employees have completed sufficient training to reach the "bronze" level, while 4 have achieved "silver" status, and 2 have achieved "gold" status.

MVA developed the Winning Incentives Necessary for Growth and Success (WINGS) mentoring program in 2010 to meet the agency's succession planning needs. For one year, mentors and protégés must complete 36 hours of direct mentoring interaction and report quarterly on their progress. Mentors and protégés each complete specialized training (10.5 hours for mentors and 3.5 hours for protégés). Through May 2014, 200 employees have applied for the WINGS and 50 protégés have graduated. MVA's Supervisor Preparation Series, begun in 2012, provides supervisors with training in management skills and practices. It consists of three semesters of coursework, lasting three months each, for a total of 14 separate courses.

Education

State Education Aid

State education aid is projected to exceed $6.2 billion in fiscal 2016, which reflects a 3% increase over fiscal 2015. Most of the aid increase is driven by a projected 1.4% increase in the per pupil foundation amount, which has been capped at 1% since fiscal 2011. Modest growth in statewide enrollment and larger increases in the number of students eligible for free and reduced-price meals and English language learners make up most of the remaining increase. State-paid retirement costs increase by 2.9% as the four-year phase-in of cost sharing with local school boards reaches its final year. Counties are required to increase their maintenance of effort payments by the additional school board pension costs in fiscal 2016. Beginning in fiscal 2017, the fiscal 2016 payment will be included in the per pupil maintenance of effort calculation.

Education Aid Projected to Increase by $182.4 Million

Public schools are expected to receive an estimated $6.3 billion in fiscal 2016, representing a $182.4 million (3.0%) increase over the prior fiscal year. Most of the increase is comprised of aid that flows directly to local school boards, which is projected to grow by $161.0 million (3.0%). The increase in direct aid is driven by an expected rise in the per pupil foundation amount and projected enrollment increases.

Foundation and Most Other Direct Aid Programs Will Increase Slightly

The foundation program is the major State aid program for public schools, accounting for nearly half of State education aid. For each school system, a formula determines the State and local shares of a minimum per pupil funding level, or "foundation." The foundation program is projected to total $2.9 billion in fiscal 2016, an increase of $59.2 million (2.1%) over fiscal 2015, as shown in **Exhibit 1**. The increase is attributable to enrollment growth of an estimated 0.75% (6,223 full-time equivalent (FTE) students) and a 1.4% increase in the per pupil foundation amount. Fiscal 2015 was the final year in which the inflation rate used to increase the per pupil foundation amount was capped in statute at 1%. The 1.4% increase in the per pupil foundation amount in fiscal 2016 is equivalent to the estimated change in the Implicit Price Deflator for State and Local Government Purchases.

Other than the foundation program, the compensatory education and limited English proficiency formulas are projected to have the largest dollar increases among the direct aid programs in fiscal 2016. A portion of the increase in each program is due to projected enrollment growth in students eligible for free and reduced-price meals and English language learners, respectively, and the rest of the increases can be attributed to the increase in the per pupil foundation amount.

Exhibit 1
Estimated State Aid for Education
Fiscal 2015 and 2016
($ in Thousands)

Program	FY 2015	Estimated FY 2016	$ Change	% Change
Foundation Program	$2,882,444	$2,941,670	$59,225	2.1%
Geographic Cost Adjustment	132,685	135,604	2,919	2.2%
Foundation – Special Grants	593	0	-593	-100%
Supplemental Grant	46,620	46,620	0	0.0%
Net Taxable Income Grants	26,860	35,112	8,252	30.7%
Compensatory Ed Program	1,251,675	1,315,899	64,224	5.1%
Special Education Formula	271,703	277,148	5,446	2.0%
Nonpublic Placements	110,918	113,984	3,066	2.8%
Limited English Proficiency	197,659	216,122	18,464	9.3%
Guaranteed Tax Base	59,390	51,315	-8,075	-13.6%
Student Transportation	258,380	265,225	6,845	2.6%
Aging Schools	6,109	6,109	0	0.0%
Other	89,322	90,567	1,245	1.4%
Direct Aid Subtotal	**$5,334,359**	**$5,495,376**	**$161,018**	**3.0%**
Teachers' Retirement	738,575	760,005	21,430	2.9%
Total	**$6,072,934**	**$6,255,382**	**$182,448**	**3.0%**

Source: Department of Legislative Services

Retirement Costs Grow Slightly Due to Pension Reforms

In an effort to constrain rapidly escalating teachers' retirement costs and reduce the long-term liabilities of the State Retirement and Pension System (SRPS), changes to the State's pension structure have been enacted recently. Chapter 397 of 2011 altered the benefit structure for teachers and other professional school employees (along with the benefits provided to State employees) and required that $300 million of the savings from the reform be reinvested in the system each year in the form of a supplemental contribution, beginning in fiscal 2014. Chapter 397 also requires each local school board, along with the community colleges and all State agencies, to share in the administrative costs of the State Retirement Agency (SRA) in proportion to its active membership in SRPS.

Further cost sharing was approved in Chapter 1 of the first special session of 2012. Chapter 1 phased in school board payments of the annual normal cost over four years. The payments required from each school board for fiscal 2013 through 2016 are specified in the legislation, and required county maintenance of effort (MOE) payments to the school boards increase to help support the cost-sharing initiative. After fiscal 2016, each school board is responsible for paying the *actual* normal costs associated with its employees; the counties are required to include the additional fiscal 2016 MOE payment in the calculation of the fiscal 2017 per pupil MOE amount. In the near future, normal costs are projected to decline slightly each year. During the phase-in period from fiscal 2013 to 2015, actual normal costs have been higher than estimated; since the school board payments specified in the law were based on the estimates, the State has covered the difference.

Other statutory and nonstatutory changes were made in 2013 that are expected to generate significant short- and long-term savings in employer contributions to SRPS. Chapter 464 of 2014 reduced the mandated State retirement supplemental contribution (established under Chapter 397 of 2011) from $300 million to $100 million in fiscal 2014 and 2015 and then increased the contribution by $50 million annually until it reaches $300 million in fiscal 2019 and thereafter, until certain conditions are met. This resulted in a reduction of $124.7 million for teachers' retirement in fiscal 2014 and a reduction of $124.6 million in fiscal 2015.

Largely due to these cost-saving measures, State retirement payments for public school teachers and other professional personnel continue to grow modestly in fiscal 2016. The costs paid by the State on behalf of local school boards will total an estimated $760.0 million in fiscal 2016, representing a $21.4 million increase (2.9%) from the prior fiscal year. This increase is attributed to an increase in the salary base for teachers, which is largely offset by both a decrease in the State contribution rate and an increase in local government contributions. In addition to the State's share of teacher pension costs, local school boards will contribute approximately $269.2 million in fiscal 2016. This includes $254.8 million for the local share of pension contributions and $14.4 million toward SRA administrative costs.

Net Taxable Income Education Grants

Approximately 75% of State aid to public schools is distributed inversely to local wealth, so that the less affluent school systems receive relatively more State aid. Net Taxable Income (NTI) is one component of calculating local wealth for purposes of State aid for education. Chapter 4 of 2013 provides additional education grants to counties whose formula aid funding amount is higher using NTI data from November as compared to September. Chapter 4 phases in the grant amounts over five years beginning in fiscal 2014. NTI Education grants were provided to 18 counties in fiscal 2015 for a total of $26.9 million. Current estimates indicate that 19 school systems will receive these grants in fiscal 2016 for a total cost of $35.1 million.

Foundation Special Grants

Chapter 515 of 2014 requires the State to provide a grant in fiscal 2015 through 2017 to a local board of education if (1) FTE enrollment is less than 5,000; (2) FTE enrollment in the current fiscal year is less than the prior fiscal year; and (3) "total direct education aid" in the current fiscal year is less than the prior fiscal year by more than 1%. The grant must equal 50% of the decrease in total direct education aid. Chapter 515 results in fiscal 2015 grants of $464,100 to Garrett County and $129,000 to Kent County, for a total of $593,100. Chapter 515 expresses the intent of the General Assembly that the Governor transfer funds for the fiscal 2015 grant from funds restricted for this purpose by the General Assembly in the fiscal 2015 budget bill. The law requires the Governor to include funds for the grants in the fiscal 2016 budget bill if the funds are not transferred in fiscal 2015. As of October 2014, these funds have not been transferred to the counties.

Maintenance of Effort

The MOE law requires each county government (including Baltimore City) to provide as much per pupil funding for the local school board as was provided in the prior fiscal year. As of October 2014, the State Board of Education has certified that the school appropriations of 22 counties have met the fiscal 2015 MOE requirement; the appropriations for Baltimore City and St. Mary's County are pending further action. The State Board of Education has granted an MOE waiver in the amount of $2.9 million regarding Baltimore City's fiscal 2015 appropriation. The waiver request, agreed to by city government and the Baltimore City Public School System, eliminates (beginning with fiscal 2015) the ongoing effect on MOE from a fiscal 2013 budgeting error made by Baltimore City. The budgeting error resulted from the city's use of an incorrect (high) FTE figure for determining the required MOE total for fiscal 2013.

Chapter 6 of 2012 made several changes to the MOE law and waiver processes. Under the law, beginning in fiscal 2015, a county that has an education effort below the five-year statewide average education effort must increase its MOE payment to the local school board in years when its local wealth base is increasing. The required increase is the lesser of the increase in a county's per pupil wealth, the average statewide increase in per pupil local wealth, or 2.5%. This provision ensures an increase in the amount a county provides to the local school board concomitant with an increase in county wealth. Preliminary estimates suggest that statewide per pupil local wealth declines slightly from fiscal 2015 to 2016. Therefore, if this finding holds when actual wealth and enrollment figures pertaining to fiscal 2016 aid are available, no jurisdiction will be required to increase its MOE appropriation in fiscal 2016 under this provision. The provision did not affect any counties in fiscal 2015 due to a decline in statewide per pupil local wealth from fiscal 2014 to 2015.

For further information contact: Scott P. Gates/Rebecca J. Ruff Phone: (410) 946/(301) 970-5510

Education

Challenges with Transition to the Maryland College- and Career-Ready Standards and the Partnership for Assessment of Readiness for College and Careers

During the 2013-2014 school year, the Maryland College- and Career-Ready Standards (MCCRS) were implemented statewide. Concerns have been raised by teachers, parents, and others about the uneven rollout of the new standards among the local school systems. In addition, there are concerns about the ability of the local school systems to administer the Partnership for Assessment of Readiness for College and Careers (PARCC), the new assessments aligned with MCCRS, in a fully online format. Following field testing of PARCC during spring 2014, some technological issues persist. The establishment of the MCCRS and PARCC Implementation Review Workgroup, and several forthcoming reports, are intended to ease the transition.

From Common Core to the Maryland College- and Career-Ready Standards

The Common Core State Standards (CCSS) were developed through a state-level initiative coordinated by the National Governors Association and the Council of Chief State School Officers in collaboration with education stakeholders from across the country to eliminate the wide variation in knowledge and skill expectations in English language arts and mathematics among the states. Maryland was one of the first states to adopt these standards in June 2010, and has since worked to design a new State curriculum, the Maryland College- and Career-Ready Standards (MCCRS). The MCCRS align with the CCSS, and reflect college and workplace expectations. Beginning with the 2013-2014 school year, MCCRS was fully implemented in Maryland schools.

As a result of the new curriculum, Maryland also required a new assessment system. In 2010, Maryland joined the Partnership for Assessment of Readiness for College and Careers (PARCC), a consortium of 13 states (as of November 2014) working to develop a common set of assessments in English language arts and mathematics aligned to CCSS and, in turn, to MCCRS. PARCC measures student progress and tracks status on a trajectory toward college and career readiness. PARCC is intended to be entirely computer-based in order to provide more timely feedback to educators to be used to target or improve instruction during the school year. PARCC was field tested in spring 2014, and the State will replace the Maryland School Assessments (MSAs) in English language arts/literacy and mathematics with the PARCC assessments in the 2014-2015 school year. The State Board of Education recently voted on a transition plan to replace the High School Assessments (HSAs) in English and Algebra with the PARCC assessments, which is discussed further below. The PARCC assessments must be administered fully online by the 2017-2018 school year, although the Maryland State Department of Education (MSDE) has set a goal to administer the PARCC assessments fully online by the 2016-2017 school year.[1] The State

[1] The PARCC assessments will be available in paper form for students with disabilities who require specified accommodations.

Board of Education also recently adopted new science standards known as the Next Generation Science Standards. Maryland is part of a consortium that is developing new science assessments aligned to the standards.

Transitioning from HSAs to PARCC

While the Government HSA will continue to be required for graduation and the Biology HSA will be replaced with the Next Generation Science Assessment when it is completed, PARCC is intended to replace the other HSAs as graduation requirements. In October 2014, MSDE approved a framework for phasing in passing the PARCC assessments in English 10 and Algebra I as a graduation requirement and for phasing out the current English and Algebra HSAs. Under the new framework, passing the PARCC assessments in English 10 and Algebra I will not become a graduation requirement until the 2016-2017 school year. MSDE reports that the change in framework is necessary because the process by which the passing scores are set for the PARCC assessments will not be completed until December 2015. If a student takes the PARCC assessments in English 10 or Algebra I during the 2014-2015 school year, the student will not know whether he or she has passed the assessment until December 2015, thus making the first opportunity to re-take the assessment late in the 2015-2016 school year. Additionally, MSDE asserts that giving students and teachers an opportunity to transition into the new PARCC assessments will allow them to become more knowledgeable about the standards as well as what is required of them. Under the new framework, students must still pass the English 10 or Algebra I *course* in order to receive a high school diploma. During the 2016-2017 school year and beyond, students enrolled in PARCC-aligned courses will have to pass the related PARCC assessment or successfully complete Bridge Plan Projects to receive a diploma.

MCCRS and PARCC Implementation Review Workgroup

In response to concerns raised regarding the implementation of MCCRS and PARCC, the General Assembly established the MCCRS and PARCC Implementation Review Workgroup under Chapter 246 of 2014. The workgroup was charged with, among other things (1) identifying and analyzing the best practices of school systems in the State; (2) determining what, if any, new curriculum resources will be needed in order to fully implement MCCRS; (3) identifying how MSDE plans to assist local school systems in preparing parents and students for PARCC; (4) assessing the technological readiness and needs of the public schools for implementing PARCC; and (5) developing a plan to transition from the HSAs to PARCC.

The workgroup began meeting in July 2014. Regarding best practices, the workgroup heard from six local school systems: Baltimore City and Anne Arundel, Carroll, Prince George's, Queen Anne's, and Washington counties. These presentations highlighted the need for extensive and comprehensive communication and messaging with teachers, parents, students, and other stakeholders; constructive and effective collaboration between the divisions of instruction and information technology; and the provision of high-quality and targeted professional development.

Regarding the need for new curriculum resources, the workgroup intends to disseminate a survey in order to determine what teachers need. Regarding the role to be played by MSDE in preparing parents and students for PARCC, the workgroup learned that MSDE has several strategies already in place, including print resources, website postings, organized demonstrations, invitations to the media to visit schools, and the use of social media. Further, a flash drive containing resource documents was provided to every local school system. Members of the workgroup suggested that MSDE should also target communication with hard-to-reach parents, query students regarding their preferred method of communication, develop an app, and ensure that the information that is provided is actionable. A preliminary report was completed in September 2014, and a final report is expected in December 2014.

Technological Readiness for PARCC

PARCC Field Testing

In June 2014, MSDE reports that the PARCC field test was administered in 99% of Maryland's public schools. Approximately half of the schools administered the field test online, while the other half administered the test in paper format. Following the administration of the online performance-based assessment component of the PARCC, which took place in March and April 2014, 19 out of 24 local school systems reported having technological issues. However, following the administration of the online end-of-year assessment component of the PARCC in May and June 2014, only 7 local school systems reported technological issues.

EducationSuperHighway Speed Tests

The PARCC assessments are considered "next generation assessments" that are computer-based and require student interaction as well as multimedia capabilities. MSDE estimates that approximately 1.1 million public school students per year in grades 3 through 11 will take the PARCC assessments online once fully implemented.

In December 2013, in response to concerns regarding the ability of the local school systems to administer the PARCC assessments fully online due to insufficient technological infrastructures, MSDE submitted a report to the legislative budget committees. In this report, MSDE detailed its partnership with EducationSuperHighway, a nonprofit organization that assists K-12 schools in upgrading their Internet infrastructure. EducationSuperHighway conducted a series of "speed tests" from October 2013 to February 2014 to assess each local school system's ability to meet PARCC's technical specifications for online testing.[2] Schools were asked to test a minimum of 10 computers in every building, and testing was based on the available bandwidth to the end user device in the classroom, rather than the maximum Internet connection speed to the building. A total of 20,000 tests were conducted in 1,062 schools representing 73% of all public schools in Maryland. Overall, 80% of schools are ready for PARCC online assessments, with or without

[2] PARCC recommends that each school have an external connection to the Internet that is 100 kilobits per second per student or faster.

caching, based on PARCC's technology requirements, but only 41% of students attend schools with sufficient Internet bandwidth to deliver the PARCC assessment to all schools without caching. In most areas of the SchoolSpeedTest, Maryland tested above the national average. However, only 25% of Maryland schools have the 100 kilobits per second of bandwidth per student that is needed for digital learning readiness (simultaneous assessment and instruction) in the classroom.

Local School System Technology Needs Assessment

With the information gathered from the EducationSuperHighway speed tests, MSDE surveyed each local school system to assess the specific technological and infrastructure components the local school system would need to be ready to administer the PARCC assessments fully online. Out of 24 local school systems, 22 replied with a list of their specific technological and infrastructure needs (with the exception of Baltimore City and Kent County). Each local school system surveyed responded that the most pressing need was obtaining additional mobile devices on which to administer the PARCC assessments. MSDE estimated that between $48.6 million to $54.3 million would be needed in order to satisfy each local school system's need for additional mobile devices.

Forthcoming Reports

In addition to the final report of the MCCRS and PARCC Implementation Review Workgroup and the results of the final report of EducationSuperHighway discussed above, there are several other reports expected before session. These include two requirements in the *Joint Chairmen's Report*: (1) a report regarding cost estimates and written agreements necessary for PARCC implementation was due July 1, 2014, but was extended until September 1, 2014, and as of late November has not yet been received; and (2) a report regarding PARCC field testing and local school system readiness was due in November 2014 and as of late November has not yet been received. Further, Chapter 209 of 2014 requires MSDE to report to the General Assembly by December 1, 2014, regarding (1) existing broadband speeds and connections in all public schools in the State, including capabilities from the main building to classrooms; and (2) each local school system's plan to reach a broadband speed of 1 gigabit per 1,000 students by fiscal 2020 and to offer support and training programs for classroom teachers to use educational technology tools.

Education

Adequacy of Education Funding Follow-up Study Begins

Maryland's first adequacy of education funding study was completed in 2001 and resulted in enactment of the Bridge to Excellence in Public Schools Act and an increase of an estimated $1.8 billion in State funding and $3.3 billion in total State and local funding for prekindergarten through grade 12 education. A follow up study began in June 2014 and will be completed by December 1, 2016, to re-examine the adequate level of funding needed for public school students to meet the State's academic standards.

First Adequacy Study

Chapter 288 of 2002, the Bridge to Excellence in Public Schools Act, established new primary State education aid formulas based on adequacy cost studies and other education finance analyses that were conducted in 2000 and 2001 under the purview of the Commission on Education Finance, Equity, and Excellence. The concept of adequacy, which was a relatively new concept in the early 2000s, is based on determining the level of resources that is adequate for all public school students to have the opportunity to achieve academic proficiency standards. An increase of approximately $1.8 billion in State funding to implement the Bridge to Excellence Act was phased in over six years, reaching full implementation in fiscal 2008. In total, State and local education funding increased $3.3 billion. The Bridge to Excellence legislation also required a follow-up study of the adequacy of education funding in the State to be undertaken approximately 10 years after its enactment. The study was delayed by Chapter 397 of 2011 due to the fiscal downturn, and other legislation required additional reports, with the study required to begin by June 30, 2014, and be completed by December 1, 2016.

Components of the 2014 Study

The Maryland State Department of Education, in collaboration with the Department of Budget and Management and the Department of Legislative Services, is required to contract with a consultant to conduct the studies. In June 2014, following the State procurement process, Augenblick, Palaich and Associates (APA) was awarded the contract. APA is working with a team of researchers that includes Picus Odden and Associates and the Maryland Equity Project, which is based at the University of Maryland, College Park.

The study must include, at a minimum:

- adequacy cost studies that identify a base funding level for students without special needs using at least two different methods;

- per pupil weights for students with special needs to be applied to the base funding level; and
- an analysis of the effects of concentrations of poverty on adequacy targets.

The Maryland College- and Career-Ready Standards, adopted by the State Board of Education, serve as a framework for the required academic standards. In addition, two years of results from the new State assessments aligned with the standards must be considered. The new assessments are scheduled to be administered beginning in the 2014-2015 school year. The study must also include science and high school assessment requirements.

There are several additional components mandated to be included in the study. These components include evaluations of the impact of school size, the Supplemental Grants program, the use of free and reduced-price meal eligibility as the proxy for identifying economically disadvantaged students, expansion of prekindergarten services and funding, the equity of the State education finance structure and the local wealth calculation, and the impact of increasing and decreasing enrollments on local school systems. The study must also include an update and analysis of the Maryland Geographic Cost of Education Index.

Timeline for Completion

The final report is due by October 31, 2016; however, with the study including multiple components, a number of interim reports are also expected. Key submission dates are spread throughout the 28-month period needed to complete the study. **Exhibit 1** provides a list of the final reports and the anticipated due dates.

Exhibit 1
Adequacy Study
Final Reports and Due Dates

Anticipated Due Date	Final Report
June 30, 2015	School Size Study Analysis of Supplemental Grants Analysis of the Impact of Concentrations of Poverty Report on a Proxy for Economically Disadvantaged Students Evaluation of the Impact of Increasing and Declining Enrollment
September 30, 2015	Evaluation of Maryland’s Education Finance Structure and the Local Wealth Calculation Prekindergarten Services and Funding
June 30, 2016	Update of the Geographic Cost of Education Index
October 31, 2016	Final Report on the Adequacy of Education Funding in the State

Source: Maryland State Department of Education

Work Completed To Date

To date, two reports have been completed: *A Comprehensive Review of State Adequacy Studies Since 2003* and a *Summary of School Size Report*. Public presentations were given to the Adequacy Study Stakeholder Advisory Group in August and September 2014. The stakeholder advisory group includes representatives from State and local government, local school boards and school systems, the business community, and other key stakeholders to keep them informed and to receive input and feedback as the study progresses. These presentations provided interested parties with an overview of the components of the adequacy study, a detailed review of the proposed methodology for each component, summaries of the first two submitted reports, and a status update on the research.

In *A Comprehensive Review of State Adequacy Studies Since 2003*, the research team evaluated 39 adequacy studies in 24 states plus the District of Columbia that were completed since 2003. Two Maryland studies from 2001 were also included in the analysis. The goal of the report was to identify best practices to help shape the current Maryland adequacy study. The team's evaluation found that most adequacy studies use some combination of the following three methodologies, all of which will be utilized in Maryland's 2014 Adequacy Study:

- professional judgment approach: assembles panels of various levels of school and system personnel to identify resources needed at the school and district level;
- evidence-based approach: uses educator panels to review the results of research, best practices, and case studies to identify elements of a prototypical school at each level and at the district office and then recommend adjustments for Maryland standards and contexts; and
- successful schools approach: identifies schools that are currently high performing and assesses how much they spend per pupil.

Other best practices identified in the report emphasized the need to focus on the improvement of student performance, the importance of including state policymakers and other stakeholders in the process, and ensuring that compensation is accurately represented in the final analysis.

The *Summary of School Size Report* provided a review of school size policies in Maryland and other states, as well as an initial review of available literature relating to school size. In its review of school size policies, the research team found that nine districts in Maryland have stated school size policies. The preliminary findings found that recommended school sizes in Maryland range from 550-750 students at the elementary level, 700-1,200 students at the middle school level, and 1,200-1,695 students at the high school level. The researchers found three other states with guidelines pertaining to overall school size: Arizona, Florida, and North Carolina, which ranged from 300-400 students on the low end for all types of schools, substantially smaller than Maryland, and up to 2,180 students on the high end for high schools.

An extensive body of research exists with regard to school size. Smaller schools were consistently found to have a positive effect on school climate by providing more personal and informal relationships between staff, students, and parents; teacher and student satisfaction via increased collaboration; and student discipline with higher attendance rates and lower dropout rates. With regard to economic efficiency and academic achievement, the research was more inconclusive. Conventional wisdom would suggest that larger schools are more economically efficient to operate; however, the research indicated that some larger schools' efficiency is neutralized by increasing administrative and facilities costs. Some research suggests that smaller schools have higher academic achievement, particularly for low-income students; however, other studies have suggested that larger schools offer students a performance advantage and that there is little difference in attending smaller or larger schools.

Next Steps

Preliminary reports on the proposed adequacy cost methodology for the Maryland study and the impact of smaller schools are due November 30, 2014. The stakeholder advisory group is scheduled to meet in December 2014 to discuss these reports and the status of other work. The group is scheduled to meet quarterly during 2015, when seven final reports and two preliminary reports are due, including an interim report on the progress of the adequacy cost study. During the spring of 2015, the panels for the professional judgment and evidence based methods will begin meeting and the preliminary list of successful schools will be determined, subject to change once data from the 2014-2015 State assessments, and later the 2015-2016 assessments, are available.

Education

Teacher and Principal Evaluations and U.S. Department of Education Flexibility Waivers

The 2013-2014 school year was the first year for which data is available under the new teacher and principal evaluation systems that have been implemented in accordance with the federal Race to the Top grant and the Education Reform Act of 2010. According to the Maryland State Department of Education, all counties except Montgomery have developed a local evaluation system that includes an evaluation score composed of 50% professional practice and 50% student growth, utilizes one or more student learning objectives (SLO), and uses a State assessment as a data point within at least one SLO. A report released in October 2014 revealed that, for the 2013-2014 school year, approximately 97% of teachers and 97.5% of principals in the State were rated either highly effective or effective. The U.S. Department of Education (USDE) has conditionally granted Maryland an extension of its Flexibility Waiver from the Elementary and Secondary Education Act, provided that the State continues to work with USDE on requesting amendments to its teacher and principal evaluation systems.

Teacher and Principal Evaluations and Measures of Student Growth

Maryland was awarded a $250 million federal Race to the Top (RTTT) grant in August 2010. RTTT funds were awarded to states competitively to encourage specific educational reforms that include improving instruction, especially in low-performing schools. Competition for RTTT funds spurred legislative reforms around the country, including changes to educator evaluation procedures that require school systems to link the evaluations with student growth measures. Maryland followed suit with the passage of the Education Reform Act of 2010. The Act required the State Board of Education to adopt regulations establishing general standards for performance evaluations of certified teachers and principals and required student growth to be a significant component in the evaluations. The redesign of teacher and principal evaluations was one of the primary reforms identified in Maryland's RTTT application and continues to be a principle reform focus.

State Regulations

The Maryland State Department of Education (MSDE) adopted regulations in accordance with the Education Reform Act in July 2012. These regulations established a dual-track evaluation process consisting of a department-developed performance evaluation system of general standards and a local education agency-developed performance evaluation system of performance evaluation criteria. All 22 jurisdictions that signed the RTTT application (Frederick and Montgomery counties did not sign) were required to count performance evaluation criteria for student growth as 50% of an evaluation, among other requirements. Further, if a local school board and the exclusive employee representative did not reach an agreement on the performance evaluation criteria, the school board was required to adopt the Model State Performance Evaluation Criteria. These regulations were set to sunset in September 2014.

Chapter 544 of 2014 clarified that the Model State Performance Evaluation Criteria are to be the *default* model in the event that a local school system and exclusive employee representative do not agree on the performance evaluation criteria for that jurisdiction. Further, Chapter 544 prohibited the use of student growth data based on State assessments for the purpose of making personnel decisions under the required student growth component of the performance evaluation criteria before the 2016-2017 school year.

With the regulations expiring in September 2014, MSDE adopted new regulations, effective October 27, 2014, that reflect the ongoing field testing of the evaluation system, the requirements of Chapter 544, and the requirements of the Elementary and Secondary Education Act of 1965 (ESEA) Flexibility Waiver. The new regulations maintain the basic framework from the initial regulations, while requiring a local education agency-developed system to have student growth as a significant component of the teacher/principal evaluation that uses student learning objectives *informed by* the data resulting from State assessments for the school years 2014-2015 and 2015-2016. This requires local education agencies to use the data for teacher and principal feedback and for calculation purposes to determine the impact this data will have on personnel decisions in future years. The department-developed default model, in general, requires the student growth component to be 50% of the teacher's or principal's total evaluation score, 20% of which is based on student learning objectives (SLO) that are based on and informed by data obtained by State assessments and 30% on other SLOs or other locally determined measures.

Local Evaluation Models

Each county in the State, except for Montgomery County, has submitted data to MSDE on the county's developed and approved teacher and principal evaluation model and component measure elements. A survey of the compiled data shows that all counties except Frederick County developed a local model that includes an evaluation score composed of 50% professional practice and 50% student growth measures, utilizes one or more SLOs, and uses a State assessment as a data point within at least one SLO. More differences emerge in the models regarding the use of cut scores for effective teachers and the assignment of 20 percentage points under student growth for Maryland School Assessments (MSA) in reading and math, a component required by the original model evaluation system.

Regarding the use of cut scores, only Baltimore County reports using none. Instead, it uses decision matrices to determine a teacher's effectiveness rating. A small number of counties report that decisions are still pending on this issue. Cecil, St. Mary's, and Washington counties report using blended cut scores, *i.e.*, a qualitative score plus information from a rubric or decision matrix. Frederick County reported no data on this issue. In June 2014, the Baltimore City teachers' union filed a class action grievance against the Baltimore City school system regarding changes to the cut scores in Baltimore City's evaluation system. The union alleges the changes would cause some teachers with the same numerical score as the previous year to receive a different rating and would thereby affect these teachers' ratings and pay unfavorably. In August, the Maryland Public School

Labor Relations Board ruled favorably on the union's claim, determining that the cut score changes were subject to bargaining with the union. In September, the Baltimore City school system filed a petition in the Circuit Court for Baltimore City for judicial review of the finding.

On October 28, 2014, MSDE released a full report on teacher evaluations based on data from the participating counties for the 2013-2014 school year. The 22 local jurisdictions that signed onto the RTTT grant application participated and provided data for this report. The remaining counties, Frederick and Montgomery, will begin providing data for the 2014-2015 school year. According to MSDE, 43,805 teachers and 1,112 principals were rated using the new evaluation program. A total of 40.8% of all teachers were rated highly effective, 56.4% of teachers were rated effective, and 2.8% of total teachers were rated ineffective. Similarly, 97.5% of all principals rated were rated either highly effective or effective, with the majority achieving an effective rating. An independent analysis of the performance of the evaluation models and their component parts will be conducted by the MidAtlantic Center at WestEd and will be issued this winter. The analysis will determine how differing local models can show comparable data. Also, as required by the U.S. Department of Education (USDE), local school systems calculated their model evaluation scores using MSA scores to preliminarily determine the effect the data would have on future ratings. According to MSDE, the addition of this data has only a minimal effect on the ratings of teachers and principals.

U.S. Department of Education Flexibility Waivers Update

Title I of ESEA, which was most recently authorized in 2001 as the No Child Left Behind Act (NCLB), focuses on accountability, improving standards, and eliminating achievement gaps. ESEA requires all students to be assessed annually, among other things. During implementation of the federal RTTT reforms, USDE began offering states Flexibility Waivers from specified provisions of NCLB and their associated regulatory, administrative, and reporting requirements (ESEA flexibility). Maryland requested a Flexibility Waiver, in part, under Principle 3 of the ESEA flexibility (Supporting Effective Instruction and Leadership), by submitting State-developed guidelines for local teacher and principal evaluation and support systems, including the use of SLOs as a measure of the student growth component of the evaluation systems.

Maryland's ESEA waiver amendment was granted by USDE provided that the State implement its teacher and principal evaluation and support systems in accordance with the ESEA flexibility requirement that data from assessments required under Title I of the ESEA of 1965, as amended, be used for determining student growth in teacher and principal evaluation systems. The January 9, 2013 letter of approval from USDE required the State's evaluation systems to (1) require each teacher in a State-tested content area and school principal to include at least one SLO with a data point on student performance on State assessments; and (2) commit to using student growth, as measured by common, high-quality assessments in the evaluation of teachers and principals, when available, including the Partnership for Assessment of Readiness for College and Careers. On March 25, 2014, the State requested a one-year extension of its Flexibility Waiver to be effective through the end of the 2014-2015 school year. USDE conditionally granted this extension on July 18 subject to the State's "commitment to continue working with USDE on Maryland's requested amendments to its teacher and principal evaluation and support systems, which may require additional flexibility." Unless USDE issues additional guidance regarding the Flexibility Waivers, all states must submit new applications for ESEA Flexibility Waivers in spring 2015 to apply after the current school year. Chapter 630 of 2014 requires MSDE to submit proposed waiver requests to the Legislative Policy Committee for review and comment at least 30 days prior to submitting the waiver application to USDE.

Education

Public School Construction

Legislation enacted in 2013 established a partnership between the State and Baltimore City to address the condition of the city's public school facilities. A memorandum of understanding has been approved by all parties and implementation has commenced. While more time has been expended on the front end than anticipated, several projects are now on track to break ground in early 2016. In addition, the Governor issued an executive order in 2014 to study alternative school construction financing options. Finally, the State-local cost-share formula for public school construction projects funded by the capital budget was updated for use beginning in fiscal 2016.

State-Baltimore City Partnership

Baltimore City Public Schools (BCPS) has the oldest school buildings in the State, with an average age of 41 years old. A 2012 assessment of the condition of BCPS school facilities by a consultant hired by the Baltimore City Board of School Commissioners (BCPS Board) estimated a cost of $2.4 billion to address the educational adequacy, condition, and life-cycle needs of the facilities. In response to this critical need for public school facility improvements in Baltimore City, Chapter 647 of 2013 (Baltimore City Public Schools Construction and Revitalization Act) established a new partnership among the State, Baltimore City, and BCPS to fund up to $1.1 billion in public school facility improvements through revenue bonds to be issued by the Maryland Stadium Authority (MSA).

The revenue bonds will be backed by $20 million each from the State, Baltimore City, and BCPS annually until bonds are no longer outstanding. MSA will manage all of the bond proceeds and many of the projects. Based on market projections when Chapter 647 was enacted, $60 million could support debt service on up to $1.1 billion in bonds. Before any bonds could be issued, the law required the four parties – MSA, the Interagency Committee on School Construction (IAC), Baltimore City, and BCPS – to enter into a memorandum of understanding (MOU), which was approved by the Board of Public Works on October 16, 2013.

Updated Scope of Work and Timeline

The original estimate was that 50 schools could be completed with the $1.1 billion initiative, with approximately 16 new schools and the remainder renovations. During the course of developing the MOU, that estimate was revised to 35 schools based on more refined project scopes and costs. The current estimate is that 23 to 28 schools will be replaced or renovated. The lower estimate reflects more realistic cost estimates based on feasibility studies, the first of which were completed in spring 2014. These initial feasibility studies were based on educational specifications and project scopes that proved to be cost prohibitive due to questionable assumptions. A new program manager hired by MSA has been working with BCPS since the spring of 2014 to revise the educational specifications and project scopes to balance the needs with the costs. The specific schools that will be included in the initiative are likely to include more elementary and middle schools and fewer high schools, and fewer new schools and more systemic modernizations.

Only two renovations are currently on track to break ground in early 2016 under the supervision of MSA. The current schedule has taken longer than anticipated up front, with the first schools now expected to open in summer 2017, but the initiative is still scheduled to be completed on time with the last schools opening by summer 2020. While the original estimate was $1.1 billion, with the first set of bonds to be issued in fall 2014, the new projections from MSA are that $980 million will be available in bond proceeds, with the first sale to be completed in fall 2015. The ability to issue bonds as soon as possible while interest rates are still low will maximize the amount of bonds that can be leveraged with the $60 million annual payments.

School Utilization, Maintenance, and Closures

As required by the law, the BCPS Board in December 2013 set a systemwide utilization goal of 86% by fiscal 2020, with an intermediate goal of 80% by fiscal 2016. The current utilization rate (the number of students enrolled at a school divided by the number of students the school was built to accommodate for each system-owned building) is 77%. Based on the current scopes of work and school building closure timeline, it is unclear whether BCPS is on track to achieve the intermediate goal. Initially BCPS wanted to change the goal each year, but that was determined to be inconsistent with the law and MOU. Under the MOU, the IAC may withhold future project approvals if projected utilization rates do not meet the targets.

The law also required BCPS to submit a Comprehensive Maintenance Plan (CMP) to the IAC for approval before any projects could move forward. A CMP was submitted in December 2013 but it was not sufficient to be approved. BCPS submitted a revised CMP in August 2014 that was approved by the IAC in September. The IAC approval was conditional on missing elements, including metrics for accountability, being included in the required annual CMP submission in October 2014. Under the MOU, projects cannot begin construction until the IAC determines that BCPS has made progress toward the maintenance metrics. In the CMP, BCPS has agreed to increase the school maintenance budget from $14.3 million in fiscal 2014 to $39.8 million in fiscal 2023, which results in approximately an additional $3 million per year for nine years. While the intent is significant, the Baltimore City school system used the fund balance to close an operating budget deficit in spring 2014, so its ability to uphold the commitment is in question. The school maintenance commitment is in addition to BCPS' share of the school construction initiative annual costs, which is $10 million in fiscal 2016 and $20 million in fiscal 2017 and thereafter.

The BCPS Board has identified 26 schools that will be closed due to their condition or under-enrollment, which are contained in Exhibit 6 of the MOU. To date, five programs have been closed, but most of the spaces will be used as swing space during the construction phase of the initiative. Only one school building, Lawrence Paquin, has been closed and surplused to

Baltimore City for alternative use or sale. The projects to be completed under Chapter 647 of 2013 are contained in the BCPS Board's 10-year plan, now called the 21st Century Schools plan. Changes to the schools included in the plan will result in changes to the list of buildings to be closed. The MOU requires a commensurate number of schools and space to be closed subject to MSA approval. Amendments to the 10-year plan are made once a year in the fall and require BCPS Board approval. The BCPS Board is scheduled to vote in December 2014 on amendments.

Alternative Financing Study

During the 2014 legislative session there was discussion about creative alternatives for school construction funding while maintaining a balanced budget. Since the passage of Chapter 647 of 2013, other counties are interested in pursuing alternatives to receive additional funds for school construction above the current Capital Improvement Program, which has projected $250 million in general obligation bonds annually for school construction projects. This is less than the $308 million average from fiscal 2006 to 2015. Governor Martin O'Malley signed an executive order in May 2014 requiring the IAC, in collaboration with the Department of Budget and Management and the Department of Legislative Services, to conduct a study and make recommendations on creative means, financing or otherwise, alternative revenue streams, and the use of lease payments to increase funding for public school construction. The executive order also requires the IAC to solicit input from the State Treasurer's Office, county boards of education, and county governments, as well as to examine school construction funding in other states. A public meeting was held in June 2014, at which all county government and school board/system representatives were invited to share any ideas they might have for alternative financing. The report is due September 1, 2015.

State-local Cost Share Formula

The State-local cost-share formula for school construction capital projects is updated every three years. The formula was updated in summer 2014 to be used for the fiscal 2016-2018 capital budgets. Most of the changes are modest. Ten counties' State share remained the same, while eight increased and six decreased. Decreases of more than 5 percentage points are phased in over multiple years. For three counties, Allegany, Cecil, and St. Mary's, the State share will decrease over two years. The highest State share of eligible school construction costs is now 100% in Somerset County, an increase of 18 percentage points. This is primarily due to Somerset's high local school construction effort in fiscal 2010-2012. The cost-share formula also takes into account local wealth, enrollment increases, proportion of low-income students served, and economic conditions in each county. The updated cost-share formula must be adopted in regulations approved by the Board of Public Works.

For further information contact: Kate E. Henry Phone: (410) 946/(301) 970-5510

Education

Review of Maryland Public Charter School Program

The Maryland Public Charter School Program has grown from serving over 3,000 students in the 2005-2006 school year to serving nearly 18,000 students during the 2013-2014 school year. In light of the 10-year anniversary of the 2003 law, and growing advocate concerns regarding implementation of the law, the General Assembly required the Maryland State Department of Education to conduct a review of the program by November 1, 2014. Among other issues, the review is required to examine financial aspects of the law, including operational and capital funding, academic performance, and ways to integrate best practices between charter schools and traditional public schools. The Department of Legislative Services must review the report and make any comments and recommendations by December 31, 2014.

The Maryland Public Charter School Program

The Maryland Public Charter School Program was enacted in 2003 to enable public school staff, parents of public school students, nonsectarian nonprofit entities, and nonsectarian institutions of higher education to apply to a local board of education to establish a public charter school. The schools must be nonsectarian and open to all students in the local school system on a space-available basis. The professional staff of a charter school must hold appropriate certification, and they have the same rights as other public school employees in that jurisdiction with respect to employee organizations. If a collective bargaining agreement is already in existence in the county where a charter school is located, the employee organization and the charter school may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular charter school. Under State law, charter schools may not charge tuition; instead, they receive public funds on a per pupil basis commensurate with the amount of funds disbursed to other public schools in the school systems in which they operate. Charter schools must comply with the laws, regulations, and policies that govern other public schools, although waivers from some rules may be requested through an appeal to the State Board of Education (State board).

In Maryland, local boards of education have primary chartering authority, and the State board has secondary chartering authority when acting in its appeal review capacity or as the public chartering authority for a restructured school; however, the State board has never exercised this authority. An application to establish a charter school must be submitted to the local board of education in the jurisdiction in which the charter school will be located. If the local board denies the application, the applicant can appeal the decision to the State board.

Charter schools in Maryland do not receive separate State facilities aid; however, if a charter school is located in a public school building owned by the local board of education, the charter school is eligible to receive State funding if the project is included in the school system's

Capital Improvement Program and is approved by the county governing body and the Board of Public Works under the State's Public School Construction Program. Funding for capital costs at a charter school is not included in the per pupil amount that each local school board is required to disburse to charter schools. In order to pay for capital expenses, a charter school must either use a portion of the funds it receives for operational expenses or use funds from other sources.

Implementation of Charter School Laws

The National Landscape

Public charter school laws have been enacted in 42 states and the District of Columbia; however, these laws vary across the country. Since 2010, the National Alliance for Public Charter Schools has annually ranked each state's charter school law against the 20 essential components from its model law, such as not limiting the number of charter schools, having multiple authorizers available, having fiscally and legally autonomous schools with independent public charter school boards, providing an exemption from collective bargaining agreements, and providing equitable access to capital funding and facilities. Maryland has consistently ranked low, and in the January 2014 report, Maryland's public charter school law received the lowest ranking among the jurisdictions that have charter school laws. Maryland received its highest rating for not having a limit on the number of charter schools in the State; however, Maryland received very low ratings on all of the other components. Minnesota received the highest ranking.

In a report released in October 2014, the National Alliance for Public Charter Schools analyzed the relationship between a state's charter school law ranking and the performance of that state's charter schools. The report ranked only the 26 states that participated in the Center for Research on Education Outcomes' 2013 National Charter School Study and had at least 1% of its public school students in charter schools. Maryland did not participate in the 2013 study; therefore, it was not ranked. Of the 26 states that were ranked, the District of Columbia received the highest ranking, while Nevada was ranked the lowest. The rankings were based on the health of charter schools using the categories of growth, innovation, and quality. The report found that states with strong charter school laws generally ranked in the top level for school health, states with medium strength charter school laws generally ranked in the middle for school health, and states with weak charter school laws generally were not ranked. However, a few states with higher ranked charter school laws ranked low in school health, and a few states with lower ranked charter school laws ranked high in school health. Therefore, the report concluded that having a strong charter school law is not essential to the success of charter schools because despite having weak charter school laws, some states have achieved strong results through solid practices that are not required by state law.

Implementation in Maryland

The Maryland Public Charter School Program has grown from serving 3,363 students during the 2005-2006 school year, the first year in which charter schools were operational in accordance with the law, to serving 17,839 students during the 2013-2014 school year. Further, despite some closures along the way, the number of charter schools has grown from 15 charter schools during the 2005-2006 school year to 47 charter schools during the 2014-2015 school year. However, it is worth noting that despite the continued growth in enrollment, the net number of charter schools (47) has been stagnant since the 2012-2013 school year. Although nine different counties have had at least one charter school at some point over the last 10 years, the vast majority of charter schools have been located in Baltimore City. For the 2014-2015 school year, charter schools are located in Baltimore City (31); Anne Arundel County (2); Frederick County (3); Prince George's County (10); and St. Mary's County (1).

The closure of charter schools may occur for many different reasons. In Maryland, charter schools have closed due to failure to meet a mission; financial reasons, including the inability to sustain finances; operational reasons; poor academic performance; and the inability to sustain enrollment. In some instances, charter schools have opted not to renew their contracts without giving a reason. Finally, some charter schools have merged with other public schools, effectuating a closure of the charter school.

Reviewing the Maryland Public Charter School Program

In light of the tenth anniversary of the Maryland Public Charter School Program and growing advocate concerns regarding implementation of the program, Chapter 451 of 2013 required the Maryland State Department of Education (MSDE) to study charter schools and make recommendations for improvements to Maryland's Public Charter School Program. MSDE was charged with examining the financial aspects of Maryland's charter schools, such as the costs of opening and operating a high quality charter school, the amount of per pupil funding provided to charter schools compared to traditional public schools, and issues relating to the financing of facilities. MSDE was also charged with examining other aspects of Maryland's charter schools, such as academic performance, the primary causes of charter school successes and failures, parent and teacher satisfaction, student enrollment and retention, and ways to integrate best practices between charter schools and traditional public schools. Additionally, MSDE was asked to examine the use of school models similar to charter schools, such as contract schools and transformation schools, along with the current state of local policies and practices in Maryland that impact the sustainability of charter schools. In conducting the study, MSDE was required to consult and cooperate with interested stakeholders and review and analyze research regarding innovative charter school practices and effective charter school laws in other states.

MSDE contracted with the Schaefer Center for Public Policy of the University of Baltimore to conduct the charter school study. The Schaefer Center's proposal consisted of assembling a team to collect background data, research practices in other states, conduct interviews with key leaders from all of the charter schools in the State, conduct a teacher satisfaction survey for both charter school teachers and traditional public school teachers, and conduct interviews with local school board officials, MSDE, and other State representatives. Additionally, the Schaefer Center team planned to meet with stakeholders to review the draft report findings and solicit feedback;

however, the stakeholder forums were altered to solicit general input because the draft report was not completed prior to the forums.

Potential Issues

Over the years, various legislative initiatives have met with mixed success in attempting to alter provisions of the Maryland Charter School Program. Successful initiatives have included authorizing the State board to grant a waiver to a charter school located on a federal military base from the requirement to be open to all students on a space-available basis, provided the charter school allots 35% of its total available space to students with parents who are not assigned to the base; requiring county boards of education to make vacant school buildings available to charter schools under specified circumstances; and exempting any portion of a building or property occupied and used by a charter school from property taxes. Unsuccessful initiatives have included altering the statutory requirement that a county board of education disburse an amount of money that is commensurate with the amount disbursed to other public schools in favor of an actual percentage of money (86%) being disbursed; authorizing funding for the facilities in which a charter school operates; and exempting charter school employees from collective bargaining agreements and other hiring practices of the county board of education.

In addition to these legislative initiatives, several other issues emerged at the stakeholder forums held by the Schaefer Center team. The forums revealed that charter schools seek increased operational autonomy from their authorizers, including the ability to hire teachers outside of the confines of collective bargaining agreements; facilities funding; and in some instances, freedom from the requirement to pay debt service, which has been subtracted from their operational funding disbursement. The forums also revealed that the policies of the local school systems vary from jurisdiction to jurisdiction, and that this inconsistent application can be confusing and unfair to some charter school operators. Finally, the forums revealed that although there is general agreement that the laws need to be changed, there is no consensus among the stakeholders regarding exactly how the laws should be changed, which provisions in statute should be more prescriptive, and which provisions should be less prescriptive.

Forthcoming Reports from MSDE and the Department of Legislative Services

The Schaefer Center team proposed to complete its work on the report by October 15, 2014, in order to allow MSDE to submit the report by the November 1, 2014 deadline established in Chapter 451 of 2013. However, MSDE indicates that the report will be submitted late. Once the report is submitted, the Department of Legislative Services is required to review the methodology, data analysis, findings, and recommendations contained in the report and make comments or recommendations on the report by December 31, 2014.

Education

Start Time for School Year and School Day for Maryland Public Schools

The timing of when school starts – both in the year and in the day – has been the subject of recent legislation and studies in Maryland. A task force has recommended that schools be required to start after Labor Day so that students can continue working at their summer jobs and families can continue vacations through Labor Day. However, school superintendents and boards oppose the mandate, and it is unlikely that the change would result in additional economic activity or revenues. There have also been several studies on the impacts of starting high school later in the morning to address concerns that start times are too early for teenagers who need adequate amounts of sleep to develop properly and do well at school.

Most Maryland Public Schools Start Before Labor Day

School start dates for students have varied among local school systems in Maryland, but the vast majority start the school year one to two weeks before Labor Day. The number of school systems starting the school year after Labor Day decreased from six counties (Baltimore City and Baltimore, Harford, Montgomery, Wicomico and Worcester counties) in 2000 to none from 2009-2014. The Worcester County Board of Education voted this summer to start the 2014-2015 school year after Labor Day, going back to a policy that it had followed prior to the 2009-2010 school year.

State law establishes the length of the school year, but the specific starting and ending dates are under the authority of each local board of education. Local school boards determine the school calendar each year, and each local school system has a calendar planning committee that considers various factors including testing dates, mandated holidays, and negotiated agreements. Public schools must be open at least 180 days during a 10-month period in each school year, although the State Board of Education is required to grant a waiver of the 180-day requirement under specified circumstances, including a natural disaster, civil disaster, or severe weather conditions. Additionally, State regulations establish a calendar for the conduct of interscholastic athletic contests and practice sessions.

Post-Labor Day Start Date

State Comptroller Peter Franchot has proposed requiring school systems to start school after Labor Day to boost the State economy and summer tourism, particularly in Ocean City; however, school superintendents, school boards, and school employee representatives do not support such a mandate. Chapter 336 of 2014 established the Task Force to Study a Post-Labor Day Start Date for Maryland Public Schools to study the impact of moving the start date of the public school year to after Labor Day on the following areas: (1) the education system, including the academic calendar, planning, administration, and facilities use; (2) the economy; and

(3) summer tourism. The task force was required to report its findings and recommendations by June 30, 2014, to the Governor and the General Assembly. On May 19, 2014, the task force voted to recommend a post-Labor Day start date for public schools. The Comptroller has started a petition drive to collect 10,000 signatures of citizens who believe that Maryland public schools should begin after Labor Day. The petition will be presented to members of the General Assembly during the 2015 session.

The 24 local school system superintendents, the State Superintendent of Schools, union representatives, the Maryland Association of Boards of Education, and the Public School Superintendents' Association of Maryland oppose a post-Labor Day start date. According to testimony presented to the task force, each of the 24 local school systems would oppose any legislation that would remove the autonomy of local school boards to make decisions regarding the school calendar. Local superintendents prefer that the authority to make calendar decisions remain at the local level due to the differing needs of each school system and the need for local flexibility regarding various issues, including unique student populations, geography, inclement weather policies, community business needs, the coordination of students' dual enrollment in college courses, and school system facility concerns related to schools without air conditioning that cancel days because of extreme heat. The Maryland State Education Association expressed concerns regarding the impact of a post-Labor Day start date on inclement weather planning, professional development for teachers, and available instruction time for standardized testing.

Impact on the Economy and Summer Tourism

A report by the Maryland Comptroller and the Board of Revenue Estimates (BRE) dated August 14, 2013, analyzed the impact on the State economy if schools were required to start after Labor Day. The BRE projects that a post-Labor Day start date would result in an additional $74.3 million in direct economic activity and an additional $7.7 million in new State and local government revenue. The report estimated that 8.5% of the 514,680 Maryland families with school-age children would go on a new day trip or overnight trip in the State, 5.2% would go on a new out-of-state trip, and the remaining families would spend at least one additional day engaging in family activities.

However, the Department of Legislative Services notes that much of the report's estimated direct economic activity – while likely to occur due to the post-Labor Day start date – is unlikely to be *additional* economic activity from the State's perspective. In the report, "local family recreational activities" are responsible for $52.1 million (70%) in direct economic activity and $4.1 million (53%) in new State and local government revenue. Family recreational activities are generally defined as close-to-home activities that a family can do over the course of a day, such as going to the movies, hosting a cookout, or attending a baseball game. In the broader context of the State economy and consumer budget constraints, increased recreational spending in August is largely offset by reduced spending during other times and/or on other goods and services. In other words, changing the start date of school does not directly put more money in families' pockets, so when a family decides to go out to a restaurant in August, it has less money to spend in the following months. Accordingly, tax revenues would increase in August and decline in subsequent months, and due to the timing of the effect, largely be revenue neutral in a given fiscal year. A net economic and/or fiscal impact associated with local family recreational activities is still possible through the reallocation of consumer spending (for example, if consumers spend more on goods and services that are taxed at higher rates), but any impact is largely mitigated by these constraints.

The Maryland Hotel and Lodging Association, in addition to other tourist organizations, including Visit Baltimore, supports the recommendation of the task force because of the belief that additional revenue for the State will be generated by a later start date, provided that a later start date does not negatively impact test scores. The association further believes that local school systems should add additional school days into the existing calendar year rather than extend the school year later in June. The association cites Virginia as an example of a state that prohibits the start of public schools before Labor Day, absent a state waiver. Visit Baltimore supports an extended three-month tourist season. According to Visit Baltimore, under the current pre-Labor Day start time, Baltimore City students who have summer jobs have to stop working earlier in the summer to return to school. In addition, reduced airline and train ticket sales and hotel reservations attributed to a pre-Labor Day start date negatively impact Baltimore businesses. According to the Mayor of Ocean City, the summer tourist season is also impacted by the loss of seasonal workers who return to schools that begin prior to Labor Day.

Later Start Time for School Day

House Bill 1462 of 2013 would have established a Task Force to Study a Later Starting Time for Maryland Public Schools to review the science on the sleep needs of adolescents, including effects of sleep deprivation on academic performance and benefits of sufficient sleep; how other school systems have implemented later school day starting times; and how various activities in those school systems were impacted and scheduled around the changes. The bill passed the House of Delegates but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. Although the bill did not pass, the issue of starting high schools later in the morning in response to students' sleep needs has continued to be studied by several school systems in Maryland, and changes to start times have been implemented in jurisdictions in Virginia. A local advocacy group in Virginia, Start Later for Excellence in Education Proposal (SLEEP), reports that at least 70 of the 95 school districts in Virginia have high schools that start classes after 8:00 a.m.

Science of Adolescent Sleep and Other Policy Considerations

According to the National Institutes of Health (NIH), sleep loss in adolescents causes problems with memory and attention, complex thought, motor responses to stimuli, performance in school or on the job, and controlling emotions. NIH also indicates that the amount of sleep that an individual needs each day changes considerably over the course of a lifetime, and reports that the recommended amount of sleep for teenagers is 9-10 hours a day. According to the National Sleep Foundation, research demonstrates that changes in adolescent brain chemistry affect melatonin production and make it difficult for students to fall asleep earlier in the evening in order to get up for an earlier school start time. The research concluded that a later school start time could improve student concentration and academic performance.

Changes to high school start and finish times will have a cascading impact on bus routes and schedules for high school and middle and elementary school students. These changes are likely to affect transportation costs and may impact the number of after-school hours available to students for athletics, other extracurricular activities, additional academic time, homework, and employment.

Maryland School Systems Study Impacts; Virginia Systems Implement Changes

Several school systems in Maryland have been studying the impacts of changing school start times. After recommending in 2013 that Montgomery County Public Schools move the start time for high schools to 8:15 a.m. beginning in the 2015-2016 school year, the superintendent recommended in June 2014 that the school board not proceed with the proposed changes because of increased transportation, utility, and staff costs and a lack of agreement in the community. In response, the Montgomery County Board of Education approved a resolution requesting the superintendent to study proposed changes to high school start times that would not cost more than $10 million and to present a report to the board that could be considered for the next budget cycle. In October 2014, the Anne Arundel County Public Schools Start Times Task Force presented four later start options that would cost between $600,000 and $9 million to the superintendent and county board of education. The Carroll County public school system has also been studying the impact of adjusting school start times.

In September 2001, the Arlington Public Schools changed high school start times to between 7:50 a.m. and 9:00 a.m. and ended the school day 45 minutes later than in prior school years. Due to the limited number of school buses and bus drivers, the school system altered the start of middle schools to 20 minutes earlier than before. The school board approved the change because of the belief that later start times would have a beneficial impact on high school students, particularly academic performance.

In 2013, the Fairfax County School Board awarded a contract to the Children's National Medical Center (CNMC) to develop a proposal to start high schools after 8:00 a.m. to improve students' mental and physical health, academic performance, and safety. The school board voted in favor of CNMC's plan on October 23, 2014. Beginning with the 2015-2016 school year, the majority of elementary schools will start at the same time or within five minutes of their current start time. Approximately 25 elementary schools will start within 10 minutes of their current start time. Except for middle school students attending three secondary schools that have students in grades 7 through 12, all middle schools will begin at 7:30 a.m., and high schools will start between 8:00 a.m. and 8:10 a.m.

Higher Education

Enrollment Trends and Projections

After years of enrollment increases, the number of students at the State's public higher education institutions is expected to decline for the third consecutive year, posing potential financial difficulties for the institutions. This overall decrease is attributable to community college enrollment. Even though enrollment has been decreasing in the short term, the Maryland Higher Education Commission projects enrollment increases over the next 10 years.

Enrollment Decreases Occurring in the Short-term

After 15 consecutive years of enrollment increases in the State's public higher education institutions, the trend has swung in the direction of declining enrollment, with decreases occurring in each of the last three years. Headcount enrollment for public higher education institutions declined from fall 2011-2012 by 1.2%, or 3,878 students. Enrollment declined again from fall 2012-2013 by 2.7%, or 8,526 students, which was the largest decrease in at least 30 years. This was the first time since the 1992-1993 academic year that total headcount enrollment at Maryland's higher education institutions declined in consecutive years. Fall 2014 enrollment is also expected to decline, marking the third consecutive year of enrollment decreases.

Public Four-year Enrollment

Based on total headcount enrollment in the fall of 2012, 10 public four-year institutions experienced declining enrollment. This number fell to eight institutions for fall 2013, and only five institutions are experiencing declining enrollment in fall 2014 as shown in **Exhibit 1**. In fall 2014, enrollment declined the most at Coppin State University (-7.4%), while Frostburg State University grew by the highest percentage (3.1%).

Exhibit 1
Public Four-year Institutions
Change in Headcount Enrollment
Fall 2013-2014

	Fall 2014 Headcount	Change from 2013	% Change from 2013
Bowie State University	5,695	134	2.4%
Coppin State University	3,133	-250	-7.4%
Frostburg State University	5,645	172	3.1%
Salisbury University	8,770	127	1.5%
Towson University	22,285	-214	-1.0%
University of Baltimore	6,422	-96	-1.5%
University of Maryland, Baltimore	6,276	-8	-0.1%
University of Maryland Baltimore County	13,979	71	0.5%
University of Maryland, College Park	37,610	338	0.9%
University of Maryland Eastern Shore	4,279	59	1.4%
Subtotal	*114,094*	*333*	*0.2%*
Morgan State University	7,667	121	1.6%
St. Mary's College of Maryland	1,782	-77	-4.1%
Total	**123,543**	**377**	**3.1%**

Source: University System of Maryland, fall 2014 Preliminary Opening Enrollment; Morgan State University; St. Mary's College of Maryland

Community College Enrollment

Total headcount enrollment peaked at the State's 16 community colleges in fall 2011 with 148,670 students; however, that number has fallen to 138,807 students in fall 2013. This is the first time since 1999-2000 that total headcount enrollment at Maryland's community colleges has declined in at least two consecutive years. From fall 2011-2012 there was a 2.4% decline in enrollments represented by nine institutions. A 4.1% decline in fall 2013 included 15 community colleges, which was the largest decline in recent history. Although fall 2014 enrollment data for community colleges has not been finalized, preliminary data indicates that all 16 community colleges have experienced another decline in enrollment and, at some schools, it may be a larger decline than in prior years.

Baltimore City Community College (BCCC), the only State-operated community college, has been experiencing declining total headcount enrollment since fall 2011. BCCC experienced slight declines of 1.1% in both fall 2011 and fall 2013. However, BCCC experienced a sharp decline of 22.7% in fall 2012. BCCC has stated several reasons for its declining enrollment, including a damaged reputation caused by the probationary accreditation from the Middle States Commission on Higher Education in 2011, a subsequent reduction in degree programs, and the reduction in the number of semesters a student can receive a Pell award.

Financial Impact

The trend of decreasing or flat enrollment has budgetary implications. The previous trend had been for a gradual increase in enrollment; however, the new trend has been one of attempting to maintain current numbers. If fiscal planning at the institutions does not account for the flat or declining enrollment, there will be financial consequences. If the enrollment projections used to create a budget do not come to fruition, the actual tuition and fees collected will be less than expected, and the loss can add up quickly. For example, Coppin State University projected 250 more students than it enrolled in the fall of 2014, which resulted in a revenue loss of approximately $2.5 million.

Enrollment Increases Projected in the Long-term

Although enrollment has been decreasing in the short-term, the Maryland Higher Education Commission (MHEC) is projecting enrollment increases over the long-term. Over the 10-year period from fiscal 2014 through 2024, MHEC projects total headcount enrollment for undergraduate and graduate students at Maryland's public higher education institutions to increase by 16%, or 48,680 students. Total enrollment at the State's community colleges is projected to increase by a higher percentage (20%) and number of students (28,314 students) than total enrollment at the public four-year institutions (13%, or 20,366 students).

For further information contact: Kate E. Henry/Dana K. Tagalicod Phone: (410) 946/(301) 970-5350

Higher Education

College Affordability and Financial Aid

State funding for the largest need-based student aid program has grown about 1% since fiscal 2010, while the number of applicants has increased nearly 30%. This has resulted in almost 30,000 students on the waitlist for State need-based financial aid in fiscal 2015. After tightening eligibility requirements for the Parent PLUS loan in 2011, the federal government recently relaxed the requirements.

Despite Modest Tuition Growth, Student Need for Financial Aid Remains High

Maryland had the second smallest tuition increase in the nation from fiscal 2009 to 2014, according to a 2013 College Board report, ranking behind only Missouri. Because of this, Maryland now ranks as the twenty-eighth most expensive state for public four-year institutions, compared to seventh in the nation in fiscal 2005.

Despite this progress, due in part to Maryland's in-state tuition freeze from fiscal 2007 to 2010 and tuition increases limited to 3% since fiscal 2011, financial aid still has a significant impact on the affordability of higher education for many Maryland students. Funding for the State's largest need-based financial aid program, Educational Excellence Awards (EEA), grew rapidly between fiscal 2006 and 2007 due to a policy shift away from merit- and career-based aid toward need-based aid. However, it remained level funded at approximately $75.0 million annually from fiscal 2009 to 2012. An increase of $7.8 million for fiscal 2013 represented the first significant increase in EEA funding since fiscal 2007.

EEA funding is first given to all students eligible for a Guaranteed Access grant (those with the most financial need) of up to $16,500 and the remainder goes to students eligible for Educational Assistance (EA) grants (those with moderate financial need) of up to $3,000 in the order of financial need. Therefore, funds available for EA grants typically do not cover all the students eligible, resulting in a waitlist. In fiscal 2015, the total EEA appropriation decreased 15.3%. The decrease is due to a large transfer of $14.0 million from the Need-Based Student Financial Assistance Fund (NBSFAF) in 2014 to EEA. However, most institutions raised in-state undergraduate tuition by 3.0% in fiscal 2015. Total State support for all need-based student financial assistance offered by the Maryland Higher Education Commission (MHEC) is about $83.3 million in fiscal 2015, or 4.5% of total higher education spending in fiscal 2015.

Exhibit 1 shows trends in EEA appropriations and awards from fiscal 2010 to 2015. Overall student need grew significantly over this time period. While fiscal 2014 saw a decline of about 25% in the waitlist from fiscal 2013, the fiscal 2015 waitlist has grown about 3% year-over-year. Since 2010, the number of EEA applicants increased nearly 30%, and those applying demonstrated greater financial need. This is measured by the Expected Family Contribution (EFC) of students receiving State awards. In general, a lower EFC means a student has greater financial need, and MHEC makes EA awards beginning with the students who qualify with the lowest EFC. Between fiscal 2010 and 2015, the "EFC awarded" level fell 84.0%. To date, MHEC has awarded fiscal 2015 EA grants to students with EFCs up to $800, while as recently as fiscal 2009 MHEC reached students with EFCs up to $10,300.

Exhibit 1
Educational Excellence Awards

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
EEA Appropriations	$76,459,474	$75,933,546	$75,124,624	$82,896,170	$90,963,593	$77,008,868
EA – Total Applicants (On-time FAFSAs)	103,765	117,447	134,305	139,983	134,669	134,579
Initial EFC Awarded (EA Only)	$5,000	$2,500	$1,125	$1,000	$2,164	$800
Waitlist as of May 1 (EA Only)	11,333	18,504	31,000	35,795	26,718	27,595
Amount to Fund Initial Waitlist (EA Only)	$23,763,183	$39,767,903	$63,912,409	$75,504,020	$65,136,400	

EEA: Educational Excellence Awards
EA: Educational Assistance Grant
FAFSA: Free Application for Federal Student Aid

Note: This data is as of October 17, 2014. Fiscal 2014's figures include $14.0 million in special funds, while fiscal 2015 does not yet reflect the addition of $3.0 million in special funds.

Source: Maryland Higher Education Commission, Office of Student Financial Assistance

As a result of growing demand and level general fund appropriations, the EA waitlist has grown by over 16,000 students, or about 144.0%, between fiscal 2010 and 2015. The amount of funding necessary to cover all waitlisted students in the last fiscal year, $65.1 million, would have been equivalent to over 70.0% of the entire EEA program's budget. The waitlist includes all Maryland residents who file a Free Application for Federal Student Aid and have any financial need, regardless of how high their EFC. The fiscal 2015 waitlist includes students with EFCs from $0 to over $66,000. Some students on the waitlist do receive aid as aid offered to other students is declined (*e.g.*, if a student chooses to attend college out of state). In fiscal 2013 about 6,700 moved off the waitlist and received aid, while in fiscal 2014 MHEC was able to make awards to an additional 18,900 students. Declined awards from the initial awarding or waitlist awarding cycle make up the majority of unspent financial aid funding that is carried forward to the next year.

NBSFAF is a special fund created in 2011 to better account for these unused financial aid funds. However, the most recent legislative audit in 2013 noted MHEC had not efficiently used the funds to make need-based awards, and large balances had accrued. For example, MHEC reported that only $1.3 million of the total $10.5 million fiscal 2013 special fund appropriation was expended, leaving a NBSFAF balance of approximately $17.2 million at the end of fiscal 2013, despite the large waitlist for aid shown in Exhibit 1. In the fiscal 2014 State budget, $15.3 million was appropriated from NBSFAF with $14.0 million going to EEA. Only about $3.2 million was transferred in, leaving a balance of $5.2 million. In October 2014, MHEC transferred $4.0 million from NBSFAF: $3.0 million to EEA and $1.0 million to other financial aid programs. The effect of this additional funding is not reflected in Exhibit 1. This leaves a fund balance in NBSFAF of only $1.2 million. Much of the appropriations for the next few fiscal years may be used up for renewal awards, which receive priority for funding regardless of EFC, due to the larger total number of awards made in fiscal 2014. This may put pressure on the remaining funds in NBSFAF and limit how much of the EEA general fund appropriation may go to new awards.

Federal Financial Aid

Because State need-based programs such as EEA are applied to student need after the federal Pell grant is considered, federal funding for the Pell grant program has a significant impact on how far State need-based financial aid will stretch. The maximum Pell award for academic year 2014-2015 rose to $5,730, an increase of $85, or 1.5%, over the prior year. Over the past five years, the maximum Pell grant has increased by only $180. This small increase in the Pell grant, on top of restrictive eligibility changes that went into effect in the 2012-2013 academic year, means that the Pell program is providing much less financial support to students today than before the economic recession.

Additionally, in 2011, the U.S. Department of Education (USDE) tightened eligibility for Parent PLUS loans, generally taken out when a student exceeds the per-year cap on other federal student loans. Previously, loans were denied to parents with financial delinquencies in the past 90 days. This window of scrutiny was extended to five years, and the change has had a particularly disparate impact upon historically black colleges and universities (HBCUs).

Maryland's community colleges and four HBCUs are concerned that these changes will lead many students to drop out of higher education and may have already contributed to enrollment declines beginning in the 2012-2013 school year. In response, in 2013, federal policy changed so that if a student's parent is denied a PLUS loan, the student is automatically eligible to borrow more under the Stafford loan program, as long as the student does not exceed the lifetime cap on such loans. In October 2014, USDE reduced the period of time in which it evaluates prospective PLUS loan borrowers' history of adverse credit from five years to two. It will also exempt up to $2,085 in delinquent debt from counting against an applicant. This amount will be annually adjusted for inflation.

Higher Education

Performance Funding and Cost per Degree

Since the 2014 session, the Maryland Higher Education Commission (MHEC) has been modeling a framework for implementing performance-based funding at State public four-year and two-year institutions. The performance of Maryland institutions as compared to their peers combined with the cost of producing a degree indicates that there is room for improvement.

Performance-based Funding

In 2012, the Maryland Higher Education Commission (MHEC) was tasked by the budget committees with proposing a performance-based funding (PBF) framework and metrics to allocate State funds based on institutional and student performance and was subsequently requested during the 2013 session to further refine the model. In September 2013, MHEC approved a framework to incorporate PBF into the annual appropriations for public higher education institutions. MHEC endorsed a model that uses a within-base fund approach, meaning that a certain percentage of the State appropriation will be designated for PBF and allocated based on an institution's performance, but was silent as to what percentage of the State appropriation would be subject to PBF.

The framework for the four-year institutions is comprised of three distinct categories: degree completion, student progression, and mission metrics. The first two metrics are mandatory, and each institution will be measured on a total of six metrics. Extra weight will be given to those students receiving a Pell grant award in recognition of the fact that, in general, more institutional effort is required to retain and graduate these students. The student progression metric measures the increase in students who earn critical credit milestones that typically delineate sophomore (30 credits), junior (60 credits), and senior status (over 90 credits).

The mission metrics category recognizes that four-year institutions have different missions and fulfill varying purposes for the State. These metrics include reducing the graduation rate gap between certain ethnicities and genders; increasing the number of students transferring from a community college with at least 12 credits; increasing the number of students who successfully complete remedial math and one credit bearing math course in the subsequent semester; and increasing the number of bachelor's degrees awarded in STEM (science, technology, engineering, and math) programs. Institutions select four of the eight mission metrics subject to MHEC approval.

While there are no mission-specific metrics in the community college framework, there are six mandatory measures, including: increasing the number of certificates and degrees awarded; increasing the number of students transferring to a four-year institution with at least 12 credits; and increasing the number of STEM degrees awarded. Further information about the framework can be found in *Issue Papers – 2014 Session*.

Over the past year MHEC has been modeling and testing the PBF framework to determine whether the data is available, reliable, and valid and will make appropriate adjustments to the metrics as needed. MHEC will be submitting a report on its preliminary test results, including whether the metrics are reasonable and the potential impact on institutions.

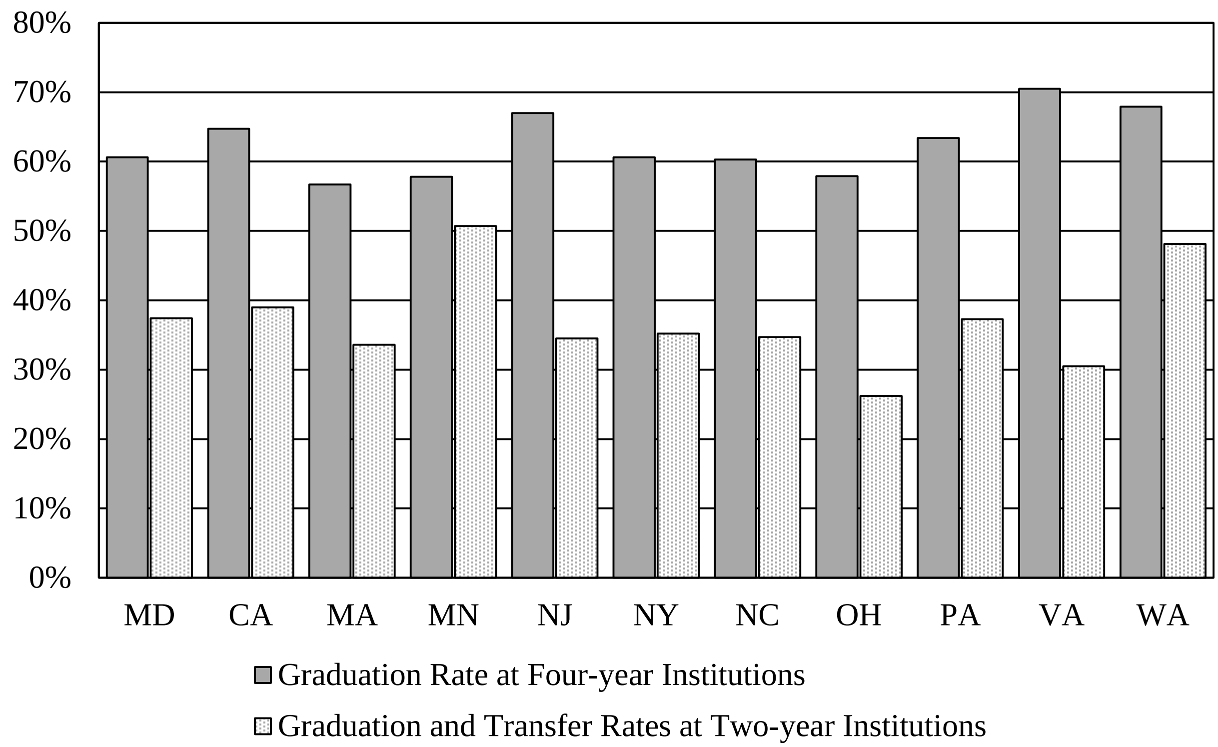
Graduation and Transfer Rates

As mentioned above, the PBF metrics include degree completion and increasing transfers from two- to four-year institutions. As shown in **Exhibit 1**, only 37.4% of those enrolled in a two-year institution in Maryland transferred or obtained a degree within three years. This is slightly higher than the average of 37.0% at institutions in Maryland's competitor states (those states for which Maryland competes for new businesses and jobs). However, the six-year graduation rate at Maryland's four-year institutions of 60.6% falls below the competitor states' average of 62.7%. It has been shown that students who transfer with a credential (*i.e.*, associate's degree or certificate) obtained a four-year degree at a higher rate than those without a credential. Therefore, increasing degree completions at the two-year institutions could led to an increase in graduation rates at the four-year institutions.

Cost of Degrees and Completion

The relatively low transfer and graduation rate at Maryland's public two-year institutions translates into the highest cost per completion among its competitor states, as shown in **Exhibit 2**. The average cost per completion in Maryland was $73,321, far exceeding the average of $54,478 in its competitor states. On the other hand, the average cost of a four-year degree at Maryland's public institutions was $62,960, which is below the average of $66,253 for its competitor states. Overall, as shown in the two exhibits, Maryland institutions can do better at educating the citizens of the State and help the State achieve its goal that by 2025 at least 55% of its residents, age 25 to 64, will hold at least an associate's degree.

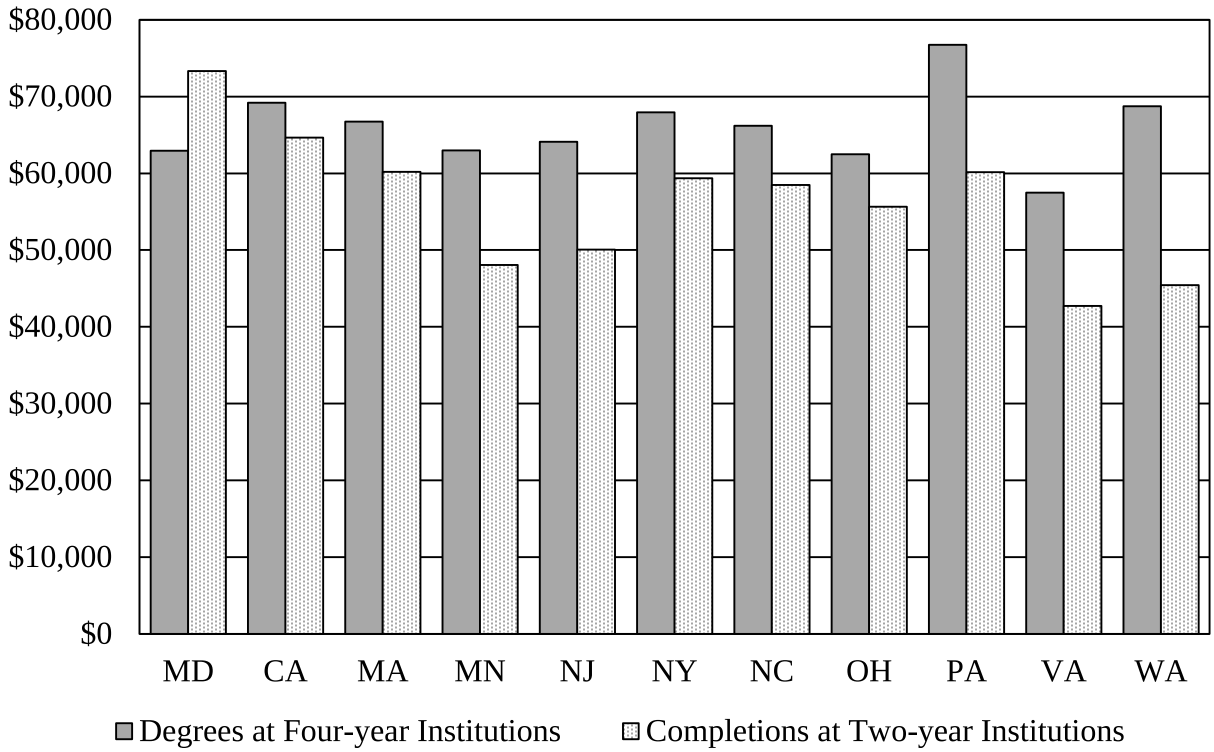
Exhibit 1
Graduation and Transfer Rates at Two- and Four-year Institutions Compared to Competitor States
Fiscal 2011



Note: Maryland public four-year institution cost per degree includes the United States Naval Academy. Four-year institution graduation cohorts based on entering class six years prior. Two-year institution cohort graduation rate is based on the entering class three years prior.

Source: College Measures

Exhibit 2
Cost per Degree and Completion at Two- and Four-year Institutions Compared to Competitor States
Fiscal 2011



Note: Maryland public four-year institution cost per degree includes the United States Naval Academy. Cost per degree is education and related (E&R) expenses for all students divided by all degrees awarded in the same year. For completions, E&R expenses are divided by the number of completions awarded in the same year. Completion includes certificates between one and two years (given a weight of 0.5) and certificates of two to four years and associate's degrees (given a weight of 1).

Source: College Measures

Higher Education

Coppin State University Reforms

Coppin State University has implemented 23 of the 50 actions recommended by a special review committee established in 2012. However, the success of these actions remains unknown as enrollment continues to decline and a change in leadership is set to occur at the end of the fiscal year.

Formation of a Special Review Committee

While Coppin State University (CSU) has received significant State support in both the operating and capital budgets and offers some successful academic programs such as nursing, criminal justice, and applied psychology, it continues to struggle with poor student performance and declining enrollment. In addition, from at least fiscal 2007 to 2013, CSU has been grappling with financial difficulties due to increased spending during times of falling enrollment. Given these issues, coupled with the president stepping down in 2012, the University System of Maryland (USM) Board of Regents (BOR) appointed a special review committee to conduct a comprehensive review of CSU and recommend strategies and actions to improve overall performance of the institution. Overall, the committee found that there is a lack of strong leadership, ineffective and inefficient use of resources, and a lack of accountability.

Budget Shortfall

The committee learned that "in spite of its high per-student funding, CSU has been struggling with an ongoing operating budget deficit" and had concerns regarding budget planning, expenditures controls, implementation of PeopleSoft (a business software program for much of the administrative functions), and audit reviews. CSU's financial difficulties started in fiscal 2007 when enrollment declined 7.3%, from 3,302 full-time equivalent students (FTES) in fiscal 2006 to 3,061. The resulting decline in tuition and fee revenues was mitigated by an increase of $9.6 million in State funds; however, spending exceeded revenues by $1.0 million. This trend continued over the next five fiscal years. In order to cover the persistent budget shortfall, CSU appears to have relied on a combination of auxiliary revenues and transfers out of fund balance, which serves as a reserve fund, into its operating budget. The use of the State-supported portion of the fund balance is evident with the balance declining from $6.2 million in fiscal 2007 to almost being depleted in fiscal 2013 with a balance of $0.2 million. However, the fiscal 2014 fund balance was $1.4 million, showing some progress.

In fiscal 2013, USM and CSU took action to align expenditures with revenues, resulting in CSU closing fiscal 2013 with an overall surplus of $0.5 million. Since then, CSU assured the BOR that it will continue to operate with a balanced budget each year, and the university closed fiscal 2014 with a small surplus. However, financial struggles persist, with a continuing decline of up to 250 FTES in the fall 2014 enrollment resulting in an estimated budget shortfall of between $2.0 million to $2.5 million.

Status of Implementation Plan

The committee emphasized that the overriding priority is the academic success of the students, and to that end, the recommendations fall under three goals to (1) improve student retention and graduation rates and increase enrollment; (2) strengthen academic programs and faculty; and (3) improve administrative operations and shared governance practices. An implementation plan was developed, establishing a definitive, detailed plan with timelines for the recommended actions to be completed along with accountability measures. An implementation team was established to provide oversight, guidance, and feedback on carrying out the recommendations. Overall, 50 targeted corrective actions were identified to achieve efficiencies in the academic enterprise, improve operations, and change and improve processes. To date, progress has been made on 49 of the actions, of which 23 have been completed, including:

- 6 of the 8 immediate actions (to be completed by August 31, 2013);
- 9 of the 16 short-term actions (to be completed by December 31, 2013);
- 0 of the 1 immediate to mid-term (to be completed by June, 30, 2014);
- 8 of the 18 mid-term actions (to be completed by June 30, 2014); and
- 0 of the 7 long-term actions (to be completed by June 30, 2018).

Some of the completed actions include:

- opening a child care development center;
- developing a strategic enrollment management plan with a target of growing enrollment to 5,000 students by 2020;
- implementing intrusive academic advisory intervention, which included assigning every student an advisor; and
- identifying the functions and personnel in the Office of Administration and Finance necessary to accomplish the critical components of the institution.

While CSU provided regular reports on the status of the actions identified in the implementation plan, there are inconsistencies in the reporting on the progress of those actions. While detailed information was provided for some activities, many lacked details on the outcomes of the actions. For example, even though CSU opened a child care center, there is no information about whether the students are using it, and while all students have been assigned an advisor, it is not known whether students are meeting with them.

The Future of CSU

While CSU continues to make progress toward completing the actions identified in the implementation plan, enrollment continues to drop, and there has been little, if any, improvement in student performance or success. Furthermore, CSU continues to struggle financially due to budget reductions and a continuing decline in enrollment, but through cost-containment measures has recently been able to stay within budget. This brings into question whether the appropriate actions are being taken to "right size" the university, that is, to align resources with enrollment. Furthermore, the current president is set to resign at the end of fiscal 2015. While a search committee will be appointed, the selection of a new president will signal the importance and continuation of the efforts to transform CSU. Recognizing the opportunities that exist with the change of leadership at several Baltimore City institutions, the budget committees requested a report on not only current partnerships but also specific plans to increase and enhance collaborations and partnerships. The report has not been submitted at the time of this publication, but will be reviewed in preparation for the upcoming legislative session.

Health and Health Insurance

Implementation of Federal Health Care Reform

Implementation of federal health care reform continues in Maryland. In 2014, the State launched the Maryland Health Connection website, began to transition enrollees from the Maryland Health Insurance Plan to other coverage, and established a State Reinsurance Program, which will make initial payments in August 2016. The U.S. Supreme Court also ruled on a related case.

Initial Implementation Efforts

The federal Patient Protection and Affordable Care Act (ACA) requires most Americans to have minimum essential health care coverage or face a tax penalty. Since the ACA became law in 2010, Maryland has been actively working to implement related reforms in the State. Through executive action and legislation enacted beginning in 2011, Maryland established the Maryland Health Care Reform Coordinating Council and the Governor's Office of Health Care Reform, brought the State's insurance laws into compliance with new federal consumer protections, and standardized health insurance premium rate review and approval. Maryland also established the Maryland Health Benefit Exchange (MHBE) to develop and operate the Individual Exchange and the Small Business Health Options Program Exchange, established a funding stream for MHBE, expanded Medicaid coverage for low-income individuals, provided for the transfer of Maryland Health Insurance Plan (MHIP) members to other coverage, and established a State Reinsurance Program.

Launch of Maryland Health Connection

As 1 of 17 states that elected to operate its own health benefit exchange, Maryland established MHBE as an independent unit of State government with a mission to help individuals and small employers and their employees shop for affordable health insurance. Maryland Health Connection (MHC), the name of the State's insurance marketplace, went live in October 2013, and encountered significant information technology (IT) problems. Nonetheless, as of September 2014, more than 80,000 individuals had enrolled in qualified health plans and more than 376,000 individuals had gained coverage through Medicaid. In November 2014, MHC commenced the second open enrollment period using a new IT system. For more detail on MHBE, see the issue paper titled *Maryland Health Benefit Exchange*.

Continuing Legal Challenges

On June 30, 2014, in *Burwell v. Hobby Lobby*, 573 U.S.___ (2014), the U.S. Supreme Court ruled that the federal Religious Freedom Restoration Act (RFRA) does not allow the

U.S. Department of Health and Human Services (HHS) to require that closely held for-profit corporations provide health insurance coverage for methods of contraception that violate the sincerely held religious beliefs of the corporations' owners. The ruling is unlikely to have an effect on insurance coverage regulated by the State. Because the court found that the requirement violated RFRA, which only applies to the federal government, it did not consider the plaintiffs' claim that the requirement also violated the Free Exercise Clause of the U.S. Constitution. Therefore, the ruling does not affect the contraceptive coverage requirement in Maryland insurance law. Also, whether or not the Maryland Insurance Administration (MIA) and MHBE will have to take action in light of the ruling depends on how HHS chooses to respond; however, both entities indicate that it is unlikely any changes are necessary.

Other cases continue to work through the legal system. Among them is *King v. Burwell*, which the Supreme Court will consider during its 2014 to 2015 term. The issue in the case is whether federal tax-credit subsidies may be made available to individuals who are buying insurance on the federal exchange or whether the subsidies may only be made available to those buying insurance on a state exchange. The Supreme Court has yet to issue a decision regarding the request.

Maryland Health Insurance Plan

MHIP is the State's insurer of last resort for medically uninsurable individuals. Under the ACA, this population can buy private health insurance due to elimination of preexisting condition limitations, while others may also qualify for expanded Medicaid coverage. Chapter 159 of 2013 closed MHIP to new enrollment as of December 31, 2013, and required that MHIP coverage end no later than January 1, 2020.

The MHIP board, in consultation with MHBE, has adopted a plan to phase out MHIP and reduce the impact of enrollees transitioning to the private market. MHIP federal, the federal high-risk pool created by the ACA, terminated on April 30, 2014. The MHIP+ plan, which provided discounted premiums to individuals with incomes below 300% of the federal poverty level, ended March 31, 2014. The board extended the MHIP standard plan by six months to December 31, 2014; however, MHIP standard members have already begun transitioning to the exchange. These actions are reflected in declining MHIP enrollment as shown in **Exhibit 1**.

Exhibit 1
Enrollment in the Maryland Health Insurance Plan by Plan Type
January-September 2014

	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.
MHIP Standard	12,322	11,444	11,076	10,299	9,733	9,406	9,188	8,964	8,802
MHIP+	5,616	4,865	4,570	135	0	0	0	0	0
MHIP Federal	1,220	813	725	111	0	0	0	0	0

MHIP: Maryland Health Insurance Plan

Source: Maryland Health Insurance Plan

Maryland Health Insurance Plan Fund and the State Reinsurance Program

The MHIP fund, which was used to subsidize premiums for MHIP coverage, generates revenue from an assessment on hospitals. Chapter 464 of 2014 reduced the assessment from 1.0% to 0.3% of net patient revenue to provide hospitals with rate relief to help them meet the demands of Maryland's new hospital rate-setting demonstration project (for more information, see the issue paper titled *Implementation of the All-payer Model Contract*). MHIP finished fiscal 2014 with a fund balance of over $150 million. The fund balance is anticipated to be over $160 million by the end of fiscal 2015.

Chapter 159 of 2013 authorized the MHIP board to transfer money not needed for MHIP to a new State Reinsurance Program designed to mitigate the impact of high-risk individuals on rates in the individual insurance market inside and outside the MHBE. A federal transitional reinsurance program will cover benefit years 2014 through 2016. The federal program transfers funds to individual market insurance plans with higher cost enrollees in order to stabilize premiums among insurers. The federal program will provide reinsurance payments to health plans for enrollees who have medical costs that exceed an attachment point of $45,000 in 2014 and $70,000 in 2015. The federal reinsurance payment will cover 80% of claims costs above the attachment point in 2014 and 50% in 2015, up to a cap of $250,000. The MHBE board has approved providing supplemental coinsurance through the State Reinsurance Program to ensure that carriers are made whole for a total of 80% of claims above the attachment point in 2015. Payments are expected to be made beginning in August 2016 at an estimated cost of $20 million to $30 million. MIA advises that the State Reinsurance Program reduced 2015 premiums in the individual market by 3% to 5%.

For further information contact: Patrick D. Carlson/Jodie L. Chilson/ Kaitlyn S. Shulman (410) 946/(301) 970-5350

Health and Health Insurance

Maryland Health Benefit Exchange

In 2013, the Maryland Health Benefit Exchange's launch of the Maryland Health Connection was marred by significant problems. Yet in total, about 458,000 Marylanders enrolled in health care coverage, including 82% in Medicaid. The second open enrollment period, which runs through February 15, 2015, and is using a new information technology platform, will be closely monitored.

Introduction

The Maryland Health Benefit Exchange (MHBE) was established in 2011, pursuant to the federal Patient Protection and Affordable Care Act (ACA), to reduce the number of uninsured, make it easier for individuals and small businesses to purchase health insurance, assist individuals in accessing public programs and subsidies, and supplement existing insurance markets. The consumer face of MHBE is the Maryland Health Connection (MHC).

Initial Open Enrollment Period Marred by Information Technology Problems

The MHC went live on October 1, 2013, for individuals seeking coverage through the Individual Exchange. Problems almost immediately arose that prevented consumers from creating accounts and enrolling in coverage. While some consumers were ultimately successful in enrolling through the website or were assisted through the MHC call center or other consumer assisters, the information technology (IT) system never worked as anticipated. MHBE's executive director resigned, ties with the original IT contractor were severed, new consultants were hired, and the Secretary of Information Technology was put in charge of getting the IT system on track. Despite IT problems, MHBE enrolled 66,203 individuals into commercial plans during the initial open enrollment period. An additional 14,888 individuals enrolled in commercial plans through September 30, 2014, due to special qualifying circumstances such as the birth of a child.

Medicaid Enrollment

Medicaid enrollment through MHBE remains open year-round. As of September 29, 2014, 376,850 individuals eligible for Medicaid enrolled through MHBE. This figure includes 95,889 individuals who were automatically transferred from the limited benefit Primary Adult Care Program to full Medicaid benefits on January 1, 2014. The net increase in Medicaid enrollment between December 31, 2013, and September 29, 2014, was 262,979, which accounts for loss of enrollment due to changes in individual circumstances.

2014 Session Developments

Legislative concern with MHC's failed launch prompted the Presiding Officers to appoint a Joint Oversight Committee on MHBE (Joint Oversight Committee). The Joint Oversight Committee held three meetings during session and requested that the Office of Legislative Audits (OLA) conduct a special review of MHBE's processes and decisions prior to and during the initial open enrollment period. The review, which was limited to publicly available documents, found an absence of critical project planning and management processes and protocols, continued emergence of new risks and issues during the IT development process, lack of clarity as to IT project oversight and governance, and inadequate system testing and functionality.

To provide a safety net for individuals who were unable to enroll during open enrollment due to IT problems, emergency legislation was enacted. Chapter 1 of 2014 expanded the purpose of the Maryland Health Insurance Plan (MHIP) to include providing access to affordable, comprehensive health benefits for "bridge eligible individuals." The Act expressed the intent of the General Assembly that MHIP be used to subsidize health insurance coverage for such individuals. Ultimately, 144 individuals gained temporary coverage in MHIP, all of whom have since transitioned to other coverage.

Preparations for the Second Open Enrollment Period

Following the problems of the initial open enrollment period, MHBE weighed several options for the IT system. In April 2014, MHBE decided to upgrade to the Connecticut IT platform. This option allowed for rapid implementation of a proven IT solution, was feasible given the timeline for the upcoming 2014 open enrollment period, and maximized use of existing software licenses and hardware components. Development costs of $40 million to $50 million were in line with the costs of the alternative of migrating to the federally facilitated marketplace and less than the cost of fixing the existing system. MHBE has reported that funding for the switch will come from a combination of reallocated grant funds, Medicaid funds, and other State funds. As of October 2014, MHBE reports that the move to the new IT platform is on schedule for the November 15, 2014 start of the second open enrollment period.

A disadvantage of migrating to the Connecticut platform is that all individuals who enrolled in a health plan through the MHC must reenroll to keep their plan in 2015. MHBE is contacting all enrollees to advise them to reenroll between November 15 and December 18, 2014, and automatically reenrolling individuals who fail to do so. However, in order to continue to receive a federal premium subsidy in 2015, MHBE needs current income information from individuals. Thus, individuals who do not actively reenroll will only be able to receive premium subsidies retrospectively when they file their tax return for 2015. Also, due to premium rate changes in 2015, individuals may find that their subsidy does not cover as much of their premium as it did in 2014, unless they switch to a lower cost plan.

Two new carriers – Cigna and UnitedHealthcare – will offer qualified health plans through MHBE in 2015. Average premium rate changes from 2014 to 2015 range from a decline of 14.1% for Kaiser to an increase of 16.2% for CareFirst. Rate increases were moderated by the State Reinsurance Program, which is funded by an assessment on hospitals to support MHIP. Premium rates vary according to age, geographic region, and the metal level of the health plan (the percentage of medical costs paid by the health plan, compared with the percentage paid by the consumer). For example, a 40-year old in the Baltimore Metro area will pay between $226 and $340 per month for a silver plan (this amount may be lowered by any potential federal premium subsidy).

Status of the Small Business Health Options Program Exchange

Due to IT problems with the MHC, the Small Business Health Options Program (SHOP) Exchange for small businesses was delayed, though small businesses have gained access to a federal tax credit through authorized SHOP brokers. As of August 30, 2014, only 1,065 covered lives were participating in a SHOP health plan. However, MHBE has approved a three-phase plan to implement a more robust SHOP Exchange. The SHOP Exchange will function in partnership with selected third-party administrators, taking advantage of their expertise and technology in serving small businesses. In August 2014, the MHBE Board selected Kelly Services, Group Benefit Services, and Benefit Mall to implement the SHOP Exchange over the next two years.

Funding for MHBE

To date, MHBE has relied primarily on federal funds. However, as of January 1, 2015, the ACA requires MHBE to be self-supporting. Federal Medicaid matching funds will still be available to support activities that benefit Medicaid enrollees, but no additional federal grant funds are anticipated. From fiscal 2012 through 2015, anticipated spending for all MHBE activities will total $278.4 million in combined State and federal funds. Of this amount, $49.3 million in combined general and special funds has been made available to MHBE. The general funds include State Medicaid matching funds and funding for MHBE activities, such as the Navigator Program, that do not qualify for federal grant funds under the ACA. Special funds totaling $13.0 million were made available to MHBE for the first time in fiscal 2015 from the insurance premium tax. The special funds are intended to replace federal grant funds for the last six months of fiscal 2015.

Looking Ahead

Several key reports are forthcoming in 2015, including OLA's financial, compliance, and performance audit of MHBE and possibly the U.S. Department of Health and Human Services' Office of Inspector General's investigation of MHBE. The performance of MHBE during the second open enrollment period will be monitored closely by the legislature. Ongoing enrollment figures serve as indicators of the success of health care reform in the State.

For further information contact: Linda L. Stahr/Jennifer A. Ellick Phone: (410) 946/(310) 970-5530

Health and Health Insurance

Implementation of the All-payer Model Contract

In January 2014, Maryland replaced its historic Medicare waiver that governs hospital rate setting with the new Maryland All-payer Model Contract. Initial performance data for the first six months indicate that implementation is proceeding well and measurable requirements have been met or exceeded.

Background

Effective January 1, 2014, Maryland entered into a contract with the federal government to replace the State's 36 year-old Medicare waiver with the new Maryland All-payer Model Contract. Under the waiver, Maryland's success was based solely on the cumulative rate of growth in Medicare inpatient per admission costs. Under the model contract, however, the State not only will limit inpatient, outpatient, and Medicare per-beneficiary hospital growth but also shift hospital revenues to a population-based system and reduce both hospital readmissions and potentially preventable complications. The model contract will be deemed successful if Maryland can meet cost and quality targets without inappropriately shifting costs to nonhospital settings *and* if there is a measurable improvement in quality of care.

Implementation of the All-payer Model Contract

The Budget Reconciliation and Financing Act of 2014 (Chapter 464) included two provisions related to the model contract. First, the Act required the Governor, beginning with the fiscal 2016 State budget submission, to reduce the budgeted Medicaid deficit assessment (currently $389.8 million) by the full amount of the hospital savings that accrue to Medicaid as a result of the model contract. Second, the Act authorized an additional $15.0 million in hospital rates to fund statewide or regional proposals or assist hospitals in covering costs associated with implementing the model contract.

Health Services Cost Review Commission Actions

The Health Services Cost Review Commission (HSCRC) has taken action to implement the model contract and ensure that its requirements are met. Major actions are summarized below:

- **Stakeholder Engagement:** HSCRC has convened multiple groups to advise on various aspects of the model contract.

- **Alternative Methods of Rate Determination:** Hospitals have been transitioned to Global Budget Revenue (GBR) or Total Patient Revenue (TPR) agreements. Under the GBR and the TPR agreements, each hospital's total annual revenue is known at the beginning of each fiscal year. Annual revenue is determined from a historical base period that is adjusted to account for inflation updates, infrastructure requirements, volume increases, performance in quality- or efficiency-based programs, changes in payer mix, and changes in levels of approved uncompensated care.

- **Annual Update Factor:** HSCRC approved a fiscal 2015 update factor of 2.4% for GBR hospitals and 1.7% for hospital revenues under the waiver.

- **Uncompensated Care:** HSCRC approved a new methodology for uncompensated care that reflects changes in the uncompensated care population since the passage of the federal Patient Protection and Affordable Care Act. The amount of uncompensated care that would otherwise have been included in rates was reduced by 1.09% (approximately $160 million) due to the transition of former Primary Adult Care Program enrollees to full Medicaid coverage effective January 1, 2014.

- **Readmission Shared Savings:** HSCRC approved a readmission shared savings methodology (a value of 0.4% of total hospital revenue) for hospitals that reduce readmission rates to meet specified benchmarks.

- **Maryland Hospital Acquired Conditions Program (MHAC):** HSCRC approved changes to the MHAC for calendar 2014 that set the minimum statewide target at 8.0% improvement. Hospitals with more than a 0.60 score will be eligible for up to 1.0% of permanent inpatient revenue provided sufficient funds are collected through penalties. The maximum statewide total penalty limit is 0.5% of permanent inpatient revenue.

Initial Performance on Requirements of the Model Contract

On October 1, 2014, HSCRC released a report on Maryland's initial performance during the first six months of implementation of the model contract (January 1 through June 30, 2014). To date, implementation appears to be progressing well, and HSCRC has not yet observed any adverse consequences. The State has exceeded three of the five model contract requirements. The remaining two are either in the process of being measured or HSCRC is awaiting federal data to measure progress. **Exhibit 1** displays the requirements the State must meet under the model contract and the State's initial performance.

Next Steps for the Model Contract

The cost ceilings in the model contract present a challenge to the State. To the extent that the fiscal 2016 budget reduces the Medicaid deficit assessment, it will be easier to stay under the ceilings. Hospitals are concerned about having the necessary infrastructure to collect data and manage care of patients as they transition to care in other settings. HSCRC will need to work closely with hospitals to allocate the additional funding authorized under Chapter 464. The federal Centers for Medicare and Medicaid Services must evaluate Maryland's performance under the model contract and provide annual reports. The first evaluation is anticipated in June 2015.

Exhibit 1
Maryland's Initial Performance on the Requirements of the All-payer Model Contract as of June 30, 2014

Requirement	Initial Performance/Status
Total Hospital Cost Growth: Limit inpatient and outpatient hospital cost growth to 3.58% for the first three years.	Per-capita growth for Maryland residents grew by 0.96%. Favorable performance is expected to continue for calendar 2014.
Medicare Total Hospital Cost Growth: Limit Medicare per-beneficiary hospital cost growth sufficient to produce $330.0 million in cumulative Medicare savings over five years beginning with an estimated $49.5 million in savings in 2015.	HSCRC has met with the federal Centers for Medicare and Medicaid Services on the methodology for measuring this requirement. Preliminary data testing is anticipated in November.
Population-based Revenue: Shift hospital reimbursement from a per-case to a population-based system, with at least 80.0% of hospital revenues shifted to global budgeting over five years.	All hospitals are under either the GBR or the TPR agreements. Ninety-five percent of hospital revenue has been shifted to global budgets; the remaining 5.0% is excluded out-of-state revenue for five hospitals.
Reduction of Hospital Readmissions: Reduce the Medicare readmission rate over five years.	HSCRC awaits federal Medicare data needed to measure progress on this requirement. Using Maryland data, the readmission rate for Medicare fee-for-service beneficiaries fell by 0.45% compared with the same time period in 2013.
Reduction of Hospital Acquired Conditions: Achieve an annual aggregate reduction of 6.89% in PPCs for a cumulative reduction of 30.0% over five years.	In July 2014, the all-payer risk-adjusted PPC rate was 0.99 per 1,000 compared with 1.30 per 1,000 in July 2013, a 24.27% reduction.

GBR: Global Budget Revenue
HSCRC: Health Services Cost Review Commission
PPC: potentially preventable complications
TPR: Total Patient Revenue

Source: Health Services Cost Review Commission; Department of Legislative Services

---

For further information contact: Jennifer B. Chasse/Linda L. Stahr Phone: (410) 946/(310) 970-5510

Health and Health Insurance

Medicaid Population and Financing Trends

The fiscal 2014 Medicaid budget carried $38.7 million in general fund liabilities into fiscal 2015. The nearly $8 billion fiscal 2015 Medicaid working appropriation is also insufficient to meet projected need. Aside from the expansion population covered under the federal Patient Protection and Affordable Care Act, enrollment growth is anticipated to be relatively flat in 2015 but reach a total of more than 1.3 million enrollees.

Background

Maryland's Medical Assistance programs (Medicaid, Maryland Children's Health Program (MCHP), Employed Individuals with Disabilities, *etc.*) provide eligible low-income individuals with comprehensive health care coverage. Funding is derived from both federal and State sources with a federal fund participation rate of 50% to 100% for Medicaid (depending on the eligibility category) and 65% for MCHP. For purposes of this issue paper, expenditures are limited to the major provider reimbursement budgets.

Fiscal 2014 Deficiency

Medicaid carried $38.7 million in fiscal 2014 general fund liabilities into fiscal 2015. Higher spending is due to the mid-year rate adjustment for managed care organizations (MCOs), coverage of new pharmaceuticals for the treatment of Hepatitis C, and higher than projected enrollment. This enrollment growth stems from a six-month extension of eligibility redetermination due to enrollment problems with the Maryland Health Benefit Exchange (MHBE) and growth prompted by outreach conducted by MHBE for its first open enrollment period in 2013.

Fiscal 2015 Outlook

The fiscal 2015 Medicaid working appropriation of just under $8.0 billion (including $2.4 billion in general funds adjusted for reductions made by the Board of Public Works in July 2014) appears insufficient to meet projected need. The fiscal 2016 baseline assumes the need for $131.9 million in general fund deficiencies.

Of this amount, $40.0 million concerns anticipated fiscal 2015 Cigarette Restitution Fund (CRF) revenues. Specifically, the fiscal 2015 budget assumed that the State would receive some form of relief from a 2013 adverse arbitration ruling in the ongoing litigation over the treatment of nonparticipating manufacturers to the Master Settlement Agreement. As of October 2014, the State lost its first appeal of this ruling making the collection of any relief in fiscal 2015 unlikely.

The baseline assumes that the $40.0 million will not be available in fiscal 2015 but instead will be forthcoming in fiscal 2016. The remaining $91.9 million general fund deficiency is estimated based on current utilization, enrollment, and cost trends across Medicaid and MCHP.

Impact of Enrollment

As shown in **Exhibit 1**, outside of the Affordable Care Act (ACA) expansion population (for which the State currently receives 100% federal funding), enrollment growth between fiscal 2014 and 2015 is projected as being relatively flat. Enrollment is expected to decline in the first half of fiscal 2015 following the completion of the delayed eligibility redeterminations. Growth in the second half of fiscal 2015 is anticipated to increase at a moderate pace. However, even this relatively flat enrollment projection means that enrollment levels are above those originally budgeted in fiscal 2015.

Exhibit 1
Enrollment and Service Year Expenditures*
Fiscal 2014-2016

	2014 Actual	2015 Estimate	2016 Estimate	2015-2016 % Change
Enrollment by Category				
Medicaid	930,244	930,063	955,718	2.76%
Maryland Children's Health Program	116,869	118,037	119,411	1.16%
ACA Medicaid Expansion	168,093	232,490	251,089	8.00%
Total	**1,215,205**	**1,280,590**	**1,326,218**	**3.56%**
Cost Per Enrollee				
Medicaid	$7,193	$7,606	$7,391	-2.83%
Maryland Children's Health Program	1,925	1,903	1,829	-3.94%
ACA Medicaid Expansion	4,106	6,885	6,153	-10.63%
Total Funds ($ in Millions)	**$7,886**	**$8,900**	**$8,827**	**-0.81%**

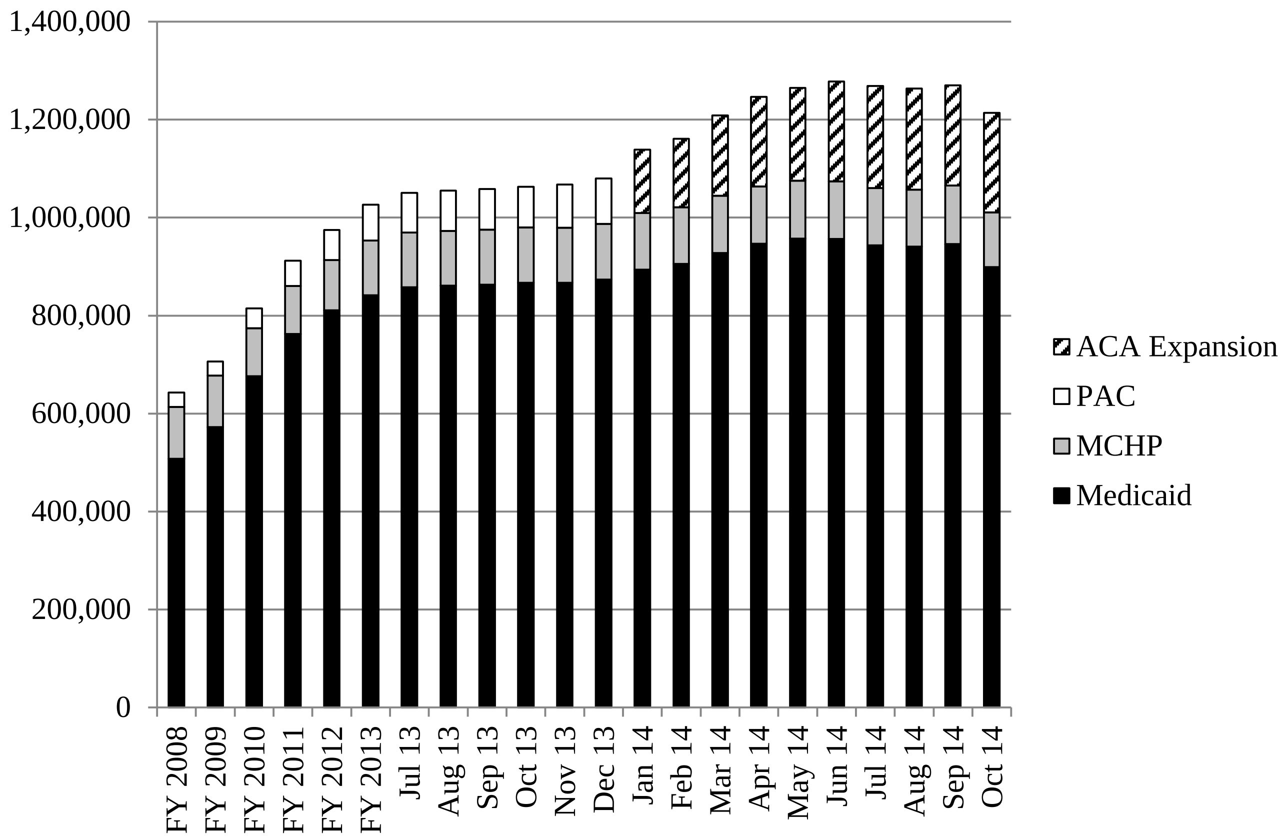
ACA: Patient Protection and Affordable Care Act

*Expenditures by fiscal year are based on the cost of providing services during that fiscal year rather than the year that the bills were actually paid. Cost estimates are based on provider reimbursements and expenditures in programs MQ0103 and MQ0107 only. Expenditures noted in the chart are based on the actual estimates of spending (including deficiencies) and may differ from other reported actuals and the fiscal 2015 legislative appropriation. Fiscal 2014 average cost per ACA Medicaid enrollee reflects only six-month cost of ACA expansion costs.

Source: Department of Legislative Services

One of the difficulties in estimating fiscal 2015 enrollment is the extent to which enrollment actually falls in the first half of fiscal 2015. As shown in **Exhibit 2**, enrollment fell as anticipated from a high of 1.28 million in June to 1.26 million in August. However, a decision by Medicaid to allow an additional period of eligibility at the end of August resulted in an increase in enrollment to 1.27 million in September. While Medicaid has reported a significant enrollment drop between September and October, it is unclear whether that drop will hold in coming months. Similarly, it is unclear to what extent marketing and outreach for the second MHBE open enrollment period will impact Medicaid enrollment, especially among the non-ACA expansion population.

Exhibit 2
Medicaid and MCHP Enrollment
Fiscal 2008-2015 Year-to-date



ACA: Patient Protection and Affordable Care Act
MCHP: Maryland Children's Health Program
PAC: Primary Adult Care Program. PAC was a limited benefits program that was discontinued January 1, 2014, with all of the enrollees transferred into the new ACA expansion eligibility category.

Source: Department of Legislative Services

Impact of Other Major Factors

Other major factors impacting the fiscal 2015 Medicaid budget include:

- **Managed Care Organization Rates:** The most significant action related to the fiscal 2015 budget is the proposed calendar 2015 MCO rate reduction of 11.7%, an action that will generate significant savings and without which the proposed deficit would be more significant. MCO rates will be reduced by 11.7%, of which 4.1% reflects the carve-out of substance abuse services from MCOs. Effective January 1, 2015, these services (together with already carved-out specialty mental health services) will be delivered through an Administrative Services Organization (ASO). The reduction in the Medicaid budget for MCOs is offset by an increase in costs associated with ASO services. However, the remaining 7.6% reduction is a cost savings and is based on expenditures trends. The rate reduction varies by eligibility category, with the new ACA expansion eligibility category seeing the largest rate reduction, 23.1%, or 15.0% after taking into account the reduction due to the carve-out of substance abuse services.

- **New Pharmaceutical Treatments for Hepatitis C:** The full year impact of coverage of two new drugs (Sovaldi and Olysio) was not included in the fiscal 2015 budget.

- **Presumptive Medicaid Eligibility Determinations by Hospitals:** An ACA provision requires the State to allow hospitals to implement presumptive eligibility for Medicaid. Regulations were recently proposed to authorize such determinations. Under the regulations, an individual can self-attest to their citizenship, residency, and income status to temporarily qualify for Medicaid. Even if the individual is subsequently denied eligibility, costs can be billed to Medicaid for a limited time period. The fiscal 2015 budget does not include funding associated with these regulations.

- **Impatient Fee-for-service Hospital Rate:** The fee-for-service rate for inpatient services as approved by the Health Services Cost Review Commission was higher than budgeted, even though a 2.0% reduction in physician rates (consistent with a cut to federal Medicare rates) did partially offset that increase.

Fiscal 2016 Forecast

In fiscal 2016, Medicaid expenditures are estimated at just over $8.8 billion, an $865 million (10.9%) increase over the fiscal 2015 legislative appropriation. Most of this increase, $804 million (93.0%), is in federal funds and primarily relates to understatement of the costs associated with the ACA expansion population in the fiscal 2015 appropriation. Overall expenditures are expected to decline slightly ($72.4 million, 0.8%) from projected fiscal 2015 levels. This is because the 2016 forecast is based on modest enrollment growth (3.6%), modest rate increases, continuation of the MCO rate reduction into fiscal 2016, no assumption of an MCO rate increase in calendar 2016, and a tapering of demand for the new Hepatitis C treatments.

The fiscal 2016 general fund need is expected to grow by $80.3 million, 3.3% over the fiscal 2015 legislative appropriation. Demand on general funds is muted by a forecast of only 2.8% growth in the traditional eligibility categories with the lowest (50.0%) federal match; the assumption of $40.0 million in additional CRF support as a result of relief from the 2013 adverse arbitration ruling; the assumption of an enhanced federal match for MCHP beginning October 1, 2015, as provided for under the ACA; and annualization of lower general fund costs associated with substance abuse services previously delivered by MCOs. Indeed, in addition to those factors noted above that are projected to hold down expenditures overall, compared to fiscal 2015 forecasted general fund expenditures, estimated fiscal 2016 general fund expenditures fall by $52.1 million (2.0%). As shown in Exhibit 1, per-capita costs are expected to fall between fiscal 2015 and 2016, primarily driven by the cut in MCO rates and the removal of substance abuse service costs.

Special fund support in fiscal 2016 is expected to grow to $969 million, almost all due to expectations of additional CRF support. Revenues from other sources, including the various provider assessments, is expected to remain at or slightly above current levels.

Health and Health Insurance

Behavioral Health Integration

Based on concerns that the delivery of mental health and substance abuse services in the State lacked coordination, the State has taken steps to integrate the delivery of behavioral health services. Along with the establishment of the Behavioral Health Administration, the State will transform the delivery of behavioral health services. Behavioral health services will now be carved out from the Medicaid managed care system and delivered fee-for-service through an administrative services organization.

Background

For the past several years, the Department of Health and Mental Hygiene (DHMH) has been examining the issue of integrating mental health and substance abuse services. The need to do this was prompted by observations that the previous service delivery system for mental and substance abuse services was fragmented and suffered from a lack of connection (and coordination of benefits) with general medical services; had fragmented purchasing and financing systems with multiple, disparate public funding sources, purchasers, and payers; had uncoordinated care management including multiple service authorization entities; and had a lack of performance risk with payment for volume but not for outcomes.

After much deliberation, the State chose to move forward with a carve out of behavioral health services from the managed care system with added performance risk. Specifically, all substance abuse/specialty mental health services will be carved out from managed care organizations (MCO) and delivered as fee-for-service (FFS) through an administrative service organization (ASO). The ASO contract includes incentives and penalties for performance against set targets.

One of the most visible signs of the integration includes the merger of the former Mental Hygiene Administration and the former Alcohol and Drug Abuse Administration into the newly created Behavioral Health Administration (BHA), as codified by Chapter 460 of 2014. In addition, in the fiscal 2015 budget, funding for Medicaid-eligible specialty mental health services and substance abuse services for Medicaid-eligible individuals is located in the Medicaid program, while funding for the uninsured, underinsured, and for Medicaid-ineligible services is located in BHA. Further, BHA has finalized, and the Board of Public Works has approved, a contract for the new ASO to take over beginning January 1, 2015.

Changes in the Delivery of Care

The change to a FFS system under an ASO will not require a large shift within the specialty mental health services, since these services are already carved out under the current model.

However, the new model will result in a significant change in the way in which substance abuse services are delivered throughout the State, since Medicaid-reimbursable substance abuse services for the uninsured will now be provided FFS through an ASO, which is much different from the previous grant-based system.

Another major change is that under the proposed system, income eligibility for uninsured services will be set at 250% of the federal poverty level (FPL), with certain additional criteria, including requiring the individual to apply for Medicaid or insurance through the Maryland Health Benefit Exchange, to have a valid Social Security number, and to be a Maryland resident. Certain temporary exceptions will apply, but this revised eligibility criteria has a higher income limit than previously in place for specialty mental health services (200% FPL) and further eliminates the sliding-fee scale previously used for substance abuse services, which imposed a $5 fee for most services for individuals with incomes below 100% of the FPL and a percentage charge for services to individuals above 100% of the FPL.

The ASO will also be responsible for coordination with both local agencies and the MCOs in order to ensure appropriate referrals from the MCOs and coordination between the MCOs and behavioral health providers. The ASO will also be responsible for providing additional training to providers on the development and enhancement of provider competency in the areas of mental health and substance abuse services and how to seek authorizations and payments through the ASO.

Issues Going Forward

One potential issue involved in integration is the arrangement for non-Medicaid reimbursable substance abuse services (such as residential services) where funding will stay with the local jurisdiction. While this funding eventually could migrate to the ASO, this migration could be destabilizing to the current system. However, not migrating this funding to the ASO would limit the policy goal of ending the fragmented management of services and funding streams.

The ASO contract contains various outcome-based standards, which the ASO will be held responsible for upholding. Beginning in year three of the contract, BHA will employ the use of standards known as the Healthcare Effectiveness Data and Information Set (HEDIS) in order to measure the performance of the ASO against other states. There will be seven measures, six of which will be based on HEDIS measures, and a seventh that is State specific. For each measure, the State must be at or above the fiftieth percentile (or 70% for the State-specific measure). For each outcome standard not met, the ASO will repay to the State the amount of 0.0714% of the invoice amounts for the preceding 12 months. Thus, if all seven measures are missed, the total amount of damages is capped at 0.5% of the total contract. The measures to be used include:

- adherence to antipsychotic medications for individuals with schizophrenia;
- follow-up care for children prescribed attention deficit hyperactivity disorder medication;

- antidepressant medication management;
- plan all cause readmissions;
- mental health utilization – inpatient;
- initiation and engagement of alcohol and other drug dependence treatment; and
- the percentage of people in the specialty behavioral health system who have a primary care physician visit within a year (State-specific).

Reporting on these standards is set to begin in July 2016 with the average for each outcome standard determined at the end of 2016 and similar averages established each year thereafter. The penalties built into the contract for failing to meet the performance standards are relatively modest. Further, there are no bonuses or inducement payments for exceeding them. Nonetheless, the standards do provide ways different from currently available to measure the quality of care being delivered to individuals in the public behavioral health system.

The State will also be moving forward with an initiative for providers to either be independently licensed to provide care or be part of a program that is accredited by a national accreditation body. While this should not be a problem for most large-scale providers, certain smaller providers could face mounting costs since the accreditation process would be more expensive than the process previously in place.

Further, Chapter 460 requires the Secretary of Health and Mental Hygiene to convene a stakeholder workgroup to make recommendations on issues related to behavioral health, including statutory and regulatory changes to (1) fully integrate mental health and substance use disorder treatment and recovery support; and (2) promote health services. DHMH must report the findings and recommendations to the Governor and the General Assembly by December 1, 2014.

Health and Health Insurance

Outpatient Services Programs for Individuals with Mental Illness

Legislation enacted in 2014 established an Outpatient Services Programs Stakeholder Workgroup in response to concerns that individuals with serious mental illness are not receiving adequate treatment in the State. The workgroup has developed preliminary recommendations on outpatient civil commitment, defining and interpreting the dangerousness standard, and access to voluntary outpatient mental health services.

Outpatient Services Programs Stakeholder Workgroup

Prompted by concerns that individuals with serious mental illness are not receiving treatment due to failures of the State's mental health system, Chapters 352 and 353 of 2014 required the Secretary of Health and Mental Hygiene to convene an Outpatient Services Programs Stakeholder Workgroup to (1) examine assisted outpatient programs, assertive community treatment programs, and other outpatient services programs with targeted outreach, engagement, and services; (2) develop a proposal for a program that, among other things, best serves individuals with mental illness who are at high risk for disruptions in the continuity of care; and (3) evaluate the dangerousness standard for involuntary admissions and emergency evaluations of individuals with mental disorders.

The Department of Health and Mental Hygiene (DHMH) has circulated, for review and comment, preliminary findings and recommendations based on discussions of the workgroup that focus on (1) outpatient civil commitment; (2) the dangerousness standard for involuntary admissions and emergency evaluations; and (3) access to voluntary outpatient mental health services. A report of DHMH's findings and recommendations must be submitted to the Senate Finance Committee and the House Health and Government Operations Committee. The preliminary recommendations are discussed below.

Outpatient Civil Commitment

Outpatient civil commitment (OCC) provides court-ordered community-based services, including medication, to adults with severe mental illness who are nonadherent to treatment. DHMH is planning on requesting legislation in the 2015 session which will establish the OCC in the State. Under the proposal, specified individuals will be authorized to request the Secretary to conduct an investigation to determine whether a petition for the OCC should be filed for a specific adult. The Secretary, or the Secretary's designee, may file an OCC petition only if the Secretary, or the Secretary's designee, believes that it is likely that it can be proven by clear and convincing evidence that the individual meets the statutory OCC criteria. To be placed under an OCC order, the Office of Administrative Hearings will have to find that, among other things, (1) the individual, based on a clinical determination, is not providing for or meeting the needs of daily living in the community without supervision; (2) the individual has been involuntarily admitted at least twice within the past 48 months; (3) in view of the individual's treatment history and current behavior, the individual is in need of mandatory outpatient treatment in order to prevent deterioration that would be likely to result in the individual meeting the criteria for involuntary admission; and (4) there is no appropriate and feasible less restrictive alternative. Additionally, the proposal includes services that should be mandated services under the OCC, reporting requirements related to the OCC, and the rights of individuals who are under an OCC order, such as the right to not be involuntarily committed solely for a failure to comply with an order.

The Dangerousness Standard

Under current law, an individual must present a danger to the life or safety of the individual or of others to be ordered to undergo an emergency evaluation and be involuntarily admitted to a hospital or psychiatric facility. Concerns have been raised that the dangerousness standard is interpreted and applied in an inconsistent manner that sometimes results in the denial of necessary involuntary evaluation, hospitalization, and treatment for individuals who are seriously ill but do not present an imminent danger to themselves or others. DHMH is proposing to address the inconsistency by adopting, in regulations, a definition for the dangerousness standard so that it means, in consideration of the individual's current condition and, if available, personal and medical history that (1) there is a substantial risk that the individual will cause harm to self or others if admission is not ordered or (2) the individual so lacks the ability to care for self that there is a substantial risk of death or serious bodily injury if admission is not ordered. The department rejected, as overbroad, feedback calling for dangerousness to include a risk of psychiatric deterioration. The department also is proposing to implement case-based training that will be made available to a variety of individuals, including first responders, emergency department clinicians, inpatient psychiatric staff, and administrative law judges.

Access to Voluntary Outpatient Mental Health Services

DHMH is proposing to improve access to several types of voluntary outpatient mental health services already provided in the State. First, the department is proposing that funding for assertive community treatment services should be increased if the OCC is established in the State. Through assertive community treatment, mental health services are provided by a multi-disciplinary team who delivers the services in any community setting where the services are needed to individuals whose needs have not been met through traditional outpatient services. Second, while peer support services have been integrated into assertive community treatment, the department believes that these services should be further integrated into other voluntary outpatient mental health services, and additional funding should be appropriated to expand the services in every jurisdiction. Third, the department is proposing a funding increase for rental subsidies since housing is essential to ensure that individuals with mental illnesses can remain stable. Finally, DHMH believes additional funding should be appropriated to enhance the crisis services available in each jurisdiction. Crisis services are a continuum of services that include walk-in crisis services, mobile crisis teams, police-based Crisis Intervention Teams, and case management. Some type of crisis services are offered in all jurisdictions; however, the exact services and the funding available vary.

Health and Health Insurance

Medical Marijuana and Public Health Impact of Marijuana Legalization

In 2014, Maryland significantly expanded its medical marijuana law to allow qualifying patients to obtain medical marijuana from certifying physicians. The Natalie M. LaPrade Medical Marijuana Commission is responsible for adopting regulations implementing the program and monitoring the program once it is operational. Nationwide attention to the potential public health impact of marijuana use, particularly among minors, is increasing as Maryland moves forward with its medical marijuana program and states like Colorado and Washington are implementing laws legalizing marijuana.

Natalie M. LaPrade Medical Marijuana Commission

Chapter 403 of 2013 authorized the investigational use of marijuana for medical purposes through research programs operated by academic medical centers in the State. The Act also established the Natalie M. LaPrade Medical Marijuana Commission, as an independent commission within the Department of Health and Mental Hygiene (DHMH). The commission initially was established to (1) develop requests for applications for academic medical centers to operate programs in the State; (2) approve or deny initial and renewal program applications; and (3) monitor and oversee programs approved for operation.

Due to lack of interest among academic medical centers to participate in the program and pressure from patient advocates to make medical marijuana available beyond only those patients participating in a research study, legislation was introduced in 2014 to expand the medical marijuana program. Chapters 240 and 256 of 2014 expanded the State's medical marijuana program to allow qualifying patients to obtain medical marijuana from persons other than academic medical centers. Specifically, the Act allows a qualifying patient who has been provided with a written certification from a certifying physician in accordance with a *bona fide* physician-patient relationship to obtain medical marijuana. Qualifying patients may only obtain marijuana from a grower or dispensary licensed by the commission. The Act prohibits the commission from licensing more than 15 growers. The commission is authorized to set fees to cover the costs of operating the commission.

The Act requires the commission to adopt certain regulations on or before September 15, 2014. The regulations must include specifications on (1) how certifying physicians will make marijuana available to patients; (2) the requirements for identification cards; (3) the requirements for growers and dispensaries, including an application review process; and (4) what constitutes a 30-day supply of marijuana. The commission is also required to maintain a website on how medical marijuana can be obtained, how to find a certifying physician, and contact information for growers and dispensaries.

The commission has met monthly since September 2013. The 15-member commission includes members of the public, health care practitioners, a scientist, representatives of law enforcement, the legal community, and agriculture, a representative of the Office of the Comptroller, and the Secretary of the Department of Health and Mental Hygiene or the Secretary's designee. The commission has created subcommittees on policy, finance, education, and research.

Enactment of Chapters 240 and 256 not only expanded the commission's duties but also increased public interest in the commission, particularly among patient advocates and individuals interested in becoming growers or establishing dispensaries. The location of commission meetings had to be moved to a larger venue in order to accommodate the public. In an effort to meet the September 2014 deadline to adopt regulations, the policy committee met for two consecutive days each month to draft regulations. However, the commission was unable to meet the deadline due to the volume of complicated and controversial issues that were presented when drafting the regulations. Examples of such issues included how to determine a 30-day supply; the type of marijuana that would be authorized (leaf, hemp oil, extracts); requirements for specified continuing education for certifying physicians, zoning/location issues for growers and dispensaries; and how to determine licensure categories.

Another issue that caused delay is the proposed licensure fee for growers and dispensaries. Based on concerns that the initial proposed fees were too high, would block out smaller entities, and were not in proportion to fees charged in other states, the commission sought the assistance of the Department of Budget and Management to study the costs of the medical marijuana program and potentially readjust the fee schedule. To date, the commission has drafted nearly 100 pages of regulations and plans to submit the proposed regulations for public comment in November 2014.

Public Health Effects of Marijuana Legalization

As Maryland moves forward with implementing the State's medical marijuana law, Colorado and Washington are implementing laws legalizing marijuana and other states are adopting similar laws. In 2014, voters in Oregon; Alaska; and Washington, DC legalized recreational marijuana through referendum. The measures in Oregon and Alaska are similar to the laws in Colorado and Washington, while Washington, DC's law authorizes the possession of a limited amount of marijuana but does not allow for retail sales. Along with an abundance of legal issues, there are also significant potential public health implications to consider when legalizing marijuana.

Since becoming legal in January 2014, Colorado is carefully monitoring the public health impact of legalization, particularly among adolescents. Colorado's attorney general has highlighted research finding that the harmful effects of marijuana are magnified in adolescents. For example, studies have found that the testicular cancer risk for adolescents is three times greater, the risk of addiction is two times greater among adolescents, and that frequent marijuana use among adolescents could lead to an irreversible decrease in intelligence quotient and to later psychotic experiences. Due to the uncertainties of the effect of marijuana use among young people, Colorado has implemented a public education campaign, called "Don't Be a Lab Rat" which is aimed at adolescents with the message that using marijuana is the same as being a research subject. Washington is in the development stages of a public education campaign designed to discourage marijuana use among adolescents and is hoping to develop the campaign in consultation with peer groups.

Other public health issues that have surfaced in Colorado include an increase in the number of emergency department admissions among children who have accidently ingested marijuana and a rise in the number of poison control calls related to marijuana consumption. The increase in accidental use can be attributed to edible products, which constitute 40% of the marijuana market in Colorado. Regulations have been adopted to limit the serving sizes of edibles and will require packaging to show the serving size and to be child resistant over multiple uses. In addition, the Colorado legislature established an edibles workgroup to further refine edibles regulations and report to the legislature with recommendations in 2015.

Colorado is monitoring the effects of marijuana legalization on safe driving and traffic fatalities. The National Highway Traffic Safety Administration and the National Institute on Drug Abuse are in the final stage of a three-year study to determine the impact of inhaled marijuana on driving performance. Tests observe participants who ingested a low dose of tetrahydrocannabinol (THC – the active ingredient in marijuana), a high dose of THC, and a placebo to assess the effect on performance, decisionmaking, motor control, risk-taking behavior, and divided-attention tasks. The study is expected to be completed in November 2014 and will provide important guidance to states on the effects of marijuana on driving performance.

Both Colorado and Washington have included reporting requirements in their legislation that require the monitoring of certain health issues. In Colorado, the Department of Health is required to monitor the health effects of the law every two years beginning in 2015. In Washington, the Washington State Institute for Public Policy is required to evaluate policies and impacts related to health, security, and economic impacts beginning in 2015 through 2032. These reports should provide guidance in developing policy as additional states legalize marijuana.

Several organizations, including the Centers for Disease Control and Prevention, survey adolescents annually to determine marijuana use rates. Surveys containing information from states where marijuana is legalized will be available in 2015 and will be helpful in determining whether the legalization of marijuana increases use among adolescents. In Maryland, Chapters 240 and 256 require the commission to report to certain committees of the General Assembly on any change in marijuana use by minors in any year the results of the *Maryland Youth Behavior Survey* are published.

For further information contact: Kathleen P. Kennedy/Erin R. Hopwood Phone: (410) 946/(310) 970-5510

Health and Health Insurance

Combatting Opioid Overdose

Opioids, including heroin and prescription medications, are involved in the majority of overdose deaths in Maryland. To combat this public health threat, Maryland has established an Overdose Prevention Council, authorized administration of naloxone to trained individuals, passed Good Samaritan legislation, and strengthened the State's Prescription Drug Monitoring Program, among other efforts.

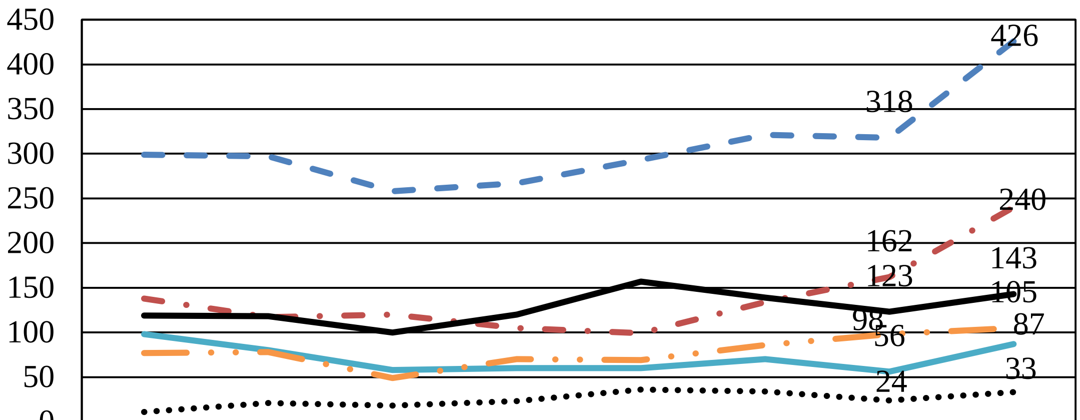
Opioids Comprise Majority of Overdose Deaths in Maryland

Opioid use and overdose has become an urgent public health threat. As seen in **Exhibit 1**, since 2007, heroin and/or prescription opioid drugs have been involved in the majority of the State's overdose deaths. From January through May 2014, there were 240 heroin-related overdoses, 78 more than the same period in 2013. During the same time period, there were 143 deaths from prescription opioids, 20 more deaths than the same period in 2013.

Overdose Prevention Council

In response to the rise in opioid overdose deaths in the State, the Governor issued an executive order in June 2014 establishing the Overdose Prevention Council as a subcabinet within the Office of the Governor. The council consists of the leaders of the Department of Health and Mental Hygiene (DHMH), the Department of State Police, the Department of Public Safety and Correctional Services, the Department of Juvenile Services, and the Maryland Institute of Emergency Medical Services Systems. The council is charged with advising the Governor on establishing a coordinated statewide effort to reduce the number of fatal and nonfatal unintentional overdoses in the State. In addition, the council is responsible for developing recommendations for policy, regulations, and legislation to address the opioid overdose epidemic and facilitate improved sharing of public health and public safety information among State agencies. Among other things, the council is required to develop a statewide plan to reduce overdoses that includes sharing information and data by State agencies, and analyzing the data for trends to target prevention efforts. The Governor's strategic goal is to reduce overdose deaths by 20% by the end of 2015.

Exhibit 1
Overdose Deaths in Maryland
January through May 2007-2014*



	2007	2008	2009	2010	2011	2012	2013	2014*
Total	299	297	258	267	293	321	318	426
Heroin	138	117	120	105	99	134	162	240
Rx Opoid	119	118	100	120	157	139	123	143
Benzo	11	21	18	23	36	34	24	33
Cocaine	98	80	58	60	60	70	56	87
Alcohol	77	78	49	70	69	86	98	105

Rx: medical prescriptions

*2014 counts are preliminary.

Source: Department of Health and Mental Hygiene

Administration of Naloxone

Naloxone, also known as Narcan, is an opioid antagonist that reverses opioid-related sedation and respiratory depression. Chapter 299 of 2013 established an Overdose Response Program in DHMH to authorize certain individuals, through the issuance of a certificate, to administer naloxone to an individual experiencing opioid overdose to help prevent a fatality when medical services are not immediately available. To qualify for a certificate, an individual must (1) be age 18 or older; (2) have, or reasonably expect to have, the ability to assist an individual who is experiencing an opioid overdose; and (3) successfully complete an educational training program. A physician or nurse practitioner may prescribe and dispense naloxone to a certificate holder.

In March 2014, DHMH began authorizing private and public entities to train and certify individuals to administer naloxone. Since that time, 3,291 individuals have been trained, including 1,545 law enforcement officers. In addition, approximately 3,712 doses of naloxone have been dispensed and 43 naloxone administrations have been reported.

Good Samaritan Laws

Good Samaritan laws are intended to prevent incidences where medical attention is required for an overdose but not sought because of the threat of arrest or incarceration. Chapter 401 of 2014 establishes that a person who, in good faith, assists someone experiencing a drug or alcohol-related medical emergency may be immune from criminal prosecution if evidence was obtained solely through the person seeking to help the person experiencing the emergency. The law also protects the individual experiencing the medical emergency. DHMH will be providing information on the Good Samaritan law as part of a public education campaign to increase understanding and awareness.

Prescription Drug Monitoring Program

Established by Chapter 166 of 2011, the Prescription Drug Monitoring Program (PDMP) aims to reduce prescription drug misuse and diversion by creating a secure database of all Schedule II through V controlled dangerous substances prescribed and dispensed in the State. The PDMP can make data on prescription opioids available to health care providers, pharmacists, patients, researchers, health occupations licensing boards, and public health and safety agencies.

Chapter 651 of 2014 authorized the PDMP to review prescription drug monitoring data for indications of possible misuse or abuse of a monitored prescription drug and, if indicated, report the possible misuse or abuse to the prescriber or dispenser. Before reporting possible misuse or abuse, the PDMP must obtain clinical guidance from its technical advisory committee regarding indications of possible misuse or abuse and interpretation of the prescription monitoring data that indicated possible misuse or abuse. According to DHMH, 5,000 health care providers in the State are using the PDMP and the system is receiving 12,000 queries per week. By early 2015, DHMH hopes to have the PDMP interoperable with other states.

Department of Health and Mental Hygiene's Overdose Prevention Efforts

In addition to the programs listed above, DHMH is undertaking additional efforts to reduce opioid use and overdose, including:

- development and distribution of materials to the public on how to act when witnessing an overdose;

- establishment of overdose fatality review pilot programs in Baltimore City and Cecil and Wicomico counties to conduct confidential case reviews of overdose deaths and identify missed opportunities for prevention, gaps in the system, and areas for increased collaboration (Chapter 650 of 2014 authorizes the establishment of local drug overdose fatality review teams in each county that could be modeled after these pilot programs);

- the collection, analysis, and sharing with local fatality review teams of records related to overdose deaths;

- improvement of statewide planning efforts to combat opioid overdoses by requiring all local health departments to submit plans;

- a "Near Miss Project," launched in fall 2014, to identify individuals who survive an overdose and refer them to treatment; and

- education of providers regarding the appropriate prescribing of opioid medications in collaboration with the Boards of Physicians, Nursing, and Dental Examiners.

Health and Health Insurance

State Oversight of Group Homes for Medically Fragile Children

In fiscal 2014, the State spent a total of $20.2 million on placements in group homes for medically fragile children. Oversight of these homes involves two separate State agencies and recently fell under scrutiny by both the media and the General Assembly raising the question of how the State can improve oversight of group homes to protect some of its most vulnerable citizens.

Background

In July 2014, 10 year-old Damaud Martin died while in the care of a group home for medically fragile children operated by LifeLine, a provider in the process of having its license revoked by the State.[1] Soon after, *The Baltimore Sun* ran a series of articles scrutinizing the quality of care at group homes and the process for contracting with such providers. In response, the Senate Education, Health, and Environmental Affairs and the House Health and Government Operations committees held a joint briefing on group home regulation and oversight with an emphasis on how the State could improve oversight of such facilities.

Oversight of Group Homes for Medically Fragile Children

Oversight of group homes for medically fragile children is shared between two State agencies. The Department of Health and Mental Hygiene (DHMH) issues group home licenses through the Developmental Disabilities Administration (DDA). Currently, there are three licensed providers with approximately 25 licensed sites. DHMH's Office of Health Care Quality (OHCQ) conducts licensure surveys and investigates complaints and self-reported incidents at the group homes. OHCQ has 27 surveyors in its DDA unit responsible for inspecting *all* of the DDA facilities it licenses. The Department of Human Resources (DHR) places foster care children into group homes, provides payment, monitors group home providers through quarterly visits from licensing coordinators, and monitors the children assigned to group homes via monthly visits from caseworkers. In fiscal 2014, the State spent a total of $20.2 million (55% general funds, 45% federal funds) on 71 medically fragile children in group homes, including Medicaid expenses paid by DHMH and the cost of placements paid by DHR.

[1] In September 2014, Damaud Martin's death was ruled a homicide by the State Medical Examiner, who attributed the death to complications from cerebral palsy and head trauma sustained from injuries Damaud received in January 2008. Law enforcement officials continue to investigate his death.

Recommendations for Improving Regulation and Oversight

Recommendations from the Advocacy Community

During the July 2014 joint briefing, advocates reported that the problems at Maryland group homes are much broader than just administrative and financial issues, suggesting that there are far more quality problems occurring, and that there is currently insufficient programmatic oversight. Advocates recommended that the State focus on increasing the number of surveyors at OHCQ, consider tracking whether providers are maintaining adequate staffing ratios, consider creating an abuser registry, review the contracting process and the bundling of rates, seek greater Medicaid funding for medically fragile children, and enhance technical support for providers.

Department of Human Resources

DHR also made recommendations at the July joint briefing to improve regulation and oversight. DHR noted that the rate-setting process for group homes (rates are set by the Interagency Rates Committee) was under revision, as the current process is designed to push all providers toward an average rate. DHR also proposed requiring providers to submit an intermediate report in between submission of the required annual audits in order to identify potential financial problems and allow the department to deal with them in a timely manner. DHR also voiced support for increasing the ability of first responders to report serious incidents at group homes to DHR.

Following the joint briefing, DHR created and implemented a *Financial Incident Report for Child Placement Agencies and Residential Child Care Providers* designed to alert the State to common financial conditions that could potentially affect quality of care. Providers who answer yes to any of the eight questions on the form enter into a corrective action plan with DHR. In September 2014, DHR sent these forms to 112 providers, of which 106 (95%) reported no unresolved financial concerns. Six providers (5%) reported financial concerns including cancelled liability insurance, back taxes, unemployment tax liability, bankruptcy protection, and billing issues. DHR is working actively with these providers to resolve issues or, in one case, plans to cancel the existing contract with a child placement agency due to financial issues.

Department of Health and Mental Hygiene

At the July joint briefing, DHMH noted that Maryland law does not set out a clear approach for State regulatory agencies to consider the administrative and financial problems of providers. DHMH recommended that the State require providers to have surety bonds as a condition of licensure, increase use of inspectors general to conduct administrative and financial review of providers when red flags become available, and expand agencies' enforcement authority regarding administrative and financial issues among providers.

Following the joint briefing, DHMH conducted a review of the recent regulatory history of the four Maryland providers licensed to provide group home care for medically fragile children in order to identify areas for improvement in oversight. The review did not find serious gaps in the oversight of group homes for medically fragile children. Relicensure surveys were conducted with the required frequency, and complaints and self-reported incidents were triaged and investigated. However, the review did find multiple areas for improvement. Based on those findings, DHMH issued the following five recommendations and announced that DDA and OHCQ will convene a task force on the quality of services for individuals with developmental disabilities:

- Each government agency should maximize data point collection for each oversight activity it carries out and an analysis of that data should be shared with other agencies, as appropriate, through formal processes.

- The initial licensure process for group homes for medically fragile children should be reviewed and revised to ensure that applicants have a sustainable business model.

- OHCQ should develop formal processes to ensure that coordination with other agencies occurs in a timely and consistent way.

- The children's unit at OHCQ should receive an additional position to serve as a coordinator to implement these recommendations and ensure oversight over group homes for medically fragile children.

- There should be clarification and documentation of the roles and responsibilities within and between State agencies that provide oversight to providers.

The task force plans to issue additional recommendations in January 2015, which could frame further legislative discussion during the 2015 session.

Social Programs

Public Assistance Caseload Trends

The Temporary Cash Assistance average monthly caseload fell in fiscal 2014 for the second year in a row. Enrollment is projected to continue to decline in fiscal 2015 and 2016, while the average monthly grant amount is expected to increase and require greater general fund support. The number of Marylanders receiving Supplemental Nutrition Assistance Program benefits appears to be leveling out.

Background

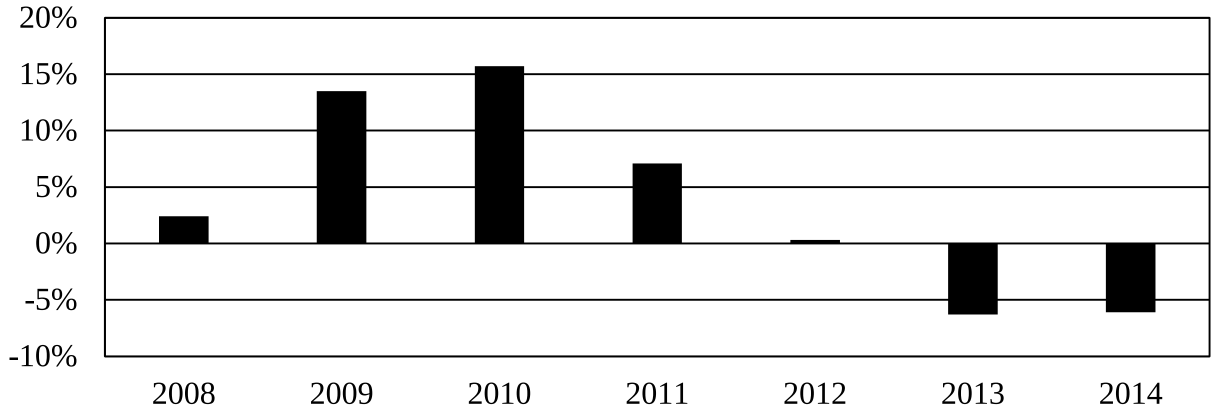
The 2007 to 2009 economic recession led to dramatic increases in caseloads for public assistance programs, notably Temporary Cash Assistance (TCA) and the Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps. The TCA provides monthly cash grants to needy children and their parents or caretaker relatives and is funded with general funds, federal Temporary Assistance for Needy Families block grant dollars, and certain child support collections. The SNAP helps low-income people buy the food they need for good health. Benefits under the SNAP are provided entirely with federal funds.

Temporary Cash Assistance Caseload and Funding Trends

As shown in **Exhibit 1**, in fiscal 2014, the TCA average monthly caseload declined compared to the previous fiscal year for the second year in a row after several years of increases. The weak recovery from the recent recession, especially as it relates to unemployment, meant continued caseload growth through fiscal 2012, when the caseload peaked.

Exhibit 2 shows that the average monthly TCA caseload is projected by the Department of Legislative Services to continue to decrease through fiscal 2016, declining an estimated 4.3% between fiscal 2015 and 2016. Though the caseload is declining, the average monthly grant amount is projected to increase by 0.8%, or $1.47, to ensure that the TCA benefit, in combination with the SNAP benefit, equals at least 61.0% of the Maryland Minimum Living Level as required by statute. The SNAP benefits decreased in November 2013 after a temporary stimulus program expired, requiring an increase to the TCA benefit of $14.64 in fiscal 2014 and an estimated $6.50 in fiscal 2015. This will require a 19.6% increase in general fund support in fiscal 2016.

Exhibit 1
Temporary Cash Assistance Average Monthly Caseload Year-over-year Growth
Fiscal 2008-2014



Source: Department of Human Resources; Department of Legislative Services

Exhibit 2
Temporary Cash Assistance Enrollment and Funding Trends
Fiscal 2014-2016

	2014 Actual	2015 Estimate	2016 Estimate	2015-2016 % Change
Average Monthly Enrollment	63,746	61,392	58,753	-4.3%
Average Monthly Grant	$189.46	$195.96	$197.43	0.8%
Budgeted Funds ($ in Millions)				
General Funds	$14.5	$29.8	$35.6	19.6%
Total Funds	**$144.8**	**$133.4**	**$139.2**	**4.4%**

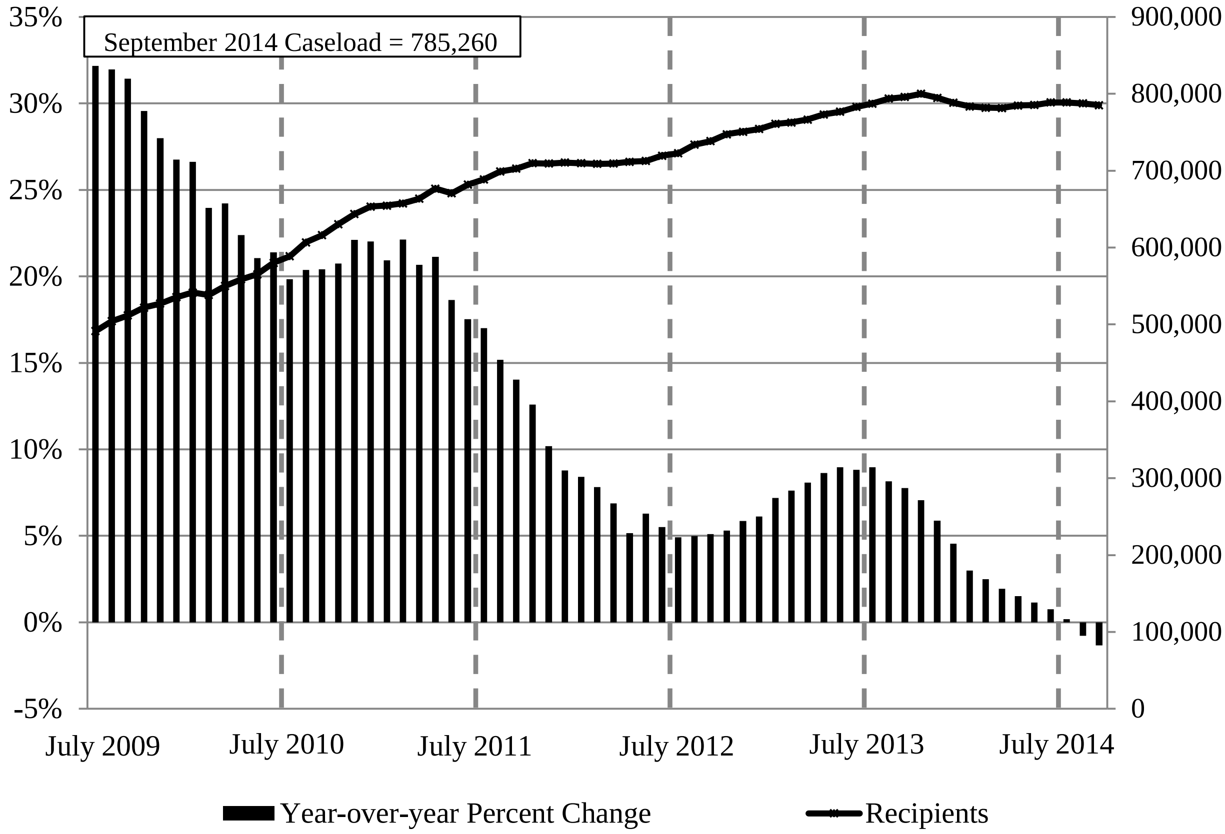
Source: Department of Human Resources; Department of Legislative Services

The Department of Legislative Services (DLS) is projecting an $11.0 million deficit in TCA funding in fiscal 2015 since the working appropriation assumes a lower average TCA payment than has been experienced since the temporary stimulus program expired. However, DLS is also estimating surpluses in the Temporary Disability Assistance Program ($2.5 million) and the Foster Care Program ($19.2 million), which should be able to cover the projected shortfall without requiring a deficiency appropriation.

Supplemental Nutrition Assistance Program Caseload Trends

The weak economy, combined with increased outreach efforts, has led to steady increases in the number of SNAP recipients since the beginning of the economic downturn in fiscal 2007. As shown in **Exhibit 3**, month-over-month growth slowed though the caseload grew steadily through October 2013, when the number of participants peaked at 800,022 before falling slightly and generally flattening around 800,000 thereafter. The SNAP is a 100% federally funded benefit that resulted in nearly $1.2 billion in spending in fiscal 2014, though administrative costs for the program are shared between Maryland and the federal government.

Exhibit 3
Supplemental Nutrition Assistance Program Caseload
July 2009 through September 2014



Source: Department of Human Resources; Department of Legislative Services

Social Programs

Child Welfare Demonstration Waiver

Maryland recently received a five-year federal Title IV-E demonstration waiver that will provide greater flexibility in State foster care spending by allowing the State to fund efforts to prevent out-of-home placements before they occur. The waiver will stabilize the State's annual Title IV-E award at about $130 million per year.

Maryland Granted New Child Welfare Demonstration Waiver

In September 2014, Maryland received approval for a five-year federal Title IV-E demonstration waiver to allow for more flexibility in State foster care spending and more predictable budgeting. Title IV-E is the federal government's Foster Care Program that supports out-of-home placements until a permanent placement can be found, usually through reunification or adoption and guardianship.

Waiver Will Stabilize Maryland's Title IV-E Allotment

Federal Title IV-E funding is awarded by formula, and Maryland's amount has varied over the years: $109 million in fiscal 2011; $76 million in fiscal 2012; and $89 million in fiscal 2013. These funds have occasionally been budgeted much higher than actual receipts, creating shortfalls in the budget for the Department of Human Resources (DHR). For example, the fiscal 2013 allowance budgeted $139 million in Title IV-E spending, $49 million more than the amount received.

The waiver will stabilize the State's Title IV-E allotment at roughly $130 million a year over the five-year demonstration period, fiscal 2015 through 2019. The waiver also increases the federal commitment to Maryland's foster care system while simplifying budgeting. As federal spending increases, it will not reduce State spending; part of the requirement for the waiver was a commitment from the State that Maryland's own foster care spending be maintained throughout the demonstration period, which totaled $391 million in general funds in fiscal 2015.

Waiver to Allow Flexibility in Use of Title V-E Funds

Maryland's Title IV-E waiver was designed by DHR with help from the Maryland Children's Cabinet and member agencies like the Maryland State Department of Education, the Department of Health and Mental Hygiene, and the Department of Juvenile Services. The waiver allows for flexibility in how the State uses Title IV-E funds, which are normally only for out-of-home placements and related spending. Maryland's waiver allows the State to focus on keeping children from entering the foster care system and spending money to reduce out-of-home placements before they occur. **Exhibit 1** shows the monthly average for out-of-home placements for fiscal 2014 for foster care placements and for permanent settings like adoption. The average monthly total for both placements was 14,563.

Exhibit 1
Foster Care and Permanent Placements
Fiscal 2014 Monthly Averages

Foster Care Placements		Permanent Settings	
Regular Foster Care	1,474	Subsidized Adoption	7,185
Group Homes	3,024	Subsidized Guardianship	2,391
Other Foster Care	489		
Total	**4,987**	**Total**	**9,576**

Source: Department of Human Resources

Anticipated Changes Regarding Out-of-home Placements

The demonstration project is specifically focused on children at the ages most likely to enter the foster care system, ages 0 to 8 and 14 to 17, though many of the services will be available to all children. DHR plans for broader expansions of existing programs like Place Matters (which focuses on keeping children with their families or relatives) and Alternative Response (which addresses high- and low-risk situations differently) in addition to a new trauma-informed social services system.

The new trauma-informed social services system will focus on both children and their parents by training caseworkers to better take into account the psychological and emotional impact contact by the social services system can have for children and their parents. DHR believes that better accounting for the trauma children and parents experience will reduce out-of-home placements up front and increase successful family reunifications.

Maryland's demonstration plan includes implementing new family support programs and expanding existing ones to the entire State. According to DHR, all programs are evidence-based or have shown promise in other settings and include (1) Parent-Child Interaction Therapy to build better social skills for children; (2) SafeCare, a direct life and parenting skills training for families; and (3) Functional Family Therapy, designed to increase communication and problem solving among family members.

The demonstration project lasts five years, after which DHR expects the waiver to be extended. Success of the waiver will be measured based on a number of criteria outlined in the State's waiver approval letter from the U.S. Department of Health and Human Services' Children's Bureau. They include:

- the impact the waiver has had on placement rates for foster care, reunificiations, re-entry, length of placement, and adoption and guardianship;
- the impact the waiver has had on child safety, well-being, maltreatment, and the use of Alternative Response compared to the investigated response, and
- the effectiveness of the evidenced-based programs Maryland had implemented.

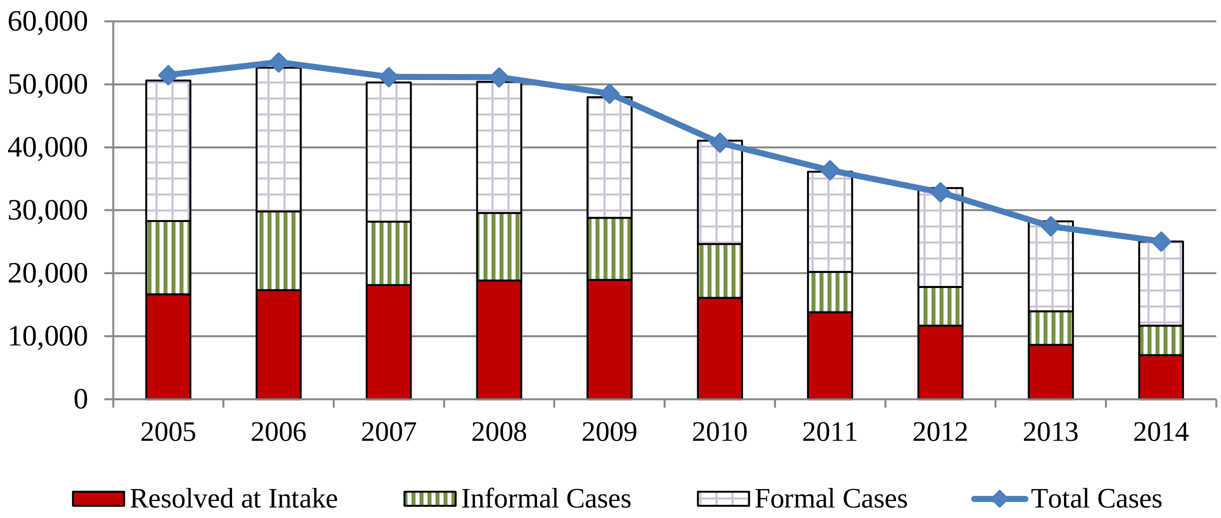
Department of Juvenile Services Population Trends and Facility Issues

The number of youth being served by the Department of Juvenile Services continues to fall in all programmatic areas, with the most dramatic declines in youth being held in secure detention facilities. The department has received funding for three capital projects, although only one project has made considerable progress.

General Population Trends

Exhibit 1 illustrates trends in the number of complaints received by the Department of Juvenile Services (DJS) in recent years, as well as complaint disposition.

Exhibit 1
Juvenile Complaints and Complaint Dispositions
Fiscal 2005-2014



Note: Total complaints typically are 1% to 2% higher than the sum of those resolved at intake and the informal and formal caseload. The difference relates to jurisdictional issues or cases in which a decision is not recorded.

Source: Department of Juvenile Services; Department of Legislative Services

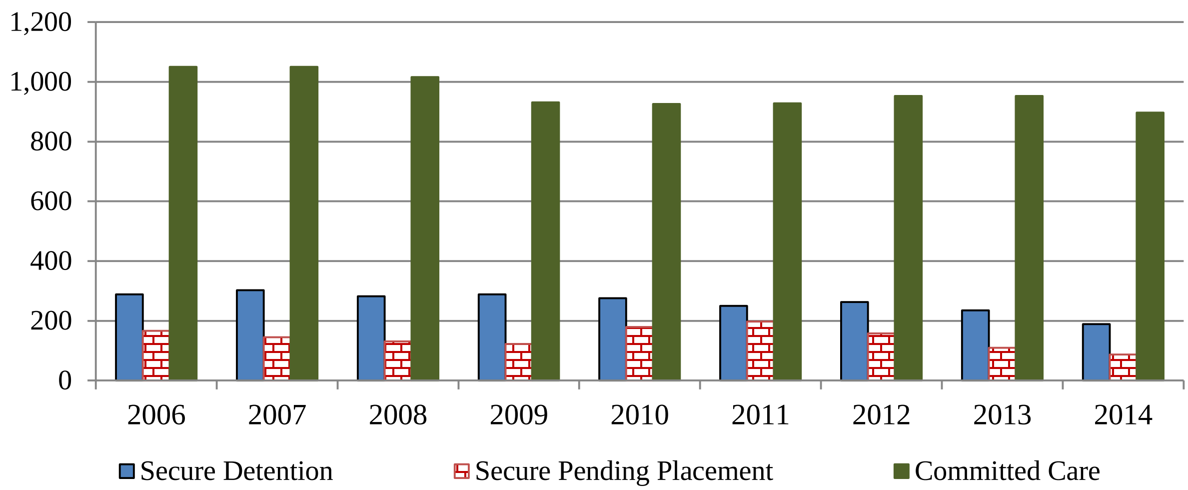
- The total number of complaints received by the department has been in decline for nearly a decade, most significantly in the past five years. Fiscal 2014 saw a 9% decrease to slightly more than 25,000 total cases when compared to the 27,500 complaints in the previous fiscal year.

- All types of complaint dispositions continued to decline in fiscal 2014 due to fewer total complaints referred to the department. Cases resolved at intake, and those that require some form of intervention but do not rise to the level of court intervention (the informal caseload), fell by 19% and 13%, respectively. Cases resolved at intake continue to account for a smaller proportion of the total caseload, representing 28% of total complaint dispositions in fiscal 2014, compared with 38% in fiscal 2011. Informal cases consistently account for approximately 19% of total complaints.

- Although the total number of formal caseloads, those where DJS believes court intervention is required, declined by 6% in fiscal 2014, the proportion of cases formalized continues to increase. More than half (53%) of the complaints received by the department were recommended for court intervention in fiscal 2014, compared with 44% of total complaints in fiscal 2011.

In terms of youth requiring out-of-home placements, **Exhibit 2** illustrates trends for certain pre- and post-disposition residential placements.

Exhibit 2
Selected Average Daily Population Trends
Fiscal 2006-2014



Source: Department of Juvenile Services; Department of Legislative Services

- Overall, the population of youth held in secure detention facilities declined significantly in fiscal 2014, falling by 20%. On average, there were nearly 70 fewer youth held in a DJS detention facility in fiscal 2014 than in the previous year.

- The average population of youth in a secure detention facility, while awaiting placement in a committed program, has declined dramatically since fiscal 2011. This is largely the result of legislation creating a continuum of care to reduce the number of returns to detention due to ejection from a committed program. The average pending placement population in fiscal 2014 was 87 youth, a 21% decline from the previous year, and the first time that this population fell below 100 youth since prior to fiscal 2006. As a point of comparison, the average pending placement population in fiscal 2011 was 198 youth.

- The average predisposition population was 189 youth in fiscal 2014, marking the first time in nearly a decade that fewer than 200 predisposition youth were held in secure detention. The declining detention population has resulted in available bed space, which has allowed DJS to assume responsibility for a significant portion of the youth charged as adult detention population in Baltimore City. In fiscal 2014, 46 of the 189 predisposition youth were awaiting action from the adult courts. Previously, these individuals would have been held at the Baltimore City Detention Center.

- Despite the significant reductions in the number of complaints and the population of youth held in secure detention and pending placement, the average daily population of youth in committed residential placement only decreased by 6% in fiscal 2014. According to DJS, this trend indicates that the department is doing a better job throughout the system of identifying youth for whom DJS intervention is most appropriate. The average daily population of youth in out-of-state residential placement was 96 youth, representing 11% of the total committed population.

Capital Program

DJS received funding for three capital projects in the fiscal 2015 capital budget; however, only one of the three projects has made considerable progress.

Cheltenham Youth Detention Center

Approximately $31.5 million in general obligation bond funding was provided to continue the construction of a new 72-bed detention facility on the grounds of the Cheltenham Youth Facility. Construction began in January 2014 and is progressing well. The anticipated conclusion of construction is January 2016, with a projected occupancy date of February 2016.

Female Detention Center

The capital budget provided $1.7 million to begin design of a new 48-bed female detention center on the grounds of the former Thomas O'Farrell Center in Carroll County. Although the department has begun the architect/engineer selection process, the project has encountered significant issues regarding the process for bringing utilities to the facility site. DJS is working with the Department of General Services (DGS) and Maryland Environmental Services to identify potential solutions; however, the issue has resulted in delays in the project schedule.

Some of the proposed solutions require obtaining easements from private land owners and construction of utilities on other State agency land. Another solution would be to utilize the existing utility infrastructure from the Thomas O'Farrell facilities; however, this infrastructure is significantly deteriorated making this a potentially expensive option. DJS is hoping to mitigate the delays by completing the facility design process concurrent with the resolution of the utilities issue; however, the potential timeline and fiscal impact to achieve the resolution is not yet known at this time.

Eastern Shore Treatment Center

The General Assembly added $1.6 million in the fiscal 2015 capital budget to fund the acquisition of the Lower Shore Drill Academy property in Wicomico County. The purpose was to renovate the existing facility for use as a 24-bed staff-secure treatment center for male youth from the Eastern Shore and Southern Regions. To date, the property has not been acquired. Property appraisals conducted through DGS' Land Acquisition and Disposal Unit valued the property at a price significantly lower than the $1.6 million included in the budget for acquisition. Wicomico County rejected the State's initial offer and negotiations are ongoing.

After further review of the property, it was determined that the existing structures are not appropriate for renovation. As such, DJS is also modifying this project to request a 36-bed hardware secure facility. Although this modification is significantly more expensive, the department's proposal has a cost-neutral impact on the five-year capital improvement plan, as the additional funds will be shifted from the defunct Southern Regional Detention Center project. Struggles with site selection for a detention facility in the Southern Region have caused the department to back away from that project. Further review of this new proposal is warranted.

Social Programs

Deep Poverty in Maryland

Maryland has a low poverty rate overall, but a high proportion of low-income Marylanders live in deep poverty (less than 50% of the federal poverty level). Deep poverty has increased in the State since 1999 and poses social and policy implications. As those living in deep poverty are statistically least likely to work, they are not always served by core public assistance programs.

Poverty Nationally and in Maryland

In 2013, more than one-third of Maryland residents (37.6%) living in or near poverty (incomes up to 125.0% of the federal poverty level (FPL)) are in deep poverty compared to 20.6% nationwide. While 15.8% of Americans lived in poverty (up to 100.0% FPL), Maryland had the third lowest poverty rate in the nation (10.1%). Deep poverty is defined as having an income below 50.0% FPL. In 2013, 7.0% of Americans and 5.0% of Marylanders lived in deep poverty. **Exhibit 1** displays categories of poverty by the percentage of FPL and the associated income by family size.

Exhibit 1
2014 Federal Poverty Level by Family Size

		Family Size			No. of Maryland
	% FPL	**1**	**2**	**3**	**Residents**
Low Income	<200%	$23,340	$31,460	$39,580	1,328,022
In or Near Poverty	<125%	14,588	19,663	24,738	740,494
Poverty	<100%	11,670	15,730	19,790	572,402
Deep Poverty	<50%	5,835	7,865	9,895	279,622

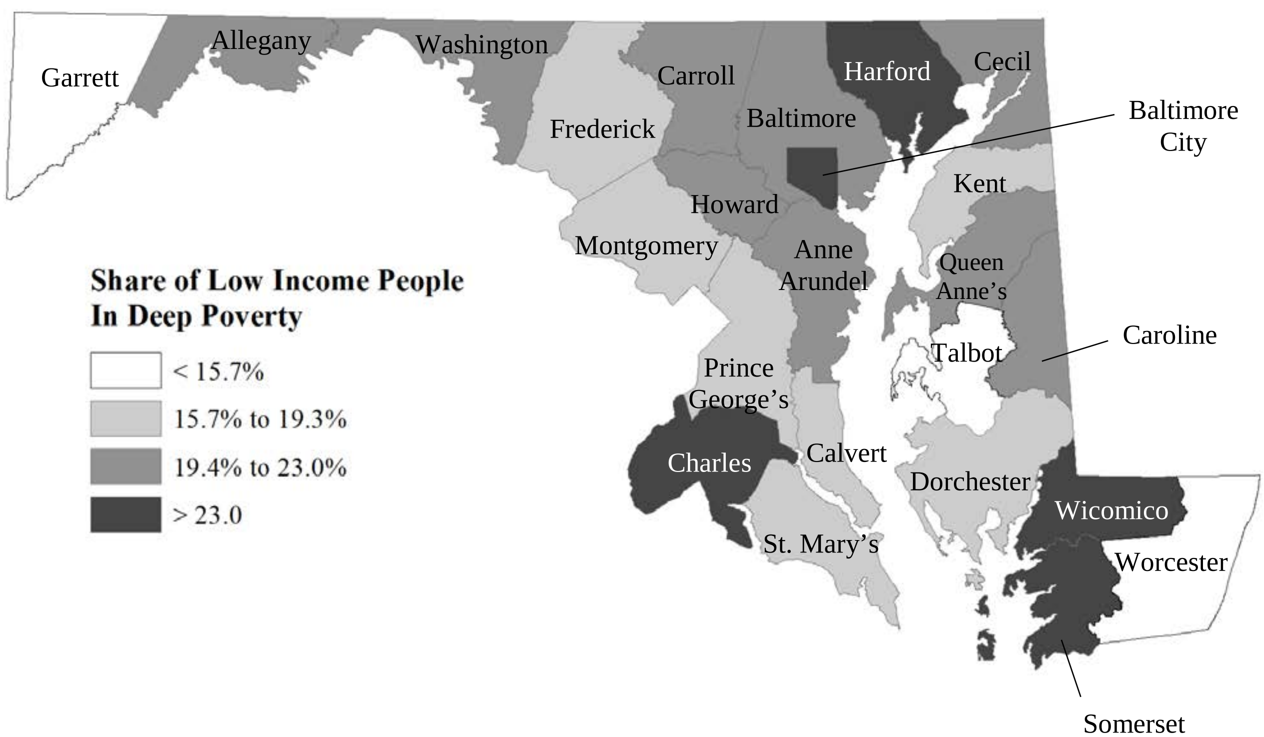
FPL: federal poverty level

Source: U.S. Department of Health and Human Services, U.S. Census Bureau

Maryland Residents in Deep Poverty

While overall levels of poverty and deep poverty are low in Maryland, a September 2014 analysis by the Pew Charitable Trusts found that 37.6% of the State's residents living in or near poverty, live in deep poverty, the highest share of any state and second only to the District of Columbia (44.8%). As identical data is not available by jurisdiction, **Exhibit 2** shows the proportion of low-income individuals (up to 200.0% FPL) who live in deep poverty by jurisdiction.

Exhibit 2
People in Deep Poverty as a Share of Low Income Population
Calendar 2010-2012



Source: U.S. Census Bureau, American Community Survey; Department of Legislative Services

Baltimore City and Wicomico County have the highest share of low-income residents living in deep poverty (26.6%), while Worcester County has the lowest (12.1%). As shown in **Exhibit 3**, with the exception of Baltimore City, the number of people in deep poverty increased in all areas of the State between 1999 and 2012, an increase of 29.3% in the State. The largest increase, both in absolute (19,700) and relative numbers (70.9%), of people in deep poverty occurred in the Baltimore and Harford county region.

Exhibit 3
Deep Poverty by Region
Calendar 1999-2012

Region	1999	2008	2012	Change 1999-2008
Baltimore/Harford	27,800	33,900	47,500	19,700
Baltimore City	75,700	55,400	74,100	(1,600)
Montgomery	22,800	19,600	29,900	7,100
Prince George's	32,400	32,000	39,900	7,500
Central Maryland	23,200	24,700	34,500	11,300
Southern Maryland	7,300	9,300	12,200	4,900
Western Maryland	11,000	10,300	15,100	4,100
Upper Eastern Shore	6,800	8,300	11,100	4,300
Lower Eastern Shore	9,400	10,500	15,300	5,900
Total	**216,311**	**204,086**	**279,622**	**63,200**

Source: U.S. Census Bureau; Department of Legislative Services

Long-term Consequences of Deep Poverty

The disadvantages of deep poverty often persist throughout one's lifetime and the disadvantages can often lead to the intergenerational transmission of poverty. Research has found that socioeconomic gaps in children's cognition and behavior open up early in life and remain largely constant throughout school years. By the start of kindergarten, not only do poor children perform significantly worse on tests of cognitive ability, but teachers also report that these children have much more difficulty paying attention and exhibit behavior problems.

Policy Implications for State and Federal Assistance Programs

Households living in deep poverty financially, qualify for a variety of social service programs including Temporary Cash Assistance (TCA), Medicaid, the Supplemental Nutrition Assistance Program, Supplemental Security Income (SSI), and Social Security Disability Income (SSDI). In addition to income eligibility, some programs have other requirements that may limit participation among those in deep poverty. For example, in order to maintain eligibility for TCA, adults must cooperate with child support enforcement and participate in work activities. Other benefits, including the State and federal earned income tax credits (EITC), require individuals to work. For more information on the impact of the State EITC, please see the issue paper *Tax Credit Evaluations*.

Individuals living in deep poverty are statistically far less likely to be employed. In 2010 to 2012, 62.9% of individuals between the ages of 16 and 65 living in deep poverty did not work and only 3.4% worked full-time. Most individuals living in deep poverty face multiple and complex barriers to employment including physical and mental disabilities, lack of education, learning disabilities, the need to care for others with mental or physical disabilities, criminal records, lack of citizenship, domestic violence, and past or present substance use disorders. This diverse group includes the homeless, single mothers, undocumented immigrants, and young people. These barriers may limit the availability of some programs (such as EITC) to those in deep poverty.

Although nationally, total federal assistance to the low-income population has increased substantially since the mid-1980s, it has been redistributed away from those in deep poverty. In 2004, the poorest of all families received an estimated 32% of all federal transfers to the low-income population, substantially less than the 56% received in 1983. Researchers question whether this shift in federal assistance, along with the complex array of means-tested federal government programs, is sufficiently addressing the challenges of deep poverty.

A description of and eligibility requirements for social service programs available to low-income populations may be found in the Public Benefits for Children and Families report published in alternating years, including 2014.

For further information contact: Tonya D. Zimmerman/Robert J. Rehrmann Phone: (410) 946/(310) 970-5530

Transportation

Status of the Proposed Transit Lines

Three major new transit projects are included in the State's *Consolidated Transportation Program*. While construction on the Purple and Red lines is set to begin in calendar 2015, details on the funding and schedule of the Corridor Cities Transitway have not yet been finalized. Funding for both the Purple and Red lines includes a mix of federal, State, local, and private funds. Additional funding will be needed to begin construction on the Corridor Cities Transitway project.

Background

Over the past several years, the State has committed significant planning and engineering resources to developing the Red Line, the Purple Line, and the Corridor Cities Transitway (CCT) transit projects. The increased revenues resulting from passage of the Transportation Infrastructure Act of 2013 (Chapter 429) allowed these projects to be moved to the construction program in the *Consolidated Transportation Program* (CTP). **Exhibit 1** summarizes the project status for each of the transit lines. Additional information is provided below in project-specific sections.

Exhibit 1
Transit Project Status

	Purple Line	Red Line	Corridor Cities Transitway
Estimated Project Cost	$2.5 billion	$2.9 billion	$550.0 million
Construction Start	Calendar 2015	Calendar 2015	n/a
Operations Begin	Calendar 2020	Calendar 2022	n/a
Procurement Method	P3	Conventional/P3	n/a
Federal Funding Anticipated	$927.4 million	$918.8 million	$1.5 million
Local Funding Anticipated	$240.0 million	$290.0 million	n/a

P3: public-private partnership

Source: Maryland Department of Transportation's 2015 draft *Consolidated Transportation Program*

The Purple Line

The proposed Purple Line is a 16-mile light rail transit line extending from Bethesda in Montgomery County to New Carrollton in Prince George's County with 21 stations – 10 in Montgomery County and 11 in Prince George's County. The Bethesda to Silver Spring segment will include a parallel hiker/biker trail. The Maryland Department of Transportation (MDOT) has elected to use a public-private partnership (P3) to deliver the Purple Line. This will involve selecting a private partner or "concessionaire" to finish the design of and then build, operate, and maintain the transit line. The concession period will be for 35 years – 5 for construction and 30 for operations. The concessionaire will also finance a portion of the construction and receive annual payments from MDOT consisting of equity repayment and operations funding. MDOT released the Request for Proposal in July 2014, and responses from the four private-sector teams, selected by MDOT in January 2014, are due by January 9, 2015. MDOT will select the winning team in winter/spring 2015 and construction is expected to begin in summer/fall 2015.

Project funding will be a mix of federal, State, local, and private (concessionaire) funds. The Federal Transit Administration (FTA) has committed $900.0 million in New Starts funding to the project, and federal funds of $27.4 million were received during the planning and engineering phases of the project. State funding is projected at $637.0 million and local contributions at $240.0 million, leaving a balance of $696.0 million to be provided by the concessionaire. The State/private funding amounts, however, will be negotiated during the development of the concession agreement and may vary substantially from the assumptions used in the draft CTP.

The Red Line

The proposed Red Line is a 14.1-mile, east/west light rail line with 19 stations and will connect the areas of Woodlawn, Edmondson Village, West Baltimore, downtown Baltimore, Harbor East, Fell's Point, Canton, and the Johns Hopkins Bayview Medical Center campus. Because the project involves extensive tunneling under downtown Baltimore City, MDOT intends to use a hybrid procurement method with the bulk of the project to be delivered conventionally (design, bid, build, or design build) and a smaller portion to be delivered as a P3.

The draft 2015 CTP shows construction beginning in fiscal 2015; however, the bulk of construction spending is programmed for fiscal 2017 through 2020. Project funding will be a mix of federal, State, local, and private (concessionaire) funds. FTA has committed $900.0 million in New Starts funding to the project, and federal funds of $18.9 million were received during the planning and engineering phases of the project. State funding assumed in the draft CTP totals $1,035.0 million, and local contributions are assumed at $290.0 million, leaving a balance of $656.0 million to be provided by the concessionaire for the P3 portion of the project. The State/private funding amounts, however, will be negotiated during the development of the concession agreement and may vary substantially from the assumptions used in the draft CTP.

The Corridor Cities Transitway

The proposed CCT is a 16-mile bus rapid transit line with 18 stations extending along a north/south corridor between Shady Grove Metrorail Station and the former COMSAT facility just south of Clarksburg in Montgomery County. As currently envisioned, the CCT will be constructed in two phases. Phase I will be a 9-mile segment between Shady Grove Metrorail Station and the Metropolitan Grove Maryland Area Regional Commuter Station consisting of 14 stations. Phase II will add 4 stations on the 6-mile extension to the COMSAT site.

Full details on the funding and schedule for the CCT have not yet been finalized. The draft 2015 CTP does not show construction funding in any of the six years of the program. Federal support beyond $1.5 million already expended for planning is not anticipated in the draft CTP. State spending for planning, engineering, and right-of-way acquisition total $114.3 million in the draft CTP with an additional $145.0 million reserved for construction to be provided some time after fiscal 2020. The draft CTP indicates that advancement to actual construction would require additional federal and/or local funding.

For further information contact: Steven D. McCulloch Phone: (410) 946/(301) 970-5530

Transportation

Overview of the Draft *Consolidated Transportation Program*

The Maryland Department of Transportation's 2015 draft *Consolidated Transportation Program* lists all capital projects funded in the current fiscal year and those planned for the next five years. Spending over the six years totals $15.9 billion, a $277.7 million increase from the fiscal 2014 *Consolidated Transportation Program*.

Overview

The *Consolidated Transportation Program* (CTP) is Maryland's six-year capital budget for transportation projects. It is updated annually and includes all major and minor capital projects that the Maryland Department of Transportation (MDOT), its modal administrations, and the Washington Metropolitan Area Transit Authority (WMATA) are undertaking in the current year and over the next five-year planning period. Capital projects for the Maryland Transportation Authority (MTA) are also included in the CTP but are excluded from this analysis. **Exhibit 1** compares six-year spending contained in the 2014 CTP to the draft 2015 CTP by fund source.

Exhibit 1
Comparison of Six-year Capital Spending by Fund Source
Fiscal 2014-2020
($ in Millions)

	2014-2019 CTP	Draft 2015-2020 CTP	Change	Percent Change
Special Funds	$10,016.30	$10,128.80	$112.50	1.12%
Federal Funds	4,468.80	4,476.40	7.60	0.17%
Other Funds*	1,163.30	1,320.90	157.60	13.55%
Total Funds	**$15,648.20**	**$15,926.10**	**$277.90**	**1.78%**

CTP: *Consolidated Transportation Program*

*Other funds include funds from customer and passenger facility charges and certain types of federal aid that do not pass through the Transportation Trust Fund.

Note: Numbers may not sum due to rounding.

Source: Maryland Department of Transportation 2014 final CTP, 2015 draft CTP

The total funding level in the 2015 draft CTP increases by $277.9 million (1.8%) from the 2014 CTP. This net increase results primarily from an increase in special funds and the inclusion of county funds for projects related to the Purple Line.

Exhibit 2 shows MDOT's total capital spending for the entire six-year period by mode. The State Highway Administration receives about 47% of total capital funding, and transit (including both MTA and WMATA) receives approximately 41% of the funding.

Exhibit 2
Comparison of Six-year Capital Spending by Mode
Fiscal 2014-2020
($ in Millions)

	2014-2019 CTP	Draft 2015-2020 CTP	Change	Percent Change
Administration	330.9	265.5	-$65.4	-19.76%
WMATA	1,520.5	1,579.0	58.5	3.85%
State Highways	7,233.0	7,398.5	165.5	2.29%
Port	984.9	948.0	-36.9	-3.75%
Motor Vehicle	122.2	122.2	0.0	0.00%
Mass Transit	4,742.8	5,029.3	286.5	6.04%
Airport	713.9	583.6	-130.3	-18.25%
Total	**$15,648.2**	**$15,926.1**	**$277.9**	**1.78%**

CTP: *Consolidated Transportation Program*

WMATA: Washington Metropolitan Area Transit Authority

Source: Maryland Department of Transportation 2014 final CTP, 2015 draft CTP

Business Regulation

Workers' Compensation

The workers' compensation system in Maryland continues to be stable with a small decrease in workers' compensation insurance premiums for employers in 2015. Issues remain relating to the State insurer of last resort, physician dispensing of pharmaceuticals, deliberate actions of employers against employees, and occupational disease presumptions.

Workers' Compensation System Is Relatively Stable

The Maryland Insurance Administration (MIA) recently approved a 2.7% decrease in the pure premium rate that employers will pay in 2015 for workers' compensation insurance. As a component of overall premium rates, pure premium rates filed by a rating organization are set at a level necessary to prefund projected claim loss payments to injured workers. MIA's approval of the National Council on Compensation Insurance (NCCI) pure premium rate filing marks the first decrease since 2009 to the amount that employers in the State pay for workers' compensation insurance. The cumulative changes since that time have been slight, which indicates a relatively stable market in the State. The State's workers' compensation insurer of last resort, the Chesapeake Employers' Insurance Company (Chesapeake)/Injured Workers' Insurance Fund (IWIF), follows a different ratemaking approval process and reports that its rates for policies issued or renewed during 2015 remain the same as those that were in effect in 2014.

Anticipated 2015 Legislation

Insurer of Last Resort Conversion

During the 2012 legislative session, Chapter 570 was enacted to convert IWIF into a private, nonprofit, and nonstock workers' compensation insurer. During the 2014 session, two bills were enacted to address practical considerations that the conversion legislation did not address. Specifically, Senate Bill 16 (Chapter 4) and Senate Bill 480 (Chapter 62) authorized Chesapeake to issue policies for employer's liability insurance, legally cancel or refuse to renew or issue policies, and register its employees as regulated lobbyists. It is anticipated that additional legislation will be introduced to clarify the responsibilities of the restructured organization and to address any other unintended changes made by the conversion legislation.

Insurer of Last Resort Membership in Rating Organization

IWIF is exempt from Title 11 of the Insurance Article, which requires insurers to (1) file and gain approval of their rates by the Insurance Commissioner and (2) belong to a workers' compensation rating organization (NCCI). The conversion legislation preserved this exemption, but legislation was introduced during the 2014 legislative session (Senate Bill 479/House Bill 341) to require Chesapeake to join a rating organization. As introduced, the bills would have (1) altered Chesapeake's board structure such that the Governor appointed fewer members; (2) authorized Chesapeake to own a subsidiary and sell workers' compensation insurance in other states; (3) subjected Chesapeake to rate regulation; and (4) required the company, MIA, and the rating organization to develop a plan to ensure the company's membership in the rating organization by a certain date. These provisions would have become effective over the course of six years beginning on October 1, 2014. Senate Bill 479, which was amended and enacted as Chapter 172, left the existing appointment process intact, but required future appointees to meet specified qualifications. Legislation requiring Chesapeake to join a rating organization and authorizing the company to sell workers' compensation insurance in other states is expected to be introduced during the 2015 legislative session.

Prescription Drug Cost Management

Physician dispensing of repackaged pharmaceuticals increases costs for the workers' compensation system because physicians are not bound by State fee schedules and pharmacy cost controls. The Workers' Compensation Research Institute released a study in September 2013 which found that physicians directly dispensed 40% of all medications prescribed to injured workers in Maryland, representing 55% of total spending on pharmaceuticals for workers' compensation claims. A number of other studies released during the 2013 and 2014 interims also address differences in costs and patient outcomes when physicians, instead of pharmacists, dispense prescription drugs.

Regulatory and legislative proposals introduced over the last few years have taken two different approaches to attempt to address the differential cost and patient outcome issues. Under the first approach, the proposals have attempted to restrict or more stringently regulate the practice of physician dispensing. Senate Bill 215/House Bill 280 of 2014 (both failed) would have specified that an employer, or its insurer, may not be required to pay for a prescription drug that is dispensed by a physician unless the prescriptions were dispensed within 30 days of the physician's initial appointment with the employee, and were limited to a 30-day supply of medication. The recently implemented Prescription Drug Monitoring Program (Chapter 166 of 2011), which requires prescribers and dispensers of drugs that contain specified types of controlled dangerous substances to report information to an electronic database, similarly attempted to more stringently regulate the practice. Additionally, recent legislation has altered permitting requirements for physician dispensers by requiring physicians who dispense from workers' compensation clinics to obtain a dispensing permit (Chapter 184 of 2013) and to comply with other drug recall, packaging, recordkeeping, purchasing, reporting, continuing education, and inspection requirements (Chapter 267 of 2012).

Under the second approach, rather than restrict the practice of physician dispensing, some proposals have sought to eliminate the cost differential by requiring the establishment of a uniform reimbursement rate for both physician-dispensed and pharmacist-dispensed medications. Senate Bill 507/House Bill 1342 of 2014 (both failed) would have required the Workers' Compensation Commission (WCC) to adopt a specified pharmaceutical fee schedule in regulation. WCC previously proposed two sets of regulations that would have established a pharmaceutical fee schedule. The Administrative, Executive, and Legislative Review Committee, however, did not approve either set of regulations. Further legislative action is likely at the 2015 session to address the issues of physician dispensing, including patient outcomes and rising and inflated prescription drug costs.

Deliberate Action to Injure or Kill

Although workers' compensation is generally the exclusive remedy for a covered employee who has sustained an accidental personal injury, compensable hernia, occupational disease, or death, an employer may be sued for damages if a covered employee is injured or killed as the result of the deliberate intent of the employer to injure or kill the covered employee. In these circumstances, a covered employee or specified other individuals may bring a claim for workers' compensation benefits or sue for damages, but not both. House Bill 1289 of 2014 would have altered the standard for "deliberate intent." Legislation may be introduced during the 2015 legislative session to revisit this standard.

Presumptions

Workers' compensation law establishes a presumption of compensable occupational disease to certain public employees who are exposed to unusual hazards in the course of their employment. It is presumed that these diseases are due to the employee's work and, therefore, require no additional evidence in the filing of a claim for workers' compensation. Examples include police officers who develop heart disease and firefighters who develop specified types of cancer. Over the most recent legislative term, numerous bills were introduced to expand the types of diseases and personnel that are included in the presumption statute. Although several of these bills were enacted, additional legislation related to occupational disease presumptions is expected to be introduced during the 2015 legislative session.

Workers' Compensation Insurance Benefit and Oversight Committee

The Joint Committee on Workers' Compensation Benefit and Insurance Oversight evaluates and examines the structure for workers' compensation and benefits in Maryland. The committee will meet early in the 2015 legislative session to review and discuss anticipated legislation, workers' compensation rates, and WCC's annual report.

For further information contact: Laura H. Atas/Richard L. Duncan III Phone: (410) 946/(301) 970-5350

Business Regulation

Unemployment Insurance

With a relatively favorable employment picture in the State and lower claim activity, the balance of the Unemployment Insurance Trust Fund is at a level that allows Maryland employers to pay from the second to lowest tax table in calendar 2015, a slight increase from calendar 2014 tax rates. Maryland's unemployment rate improved to 6.3% from 7.0% a year ago. Anticipated legislation relates to the monitoring of claims, implementation of a federal funding goal, and penalties for fraudulent overpayments.

Unemployment insurance (UI) provides temporary, partial wage replacement benefits to persons who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Funding for the program is provided by employers through UI taxes paid to both the federal government for administrative expenses and to the states for deposit in their respective UI trust funds.

The UI Trust Fund and Outlook for Employer Taxes in Calendar 2015

Legislation enacted in Maryland in 2005 altered Maryland's UI charging and taxation system by creating a series of experience tax rate tables that are based on the balance in the Maryland UI trust fund. An employer's unemployment experience determines the rate charged within each table. If the balance of the UI trust fund exceeds 5% of total taxable wages in the State (as measured on September 30 of the current year), the lowest tax rate table (Table A) is used to calculate employer rates for the following calendar year. In Table A, employers pay a minimum of 0.3% (on the first $8,500 of annual wages of each employee) and a maximum of 7.5% ($25.50 to $637.50 per employee). The highest tax table (Table F) is used when the balance of the UI trust fund is not in excess of 3% of the total taxable wages. In Table F, employers pay a minimum of 2.2% and a maximum of 13.5% ($187 to $1,147.50 per employee). The federal unemployment tax (0.8%) under the Federal Unemployment Tax Act (FUTA) is assessed on the first $7,000 of annual wages of each employee. States are required to have their State taxable wage base at a level that is at least the same or higher than the federal taxable wage base. To the extent that the federal government increases the federal taxable wage base above $8,500 as has been discussed at the federal level, the General Assembly would have to increase the State taxable wage base and would likely have to make corresponding statutory adjustments to the tax tables.

The balance of the State's UI trust fund has fluctuated over the years, growing in good economic times to over $1 billion in each of calendar 2007 and 2008, and diminishing in bad economic times to a level that required the UI trust fund to borrow $133.8 million from the federal government in February 2010. Despite an infusion of $126.8 million of federal modernization incentive funds in May 2010 and with the repayment of the borrowed funds by December 2010, the balance of the UI trust fund remained at a level that required Maryland employers to pay from the highest tax table from 2010 through 2012. Due to the more favorable employment picture in the State and lower claims activity (resulting in a significantly increased balance of the UI trust fund), employers paid from Table C in calendar 2013 and are paying from Table A in calendar 2014. Since the balance of the trust fund used to determine the tax table for 2014 was at a level that barely allowed employers to pay from Table A, it is not surprising that employers will pay from Table B in calendar 2015.

It is worth noting that many other states were also required to borrow funds from the federal government to ensure solvency of their trust funds. Although Maryland was able to repay its loan within a single fiscal year, many states still have outstanding balances. In fact, as of October 2014, 13 states owe over $13.8 billion.

The State's unemployment rate rose from 3.6% at year-end 2007 to 7.6% at year-end 2009, from which it has declined each year. As of September 2014, Maryland's rate was 6.3%. Initial claims grew from about 222,000 in calendar 2007 (18,500 monthly average) to a high of over 416,000 in calendar 2009 (35,000 monthly average). Initial claims began to fall in calendar 2010. By fiscal 2014 (calendar year data not yet available), initial claims fell to about 269,600, for an approximately 22,500 monthly average.

Exhibit 1 shows the balance of the UI trust fund on September 30 of each year since 1999, the annual payout amounts since 1999, and Maryland's seasonally adjusted unemployment rate each year since 1999. Also shown in Exhibit 1 are the tax tables employers paid from during calendar 2006 to 2014 and will pay from during calendar 2015.

Exhibit 1
Maryland's Unemployment Rate, UI Trust Fund Balance, and Annual Benefit Payouts
Calendar 1999-2015

Calendar Year	Percentage Unemployment Rate at End of Year[1]	UI Trust Fund Balance as of Prior September 30 ($ in Millions)[2]	Tax Rate Table in Effect	Annual Benefit Payouts[3] ($ in Millions)
1999	3.5	$741.6		$265.0
2000	3.5	815.8		261.4
2001	4.5	882.8		394.5
2002	4.4	866.9		498.9
2003	4.3	824.7		512.1
2004	4.3	638.5		430.8
2005	3.8	703.6		384.7
2006	3.7	883.1	B	383.5
2007	3.6	1,032.5	A	433.3
2008	5.8	1,057.8	A	785.2
2009	7.6	895.4	B	1,068.8
2010	7.4	301.7	F	900.7
2011	7.3	273.4	F	716.8
2012	7.2	460.2	F	767.3
2013	6.1	794.5	C	736.1
2014	6.4	954.7	A	466.9
2015	N/A	910.7	B	N/A

[1]Data is from the U.S. Department of Labor: unemployment rate for 2014 is as of August 2014.

[2]Data is from the Department of Labor, Licensing, and Regulation: calendar 2003 includes $142.9 million of Reed Act funds provided by the federal government. Calendar 2010 includes $133.8 million in borrowed funds (February 2010) and $126.8 million in federal modernization funds (May 2010); borrowed funds were repaid in full by December 2010.

[3]Data is from the U.S. Department of Labor: 2014 payout amount is as of August 2014.

Note: The historic high unemployment rate for Maryland was 8.3% in August 1982, and the historical low was 3.3% in March 2000.

Source: U.S. Department of Labor; Department of Labor, Licensing, and Regulation

Joint Committee on Unemployment Insurance Oversight

The Joint Committee on Unemployment Insurance Oversight monitors laws and policies that affect the State UI system, including administrative and federal funding issues, and studies other potential legislative changes to UI benefits. Due to imminent changes in legislator membership at the start of the new term beginning in 2015, the joint committee does not plan to hold an interim meeting. Instead, the joint committee will meet early in the 2015 legislative session to discuss the status of the UI trust fund and anticipated legislation, including:

- **Monitoring of Claim Conversions:** Legislation enacted during the 2014 session authorized the Office of the Comptroller to monitor and record calls for quality and training purposes. The Division of Unemployment Insurance intends to request the same authority, so that it can have better information on incoming claim calls, employer calls, and fact-finding calls regarding claims and employer-account issues.

- **Implementation of Federal Funding Goal:** In 2014, the U.S. Department of Labor implemented regulations that altered the eligibility requirements for states seeking cash-flow (interest-free) loans. Previously, any state that borrowed from the U.S. Treasury and agreed to repay the loan within a specified period of time could have obtained an interest-free loan to pay benefits. The regulations establish a new funding goal that requires states to have a sufficient trust fund balance. Failure to meet the new funding goal would result in an interest-bearing loan if the trust fund becomes insolvent, and the interest payments would come from the State general fund. Legislation will likely be introduced to ensure that the State's tax table structure and annual solvency computation align with the new funding goal.

- **Penalties for Fraudulent Overpayments:** As part of the ongoing effort to reduce overpayment of benefits to claimants who have fraudulently received benefits, legislation is expected to be introduced to (1) require cash repayment for fraud overpayments and penalties before a claimant is eligible to receive future benefits and (2) increase penalties by establishing extended disqualification periods for subsequent findings of fraud.

For further information contact: Jody J. Sprinkle/Laura H. Atas Phone: (410) 946/(301) 970-5350

Business Regulation

Renewable Energy and Public Service Commission Initiatives

Implementation of the Offshore Wind Energy Act continues as an advisory committee anticipates reporting recommendations by the end of 2014 and two related task forces have completed their work. As the Renewable Energy Portfolio Standard requirements enter their seventh year, discussion on altering the requirements continues. Workgroups are discussing changes to policy frameworks for EmPower Maryland goals beyond 2015. In response to the Department of Defense formal objection to the proposed land-based wind energy project in Somerset County, it is possible that additional legislation and related oversight activities may arise at the State and local levels. The Public Service Commission's study on competitive retail electric and gas supply may result in a proposal for additional consumer protections.

Offshore Wind

Chapter 3 of 2013 (the Act) created a "carve-out" for energy derived from offshore wind in the State Renewable Energy Portfolio Standard (RPS). While no offshore wind farm is anticipated to be in operation for several years, federal and State agencies have begun the process of facilitating a project's eventual development.

In February 2012, the federal government designated 80,000 acres of water off the coast of Maryland as suitable for wind facilities, and later auctioned off the area to potential developers in August 2014. State-level project approval will begin with an initial application process which may commence after the Public Service Commission (PSC) adopts implementing regulations. The regulations were adopted in September 2014.

The Act established a Maryland Offshore Wind Business Development Fund and an advisory committee in the Maryland Energy Administration (MEA). The advisory committee was required to provide written recommendations to MEA by December 31, 2013, and updated recommendations by December 31, 2014, on the most effective use of the money in the fund. The initial recommendations of the advisory committee focused on logistics of generating an offshore wind supply chain map by function and overlaying it across as many Maryland emerging businesses as possible in all regions of the State. The Act also established two task forces to study college-level clean energy educational programs. Both task forces submitted final reports in July 2014. Recommendations of these task forces focused on adding budgeted faculty positions in clean energy educational programs at Maryland's Historically Black Colleges and Universities and on advancing community college education and training efforts on supply chain and logistics management.

Renewable Energy Portfolio Standard

Maryland's RPS requires that renewable sources generate specified percentages of Maryland's electricity supply each year, increasing to 20% by 2022, including 2% from solar energy. Maryland's RPS operates on a two-tiered system: Tier 1 includes preferred sources, with carve-outs for solar energy and offshore wind energy; Tier 2, which gradually phases out, includes certain hydroelectric sources and corresponding renewable energy credits (RECs) for each tier. For the 2012 compliance year (the most recent year for which data are available), electricity suppliers retired approximately 5.5 million RECs at a cost of $24.4 million, with alternative compliance payments (fees for noncompliance) accounting for only $5,450 of the total cost. For Tier 1 compliance, electricity suppliers continued to rely on black liquor (23.4%), hydroelectric (13.5%), wood and waste solids (12.6%), and landfill gas (6.1%). Continuing a strong upward trend since 2011, wind (28.6%) was a significant source as well. Solar (1.4%) remained one the smallest sources of Tier 1 RECs.

As in past years, legislation to increase the RPS percentage requirements is likely to be introduced in the 2015 legislative session. Other potential topics for legislation relating to the RPS include (1) increasing the solar carve-out; (2) incorporating thermal energy; and (3) removing black liquor, an industrial byproduct, as a Tier 1 resource.

EmPower Maryland

In 2008, the General Assembly passed the EmPower Maryland Energy Efficiency Act, which set a target reduction of 15% in per-capita electricity consumption and demand by 2015 from a 2007 baseline. As of the end of 2013, the electric companies had spent more than $988 million across all EmPower programs, saving a total of 3.3 million megawatt-hours and 1,538 megawatts.

In January 2013, as required under the Act, MEA and PSC jointly submitted a report to the General Assembly in which MEA recommended that Maryland continue to set EmPower goals beyond 2015 and laid out a planning framework and path forward to provide the information necessary to best set these goals. To facilitate this ongoing planning process, MEA, in collaboration with PSC, the Office of the People's Counsel, the electric companies, and other interested parties, has established workgroups to assist in developing and finalizing detailed policy frameworks (*e.g.*, cost-effectiveness evaluations); however, PSC does not intend to formally consider post-2015 EmPower goals until 2015.

Objection to Wind Turbines Near Patuxent River Naval Air Station

The Patuxent River Naval Air Station (NAS) in St. Mary's County was commissioned in 1943 to consolidate air testing facilities. One of the station's primary functions is air and ground test and evaluation. The station has a large air test range, and is equipped to determine the radar signatures of aircraft so that potential weaknesses and vulnerabilities can be mitigated before new aircraft are deployed in combat. In the last few years, the U.S. Department of the Navy and other interested parties have expressed concerns over the potential of large land-based wind turbines, which can exceed 400 feet in height, to interfere with the station's radar systems.

This concern was first addressed by the General Assembly in 2012 with the passage of Chapters 643 and 644 of 2012, which directed PSC to adopt regulations, in coordination with the Navy, regarding wind energy generating stations located within a certain distance of NAS. As of November 2014, PSC staff has developed *draft* regulations for further consideration, but PSC has not yet adopted final regulations.

House Bill 1168 of 2014 (vetoed by the Governor) would have prohibited PSC from approving a certificate of public convenience and necessity for the construction of a wind-powered generating station that includes any wind turbine exceeding certain heights within certain distances from NAS before July 1, 2015. The bill likewise would have prohibited any person from undertaking construction of such a project. In evaluating any proposal for a wind-powered generating station within the specified area, PSC would have been required to review and consider all available pertinent information relating to the potential for interference of the project on the maintenance and operations of the air test range. The bill was intended to allow an ongoing technical study of radar interference to be completed.

In practice, the bill would have suspended one major land-based wind energy project in Somerset County – the 70-megawatt (Phase 1) Great Bay project, and might have resulted in project failure if certain federal incentives expired or contractual timelines were not met. The Governor's veto letter cited the federal Ike Skelton Act, which creates a process at the Department of Defense Siting Clearinghouse for resolving conflicts between military facilities and nearby renewable energy projects. The veto letter emphasized that no renewable energy project that creates an unacceptable risk to national security can emerge from the federal review process. On October 30, 2014, the Department of Defense formally objected to the proposed Great Bay project, based on the determination that the project would constitute an unacceptable risk to national security. Although conflict over the Great Bay project is now playing out at the federal level, it is possible that additional legislation and related oversight activities may arise at the State and local levels.

Other Public Service Commission Activities

PSC has been involved in a number of other regulatory activities, including (1) rate cases for Baltimore Gas and Electric Company and Pepco; (2) infrastructure surcharge cases for Maryland's largest gas companies; (3) the permitting process for a proposed liquefied natural gas export facility at Cove Point in southern Maryland; (4) the proposed merger between Exelon and PHI Holdings; and (5) a review of competitive retail electric and gas supply to determine whether additional consumer protections are warranted. PSC indicates that its review of competitive retail electric and gas supply may lead to proposed legislation in the 2015 legislative session.

For further information contact: Stephen M. Ross Phone: (410) 946/(301) 970-5510

Business Regulation

Transportation Network Services

Transportation network services provided by Uber Technologies and others have grown in popularity and presence throughout the United States and abroad, generally operating without prior approval from State and local regulators. Legislation relating to these services did not pass last legislative session. The Public Service Commission (PSC) ruled that these services are regulated transportation services and directed its staff to draft regulations.

Transportation Network Services Operating In Maryland and Elsewhere

Uber Technologies, Inc., and other similar companies (such as Lyft and Sidecar) have turned the for-hire transportation business model on its head in just a few short years. These companies provide smart phone applications that use a smart phone's GPS to connect people who desire transportation services with nearby providers of transportation services in the company's network. Vehicle options offered across the various providers range from personal cars to taxis to SUVs. The various Uber services generally reflect the mode of transportation offered. For example, UberX offers "everyday cars," UberBLACK offers "high-end sedans," and UberSUV offers a SUV seating up to six people. These services are coordinated through the smart phone application created and owned by Uber Technologies, Inc. Lyft and Sidecar offer services provided by "everyday cars" through their respective applications.

The popularity and growth of these services is undeniable: from its 2009 start in San Francisco, California, Uber has expanded to more than 200 cities worldwide. Uber came to Maryland in January 2013, with Lyft coming later that same year. This rapid expansion of a novel business model, which has frequently occurred without prior approval from transportation regulators and over the objection of regulated transportation service providers who are subject to a host of regulations (*e.g.*, taxi companies and sedan services), has led to a variety of legislative and regulatory initiatives. Some states, such as Colorado and California, have enacted legislation specifically authorizing these new services while requiring their drivers and vehicles to meet safety and insurance requirements. Other states' regulators who are responsible for overseeing for-hire transportation providers have sent cease and desist letters, issued fines, or initiated proceedings. Most of these actions are ongoing and will continue for quite some time. A similar range of responses has also occurred internationally.

PSC Determines Uber is a Common Carrier, Subject to Regulation

In May 2013, PSC initiated Case No. 9325 to consider the nature and extent of regulation over the operations of Uber Technologies, Inc. and other similar companies in Maryland. At issue in the case is whether Uber is providing transportation services in the State and is therefore a public service company subject to PSC jurisdiction. A proposed order was issued in April 2014 by the Public Utility Law Judge Division, which found Uber to be a "common carrier" and a "public service company" subject to PSC regulation and that, therefore, Uber must submit an application for a motor vehicle permit to continue to operate its business in Maryland and must abide by the applicable provisions law and regulations governing passenger-for-hire services. To that end, the proposed order directed Uber to file an application for a motor carrier permit within 60 days after a final order.

Uber appealed the proposed order to the full commission; however, in Order No. 86528, the commission (1) affirmed the proposed order; (2) directed Uber to file an application for a motor carrier permit within 60 days in order to continue to offer either its UberBLACK or UberSUV services; and (3) directed PSC staff to draft regulations within 90 days that will more effectively regulate the provision of transportation services, including the use of new technologies to manage and dispatch requests for transportation for-hire, insurance, safety of vehicles and qualifications of drivers, and the method of providing notice of rates to PSC and consumers. Disagreeing with PSC's decision, Uber requested a rehearing of the case in September 2014. As of October 17, 2014, the commission has not yet granted or denied the request.

Maryland Legislative Overview

The General Assembly considered legislation specifically on "transportation network application companies" for the first time in 2014. Senate Bill 919/House Bill 1160 would have defined and exempted from the definition of a common carrier "transportation network application companies" and "transportation network operators." In the context of the legislation, Uber, Lyft, and other similar entities would have been transportation network application companies. Transportation network operators would have been individuals who own or operate motor vehicles (subject to certain conditions) that provide "transportation network services," defined as "transportation of a passenger between points chosen by a passenger that is prearranged by a transportation network application company." These are terms consistent with legislation and regulations proposed in other states.

Statutory provisions related to for-hire driving services would not have applied to a transportation network application company or a transportation network operator. Statutory provisions related to rate regulation by PSC would not have applied to a person that provides transportation network services. Instead, a separate regulatory system would have been established for transportation network services encompassing transportation network application companies and transportation network operators.

Although the 2014 legislation failed, the conflicts in the transportation network area have only grown in the last year as transportation network companies continue to expand their presence in Maryland. The ongoing disputes over the nature and extent of regulatory authority and consumer protections between these companies and the State's consumers, State and local regulatory agencies, and regulated transportation service providers are likely to continue in 2015.

For further information contact: Stephen M. Ross Phone: (410) 946/(301) 970-5510

Business Regulation

Labor Wages and Leave Benefits

During the 2014 legislative session, legislation to increase the State minimum wage was passed and legislation to mandate that employers provide their employees with sick leave did not pass. Interest in these two issues persists.

Much attention during the past several legislative sessions has focused on workplace benefits for employed Marylanders, primarily in the private sector. Particular legislative attention in Maryland, and nationwide, has emphasized wage compensation and leave benefits. Legislation passed in 2014 increased the State minimum wage and made a number of other changes to minimum wage and overtime wage requirements, enforcement, and remedies. Legislation was also passed that required employers with 15 to 49 employees in the State to provide employees with unpaid parental leave benefits for up to six weeks in a 12-month period for the birth, adoption, or foster placement of a child.

Minimum Wage

The Maryland Minimum Wage Act of 2014 (Chapter 262) represented the most comprehensive reform of the State's minimum wage law since its enactment. Although Chapter 262 went into effect on July 1, 2014, the increases to the minimum wage rate will gradually take effect over the next four years, as follows:

- effective January 1, 2015, the minimum wage rate increases to $8.00 per hour;
- effective July 1, 2015, the rate increases to $8.25 per hour;
- effective July 1, 2016, the rate increases to $8.75 per hour;
- effective July 1, 2017, the rate increases to $9.25 per hour; and
- effective July 1, 2018, the minimum wage rate fully adjusts to $10.10 per hour.

Chapter 262 also repealed certain exemptions from minimum wage and overtime wage requirements, established subminimum wage rates for workers under the age of 20 (called a "training wage") and for employees of amusement and recreational establishments, froze the required cash wage that an employer must pay a tipped employee, such as a restaurant server, at $3.63 per hour, enhanced the remedies for an employee entitled to back pay, and required an increase in funding of 3.5% for providers of services to the developmentally disabled for fiscal 2016 through 2019 to offset the cost of complying with the higher minimum wage.

Legislation will likely be introduced during the 2015 legislative session to make further changes to the State minimum wage law. In particular, based on discussions that took place late in the 2014 legislative session, the General Assembly will likely consider legislation to address the training wage, tip credit, and indexing provisions of the law.

Leave

In addition to the legislative actions of 2014, employees in Maryland already were covered by several federal and State laws offering employees various leave benefits. The federal Family and Medical Leave Act requires covered employers with 50 or more employees to provide eligible employees with up to 12 workweeks of unpaid, job-protected leave during any 12-month period in specified circumstances, including medical leave for an employee or an employee's immediate family member (spouse, child, or parent) due to a serious health condition. Under State law, if an employer with 15 or more employees provides paid leave to an employee under either a collective bargaining agreement or an employment policy, the employer is required to also allow an employee to use earned paid leave to care for a child, spouse, or parent with an illness. State law also requires employers that employ 50 or more people, including the State and local governments, to allow an employee to take leave from work on the day that an immediate family member is leaving for, or returning from, active military duty outside the United States.

While minimum wage requirements are dictated by federal, state, and even local laws, paid leave in the private sector has traditionally not been mandated by law and is usually provided as a benefit to employees by employers. For the past several sessions, legislation has been introduced that would have mandated that employers provide their employees with sick leave. The 2014 version of the paid sick leave legislation required that an employer in Maryland with 10 or more employees provide employees with paid sick and safe (for instances of domestic violence) leave, while employers with less than 10 employees had to provide unpaid sick and safe leave. Both types of leave were accrued in the same manner and each employee would have been entitled to take earned sick leave for themselves or for a family member's illness. The mandate would have applied to every employer, including State and local governments.

In addition to the expected reintroduction of various versions of paid sick leave bills, it is likely that other types of leave may be introduced during the 2015 legislative session. The following are examples of legislation already passed in other states.

- **Paid sick leave –** Certain employees are generally entitled to a specified amount of sick leave per year based on specified time worked during the year. California and Connecticut are the only states that have passed paid sick leave laws for employees.

- **Partial-wage replacement family leave benefits –** Employees are generally entitled to a certain percentage of their wages for a certain period of time. Wage replacement may be for the pregnancy or adoption of a child or an illness of the employee or to care for an ill family member. Funding for wage replacement may come from an employer tax or state funds. California, New Jersey, Rhode Island, and Washington have passed wage replacement family leave benefit laws, although the state of Washington has suspended implementation until a funding source is identified.

- **School-related parental leave –** Employees are generally entitled to a certain amount of leave during the school year to participate in their children's educational activities. California, Illinois, Massachusetts, Minnesota, Rhode Island, Vermont, and the District of Columbia have passed versions of school-related parental leave.

Public Safety

State Correctional System

The Department of Public Safety and Correctional Services continues to work to address safety and security concerns in correctional facilities under its supervision. In addition, the department is moving forward with a variety of capital improvement projects while adjusting to changes in future populations in custody.

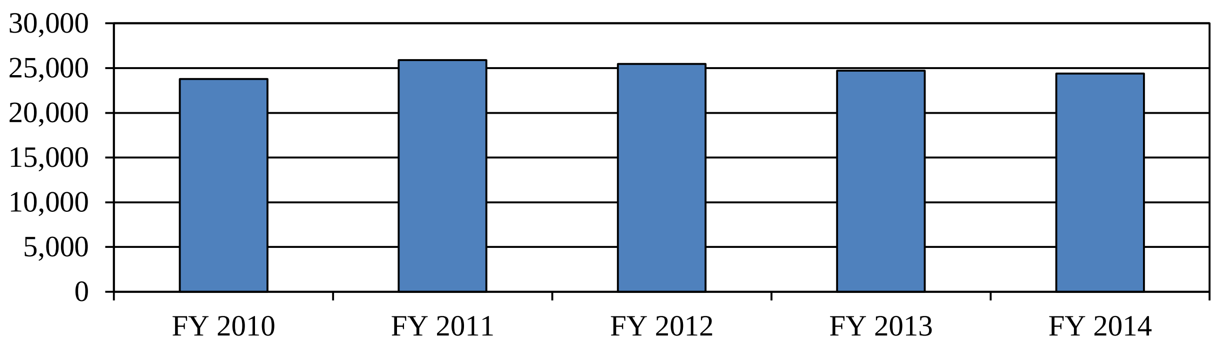
Background

The Department of Public Safety and Correctional Services (DPSCS) is a principal department of State government whose primary functions include the operation of 27 State correctional and Baltimore City pretrial facilities, as well as the supervision of offenders in the community who are on parole or probation. With over 11,000 employees and a fiscal 2015 budget in excess of $1.3 billion, DPSCS accounts for 13.8% of the total State workforce and 7.3% of general fund expenditures.

Population Trends

As seen in **Exhibit 1**, the average daily population (ADP) of individuals under DPSCS custody (sentenced and detained) peaked at 25,894 offenders in fiscal 2011; however, the population has declined by 5.7% to an ADP of 24,406 in fiscal 2014. Preliminary fiscal 2015 data indicates a further slight decrease in the population.

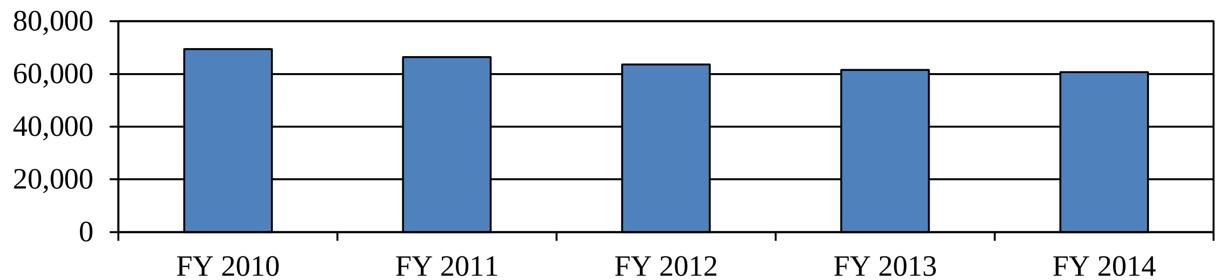
Exhibit 1
Department of Public Safety and Correctional Services
Average Daily Population
Fiscal 2010-2014



Source: Department of Public Safety and Correctional Service State Stat Data

As shown in **Exhibit 2**, between fiscal 2010 and 2013, parole and probation cases declined by 8,700 cases, or 12.6%. The most significant decreases occurred in the probation before judgment and Drinking Driver Monitor Program cases, each experiencing a 22.0% reduction over the five-year period.

Exhibit 2
Parole and Probation Cases
Fiscal 2010-2014



Source: Department of Public Safety and Correctional Services State Stat Data

Security and Staffing Concerns

In response to issues with corruption and security within the department, primarily at the Baltimore City Detention Center (BCDC), DPSCS is in the process of implementing a variety of enhancements to address security concerns. Chapter 144 of 2014 expanded prohibitions and increased penalties for delivering or attempting to deliver cell phones and related accessories to inmates. Chapter 142 of 2014 provided authorization for DPSCS to impose an emergency suspension without pay if a correctional officer is charged with a specified contraband violation and required DPSCS to study certain issues related to correctional standards, adopt related regulations, and submit a related report.

Additional resources provided in the department's fiscal 2015 budget to address security concerns include $7.2 million to implement managed access systems at the Baltimore City Booking and Intake Center and the Maryland Reception, Diagnostic, and Classification Center to curb the illegal use of cell phones by inmates. The fiscal 2015 budget also includes $788,000 to establish a security camera replacement fund and $563,000 to expand the department's K9 Unit by seven positions and six canines in order to assist with controlling the entrance of contraband into correctional facilities. Additional staffing will be utilized to enhance and expand the department's Intelligence and Investigative Division, including the creation of a Polygraph Unit.

In accordance with language added to the fiscal 2014 budget bill, the fiscal 2015 budget includes $4.1 million for 100 new correctional officers. A January 2014 staffing assessment conducted by DPSCS, with training from the National Institute of Corrections and assistance from members of the American Federation of State, County, and Municipal Employees, identified a departmentwide staffing deficiency requiring an additional 423 correctional officer positions. Language added to the fiscal 2015 budget bill expresses legislative intent that the department continue adding 100 new correctional officers annually until reaching a total of 423 positions beyond what is provided for in the fiscal 2015 allowance. Based on a cost estimate provided by the department in 2010, the additional correctional officer positions will not immediately generate significant overtime savings due to phased-in hiring and pre-service training requirements. By fiscal 2019, the addition of 377 correctional officer positions will generate overtime savings of approximately $18.1 million; however, due to the cost of fringe benefits associated with adding positions to the State workforce, the additional positions will ultimately cost the State $4.5 million despite the estimated overtime savings.

Capital Program

DPSCS released a new Facilities Master Plan (FMP) in June 2013, providing a framework for the department's capital needs over the next decade. As a result of the population declines discussed above, the FMP focuses heavily on the improvement and/or replacement of existing facilities, as opposed to increasing bed capacity for incarcerated individuals.

A major component of the new FMP is the redevelopment of the Correctional Complex in Baltimore City, with an increased emphasis on prerelease and reentry services. The plan proposes new facilities for all pretrial populations, the creation of a reentry campus to serve inmates from the Central Region (Baltimore City and Baltimore County), and improved program space for short-sentenced offenders. The estimated cost of the entire redevelopment, in fiscal 2013 dollars, is approximately $508.0 million over 10 years. This includes $30 million for a new youth detention center to accommodate pretrial youth who are detained while awaiting charges in the adult court. The General Assembly added $9.5 million in general obligation bond funds to the fiscal 2015 capital budget to complete design of the facility and begin construction and renovation of an existing facility within the Baltimore City Correctional Complex to accommodate this population. Additional projects within the complex include a 512-bed replacement for the Women's Detention Center, a 2,304-bed replacement for the Men's Detention Center, a new power plant and food service facility, a medical and mental health facility, and a 500-bed reentry unit.

Outside of Baltimore City, the FMP includes a variety of out-year projects, including construction of a new infirmary for the Jessup region, a new 300-bed mental health facility at the Patuxent Institution, an addition to the academic buildings at the Public Safety Education and Training Center, and upgrades to perimeter security and administration spaces at facilities in Hagerstown. In the more immediate future, the FMP and the Governor's five-year Capital Improvement Plan include construction of Phase II of the Dorsey Run Correctional Facility in Jessup. Construction of the first 560-bed compound is complete, and the facility was occupied by inmates previously housed at the recently closed Jessup Pre-Release Unit beginning in November 2013. Construction of the second 560-bed compound is estimated to cost $27.7 million and to be completed in fiscal 2016.

Public Safety

Law Enforcement Use of Force

Police shootings of unarmed suspects have been the catalysts for protests against police brutality and calls for reform in how police employ the use of force. Increasing accountability for how suspects are apprehended, perhaps by modifying internal police departmental investigative procedures or by requiring the use of recording devices, including body cameras, is under discussion.

Background

Reports from across the nation on the use of excessive force by police officers against members of the public (some of which have been videotaped and seen publicly) have received much attention from news and social media outlets over the past several months. Escalated tensions have spurred numerous protests held in the months since the killings of two men in Ferguson and St. Louis, Missouri. In Maryland, confrontations between law enforcement officers and citizens (some videotaped) have brought additional scrutiny to how allegations of excessive force by police officers are handled by State and local law enforcement.

A criminal assault jury verdict against one of two Prince George's County officers involved in a March 2010 videotaped beating of a University of Maryland student following a men's basketball game on the College Park campus was thrown out by a trial court earlier this year. The victim, however, reportedly will receive a $2 million settlement from the county. More recently, complaints of instances of excessive force, including a videotaped beating of a man outside a liquor store by a Baltimore City police officer, have made news. According to news reports, a multimillion-dollar lawsuit has been filed in that matter.

Even though relatively few incidents are ever videotaped, an investigative report by *The Baltimore Sun* found that since 2011, Baltimore has paid out more than $5.7 million in judgments or settlements in more than 100 lawsuits brought by citizens alleging excessive use of force and other police misconduct. The city's budget office has also raised concerns over its spending of $10.4 million from 2008 through 2011 – an average of about $3.5 million annually – to defend the Baltimore City Police Department against misconduct lawsuits.

Proposals for Reform

In early October, Baltimore City's Mayor and Police Commissioner outlined a plan ("Preventing Harm") to reduce police brutality. Among other recent efforts to improve the oversight of alleged misconduct by officers, the 41-page report called for (1) an increase in staff for the internal affairs division, which handles allegations of misconduct; (2) working with the department's Professional Standards and Accountability Bureau to oversee improvements in training, policies, and internal issues; (3) computerized tracking of lawsuits alleging police brutality; (4) monitoring injuries from arrests, citizen complaints, and use of force reports; and (5) studying the use of body cameras by officers in the field to monitor and record interactions between the police and the public. In November, the Baltimore City Council overwhelmingly voted to require all city police officers to wear body cameras. Additionally, in response to a request by the Baltimore City administration, the U.S. Department of Justice is also planning a "collaborative review" of citizen complaints about police conduct.

The Law Enforcement Officers' Bill of Rights

Among the obstacles to punishing "rogue cops," according to the Baltimore City Police Commissioner and other critics, is the Law Enforcement Officers' Bill of Rights (LEOBR) (Title 3, Subtitle 1 of the Public Safety Article) – a State law enacted in 1974 to guarantee to police officers the use of specified procedural safeguards in any investigation that could lead to disciplinary action. It applies to police officers of 23 specified State and local agencies. The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal must be conducted in accordance with LEOBR. LEOBR covers two major components of the disciplinary process: (1) the conduct of internal investigations of complaints that may lead to a recommendation of disciplinary action against a police officer; and (2) procedures that must be followed once an investigation results in a recommendation that an officer be disciplined. Maryland's LEOBR statute offers a set of protections to officers during internal investigations, such as limitations on the time, place, and duration of an interrogation. The statute also protects the officer's right to obtain certain information and to have an attorney present.

When a complaint against a police officer is sustained by an internal investigation, LEOBR entitles the officer to a hearing before a board of sworn officers selected by the chief. (For minor offenses, the board may be a single officer.) Police agencies and officers may enter into collective bargaining agreements that allow an alternate method of forming the hearing board. The statute also contains requirements for the conduct of the hearing. Once a hearing board has rendered a decision regarding an officer's guilt or innocence, that decision is binding. For cases in which the finding is guilt, the hearing board makes a punishment recommendation, which the chief may accept or reject, unless the agency and officers have a collective bargaining agreement that makes the hearing board's punishment recommendation binding on the chief. If the chief decides to impose a more severe punishment than the one recommended by the hearing board, the chief must document the reasons for that decision. Police leaders cannot suspend an officer without pay until that officer is charged with a felony.

Citizen activists have criticized the Baltimore City Civilian Police Review Board and other similar entities in the State as "ineffective," since they, at least in part due to the restrictions found in LEOBR, are only authorized to review cases after the law enforcement agency has already completed its own internal probe and rendered a decision on the merits of the charge as well as appropriate punishment, if any. Critics charge that these proceedings are invariably stacked in the department's favor and against residents who lodge complaints.

Use of Body Cameras

Although the Baltimore City Council has voted to require body cameras for all city police officers, the only Maryland law enforcement agency that has officially adopted the use of body cameras is the Laurel Police Department. Laurel has had an on-body camera program for nearly two years. The police chief calls the cameras "a huge success" and says complaints about his officers have dropped and training has improved. The Metropolitan Police Department in Washington, DC, recently announced a pilot program in the use of body cameras on police officers. A total of 165 officers will participate in the pilot program, including volunteers from all seven police districts in the city. Each officer will work with five different camera models during a six-month period and provide written feedback on each camera model.

Legislative Proposal

During the 2014 legislative session, a bill to require all law enforcement officers in Maryland to use body cameras when interacting with the public was introduced. House Bill 116 was favorably reported by the House Judiciary Committee after being amended, largely for fiscal reasons, to authorize, rather than require, the use of the cameras. The bill then received an unfavorable report from the Senate Judicial Proceedings Committee.

For further information contact: John J. Joyce (410) 946/(301) 970-5350

Public Safety

Asset Forfeiture

Civil asset forfeiture allows the government, without ever securing a conviction or even filing a criminal charge, to seize property suspected of having ties to a crime. The practice is expanding among law enforcement agencies, and the resulting funds help to finance the work of many law enforcement agencies.

Background

Asset forfeiture programs exist nationwide at the federal, State, and local levels. Forfeitures typically fall into two categories – criminal forfeiture and civil forfeiture.

Criminal forfeiture actions are brought against a criminal defendant. In criminal forfeiture, the government must prove beyond a reasonable doubt that the property in question was used for or derived from the underlying crime. Criminal forfeitures occur after an individual has been convicted; an action is then brought against the individual, to which civil liberty protections apply.

Civil forfeiture actions are brought against property, not people. In fact, under civil forfeiture, criminal charges do not need to be brought against the owner of the property, and the government can pursue property even if the property owner was not involved in the underlying crime. Civil forfeitures occur irrespective of a conviction; an action is brought against an individual's property, to which civil liberty protections do not apply. The standard of proof for civil forfeiture is considerably lower than the criminal standard, in that the government must only prove by a preponderance of the evidence, rather than beyond a reasonable doubt, that the property in question was used or obtained illegally.

Forfeiture programs, particularly civil forfeiture, have received increased scrutiny in recent years, with news reports of individuals facing the loss of a home or property without ever being charged with a crime, while fighting to keep their property in a system they claim is stacked against them. Challenging civil forfeiture can be costly and time consuming, which can discourage citizens from initiating the process to retrieve their property.

Proponents of forfeiture programs claim asset forfeiture is an important law enforcement tool that assists in dismantling criminal organizations and offsets the cost of criminal investigations. Opponents of these programs argue that they lead to potential corruption, improper usage, and civil liberty violations.

Critics of forfeiture programs claim the programs create financial incentives for officers to seize assets, which cause "policing for profit." Law enforcement agencies (LEAs) that participate in a forfeiture are directly rewarded for their involvement, which creates concerns that officers will focus more on crimes that result in seized assets than on any other activity. With many LEAs facing shrinking budgets, there is also concern that departments become dependent on forfeiture money, which in turn creates pressure on officers to seize assets. Critics also claim that these programs have resulted in fishing expeditions for cash and specific valuables during traffic stops and warrantless searches of vehicles.

Another criticism of these programs is that the money is used to purchase items that are unnecessary, wasteful, or contribute to the militarization of police forces. Although replacing bullet-proof vests for officers may seem to be a reasonable purchase, others question the merits of small-town police forces owning Humvees, automatic weapons, or gas grenades purchased with forfeiture proceeds.

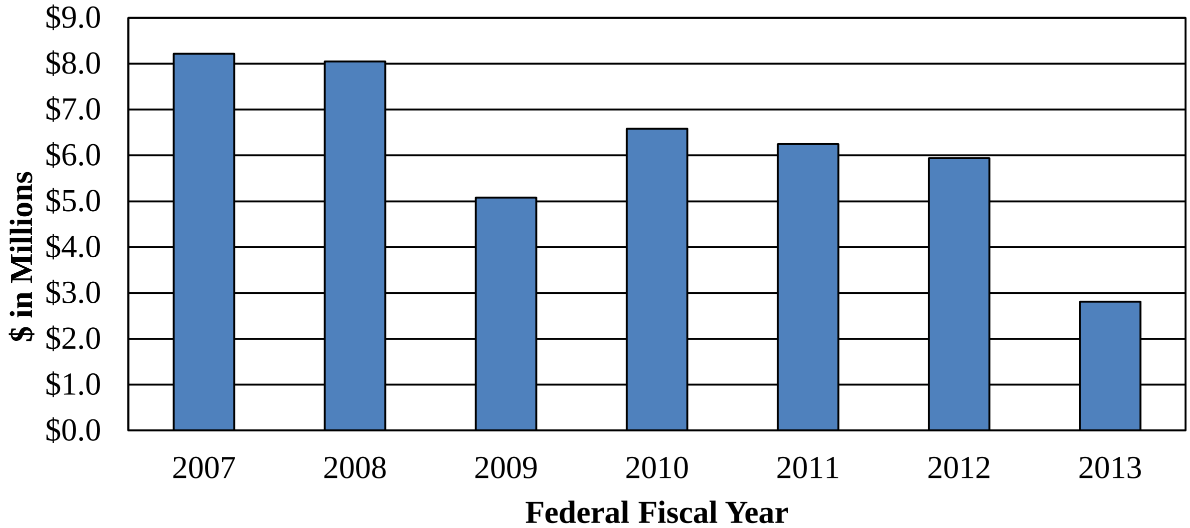
Federal Asset Forfeiture Program

The U.S. Department of Justice (DOJ) Asset Forfeiture Program (AFP) was established by the Comprehensive Crime Control Act of 1984. The program's objective is the seizure and forfeiture of assets that represent the proceeds of, or were used to facilitate, federal crimes. The U.S. Marshals Service, under the DOJ, is responsible for the management and disposal of forfeited property. Other components of DOJ involved in the AFP include the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the Drug Enforcement Division; the Federal Bureau of Investigation; and the U.S. Attorneys' Offices.

Under the federal Equitable Sharing Program, the proceeds from sales of forfeited assets are shared with state and local LEAs that participated in the seizure. There are two options for state and local forfeitures: joint investigative and adoptive. Joint investigative forfeitures occur when federal LEAs cooperate with state or local LEAs to seize assets; the percentage of funds shared is based on the level of participation of each agency. Adoptive forfeitures occur when state and local LEAs forfeit assets from state crimes to be processed at the federal level; state and local LEAs currently receive 80.0% of the value of the assets, while the federal government retains the remaining 20.0% to offset processing costs. The Maryland State Police advises that it processes all of its forfeitures through the AFP.

In federal fiscal year (FFY) 2013, State and local LEAs in Maryland deposited $42.3 million into the DOJ Assets Forfeiture Fund (AFF). Of this amount, $2.8 million was shared back to Maryland, or 6.6% of the total value forfeited. Local LEAs received $2.3 million, or 80.3% of the total shared. **Exhibit 1** shows the amount Maryland received from the AFF from FFY 2007 to 2013. According to the Equitable Sharing Program, AFF money may only be used for specific law enforcement purposes, such as investigative support, training, equipment, facility upgrades, and educational programs. Funding is usually used for one-time purposes and is meant to supplement, not supplant, LEAs' budgets.

Exhibit 1
U.S. Department of Justice Assets Forfeiture Fund
Amount Shared with Maryland Law Enforcement Agencies
Federal Fiscal Years 2007-2013



Source: U.S. Department of Justice and National Conference of State Legislatures

Legislative Activity

During the 2014 session, legislation was introduced to increase transparency regarding forfeiture activity by LEAs in the State. Senate Bill 468 of 2014 would have established annual reporting requirements for each LEA in the State regarding each seizure and forfeiture completed by the agency under State and federal forfeiture law. Recent media attention on law enforcement forfeitures suggests continued interest in this matter.

Public Safety

Firearms

The Firearm Safety Act of 2013 resulted in sweeping changes to firearm laws in the State. An initial backlog of applications for firearms purchases has been eliminated. One of the two federal lawsuits filed against the State is pending in the U.S. Court of Appeals for the Fourth Circuit. Calls to the State Police Gun Center have doubled in its second year of operation.

The Firearm Safety Act of 2013

The national increase in incidents of mass shootings, and particularly the Sandy Hook Elementary School shooting in Newtown, Connecticut, in December 2012, brought renewed focus to issues relating to gun violence and individuals' access to firearms. In 2013, several states, including Maryland, New York, Connecticut, and Colorado, passed sweeping gun control legislation.

The Firearm Safety Act of 2013 (Chapter 427) modified and expanded the regulation of firearms, firearms dealers, and ammunition in Maryland and made changes to related mental health restrictions on the possession of firearms. Among other things, the Act extended the scope of assault pistol prohibitions to all assault weapons, created a new licensing scheme for handguns under the authority of the Department of State Police, and imposed restrictions on ammunition. The Act's most significant provisions are discussed below.

Assault Weapons

The Act created a definition of "assault weapon," encompassing assault pistols, assault long guns, and copycat weapons. The Act applied existing prohibitions relating to assault pistols to all assault weapons. With specified exceptions, transporting, possessing, selling, offering to sell, transferring, purchasing, or receiving any assault weapon is prohibited. A person who lawfully possessed, had a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, is allowed to continue to possess and transport the weapon. The Act clarified when the inheritance of a prohibited assault weapon is permitted.

Ammunition

The allowable detachable magazine capacity for manufacture, sale, purchase, receipt, or transfer in the State was reduced from 20 to 10 rounds of ammunition. The Act also prohibits the possession or use of restricted firearm ammunition (sometimes called "cop killer bullets") during or in relation to the commission of a crime of violence.

Handgun Qualification License

Under the Act, a new licensing scheme was established for handguns. A "handgun qualification license" authorizes a person to purchase, rent, or receive a handgun. Certain persons are exempt from this provision. The Secretary of State Police is required to apply for a fingerprint-based State and national criminal history records check on behalf of each handgun purchase applicant. Written approval or denial of an application by the State Police must be made within 30 days. The application fee for a license may be up to $50, and the term of the license is 10 years. License renewal fees may not exceed $20. Among other requirements, unless exempt, an applicant must show proof of completion of an approved firearms safety training course. Renewal applicants are not required to complete the firearms safety training course or submit to a criminal history records check.

Restrictions on the Mentally Ill

The Act prohibits a person from possessing a regulated firearm, rifle, or shotgun if the person suffers from a mental disorder and has a history of violent behavior against the person or another; has been found incompetent to stand trial or not criminally responsible in a criminal case; has been voluntarily admitted for more than 30 consecutive days to a facility for treatment of a mental disorder; has been involuntarily committed to a facility; or, with certain physical disability exceptions, is under the protection of a court-appointed guardian of the property or guardian of the person. The Act specifies circumstances under which a person must surrender firearms due to the mental health provisions. Specific procedures for relief from such a disqualification are also established.

Persons Moving into the State

A person who moves into the State with the intent of becoming a resident must register all regulated firearms within 90 days after establishing residency.

Lost or Stolen Firearms

The Act specifies requirements for reporting lost or stolen firearms. Civil penalties apply to a first knowing and willful violation of the reporting requirements, with misdemeanor penalties for a second or subsequent offense.

Firearms Dealers

An application for a State-regulated firearms dealer's license must be disapproved if it is determined that the applicant intends that a person not qualified for a license or whose license has been revoked or suspended will participate in the management or operation of the business or holds an interest in the business. The Act requires stricter recordkeeping of sales and inventory by licensed dealers. The State Police must inspect the inventory and records of a licensed dealer at least once every two years, and may inspect the inventory and records at any time during the normal business hours of the licensed dealer's business. Unless a recordkeeping or reporting error is inconsequential, a violator is subject to civil penalties. A second or subsequent knowing violation is a misdemeanor subject to criminal penalties.

Schools

The Act exempts an off-duty law enforcement officer who is a parent, guardian, or visitor of a student attending a school from the prohibition against carrying a firearm, knife, or other deadly weapon on public school property, provided that the officer is displaying the officer's badge or credential, and the weapon is concealed. A person, while hunting for any wild bird or mammal, may not shoot or discharge any firearm within 300 yards of any school during school hours or at a time when a school-approved activity is taking place.

The 2014 Session and Subsequent Developments

During and after the 2013 session, the Licensing Division of the Department of State Police was overwhelmed with new applications for firearm purchases, including assault weapons and handguns. The backlog was not eliminated by the October 1, 2013 effective date of the new law, but was fully eliminated by June 2014. Two separate suits challenging Maryland's new law on a variety of grounds were filed in federal District Court shortly before the law went into effect. On October 1, 2013, a District Court judge denied the plaintiffs' request to enjoin implementation of the Firearm Safety Act pending the outcome of the litigation.

Doe v. O'Malley, 13-cv-2861, U.S. District Court, Maryland (Baltimore), anticipated that the Maryland State Police would be unable to process the new Handgun Qualification Licenses (HQLs) in a timely manner and that the result would be a *de facto* moratorium on handgun sales in Maryland. Plaintiffs' request for a temporary restraining order to delay the effective date of the HQL requirement for 90 days was denied. The case was voluntarily dismissed without prejudice.

In *Kolbe v. O'Malley*, 13-cv-2841, U.S. District Court, Maryland (Baltimore), a group of individual and organizational plaintiffs challenged the assault weapons and large-capacity magazine bans enacted as part of the Act. The plaintiffs contended that the bans violate the Second Amendment by precluding the plaintiffs from possessing commonly owned firearms for self-defense purposes. The plaintiffs also contended that the bans violate their due process rights because the definition of assault long guns is imprecise and vague, and that the exemption in the law applicable to retired law enforcement officers violates the equal protection clause. On August 12, 2014, the U.S. District Court for the District of Maryland awarded summary judgment in favor of the defendants on all of the plaintiffs' claims. On September 9, 2014, the plaintiffs filed a notice of appeal. The appeal will be heard by the U.S. Court of Appeals for the Fourth Circuit. No argument date has been set, but the case is likely to be argued and decided in 2015.

On January 1, 2013, the State Police initiated the Gun Center, a 24/7 component to the firearms enforcement program designed to address every gun incident statewide to ensure that each case is completely verified, investigated, and aggressively prosecuted. The center provides:

- real-time background checks on guns and individuals involved;
- immediate guidance to law enforcement on a wide variety of cases;
- identification and tracing of firearms;
- follow-up assistance and case management, as requested;
- coordination across jurisdictions and with multiple agencies;
- identification and flagging of repeat offenders;
- coordination of evidence;
- forensic recommendations;
- case tracking from start to finish; and
- analysis of gun-related offenses.

In fiscal 2013, the Department of State Police received $50,000 from the Cease Fire Council Grant Program to pay for one retired trooper at the Gun Center. The Governor's Office of Crime Control and Prevention also provided $100,000 from the same grant program to support two prosecutors from the Office of the Attorney General (OAG) at the Gun Center. In fiscal 2014, the State Police received $150,000 from the Cease Fire Council to pay the salaries of these three contractual positions. Additionally, the fiscal 2014 supplemental budget authorized $450,000 to the Gun Center, which provided for the salaries of nine State troopers and initial start-up costs. The fiscal 2015 allowance eliminated $250,000 in one-time funding but continues about $200,000 in ongoing funding for the center.

The full complement of personnel currently assigned to the Gun Center consists of six troopers, two civilian inspectors, two assistant OAG prosecutors, and two vacant inspector positions. There were 2,828 calls for assistance from law enforcement units in calendar 2013. Six months into calendar 2014, that number of assistance calls was already exceeded. Most calls to the Gun Center come from Baltimore City and the Maryland State Police.

Criminal Law

Ignition Interlock

The federal National Highway Traffic Safety Administration has recommended that states require anyone convicted of a drunk driving offense, including first offenders, to use an ignition interlock device. Nationally, as well as in Maryland, there is a gap between the number of people arrested for drunk driving and the number of ignition interlock devices in use.

Background

Chapter 557 of 2011, which expanded the circumstances under which a drunk driver is required to participate in the State's Ignition Interlock System Program (IISP), has led to an increase in the number of program participants. The law established that a driver must participate for at least six months in IISP if (1) required by court order; (2) convicted of specified alcohol-related driving offenses; (3) convicted of a specified alcohol-related driving offense within five years of a prior conviction for a specified alcohol- and/or drug-related driving offense; or (4) an alcohol-related license restriction was violated or an offense committed and the driver was younger than age 21. Before enactment of the law, about 8,000 drivers participated annually. The Motor Vehicle Administration (MVA) reports that as of the end of fiscal 2014, 10,443 drivers were participating in IISP. According to MVA, about 4,600 drivers successfully complete the program annually, while about 2,500 drivers leave the program due to failure to complete it.

During the 2014 legislative session, the General Assembly expanded the types of drivers required to participate in IISP. Chapter 631 of 2014 requires a person to participate in IISP or face suspension of the person's driver's license until the person successfully completes the program if the person is convicted of transporting a minor while driving (1) under the influence of alcohol *per se*; (2) under the influence of alcohol; or (3) while impaired by alcohol. A driver who is required to participate under these circumstances must stay in the program for at least six months for a first conviction. Mandatory participation periods increase for subsequent convictions. The District Court of Maryland reports that during fiscal 2014, a total of 176 citations were issued to drivers for transporting a minor while driving under the influence of alcohol, and 194 citations were issued to drivers for transporting a minor while impaired by alcohol.

Traffic safety advocates have drawn attention to the gap between the number of people arrested on suspicion of driving drunk and the number of ignition interlock devices in use at any given time. The federal National Highway Traffic Safety Administration (NHTSA) has stated that about 1.4 million drivers are arrested annually on suspicion of drunk driving, but only about 300,000 ignition interlock devices are installed and in use. This gap is evident in Maryland as well. For example, although almost 10,500 drivers participate in IISP in Maryland, in 2013, 21,197 people were arrested on suspicion of drunk driving. Although about 30% of those who were arrested and asked to take a test refused, nearly 15,000 drivers did submit to testing and, of those, nearly 12,300 tested 0.08 or higher. According to www.rothinterlock.org, a traffic safety advocacy organization, Maryland ranks ninth among states in the per capita number of ignition interlock devices installed and used by drivers.

NHTSA Recommendations

According to NHTSA data, the percentage of highway fatalities associated with alcohol impairment has hovered around 31% from 1995 to 2012. In 2012, the latest year for which data is available, there were 33,561 traffic fatalities nationally, and 10,322 of those fatalities, or 30.8%, involved a driver with a blood alcohol concentration (BAC) of 0.08 or higher. In Maryland, out of a total of 505 traffic fatalities in 2012, in 160 fatalities, or 31.7%, a driver had a BAC of 0.08 or higher.

NHTSA has recommended that states increase the use of ignition interlock devices. In November 2013, NHTSA released "Model Guideline for State Ignition Interlock Programs." The document contains recommendations for legislation and recommendations to improve driver education, program administration, vendor oversight, data security and privacy, device reliability, and driver notification and licensing with regard to ignition interlock programs.

Included in the guideline are recommendations for legislation that:

- designates one agency with clear authority to manage the state ignition interlock program;
- minimizes or eliminates program eligibility requirements that prevent offender participation;
- establishes the minimum length of time that offenders must use an ignition interlock device;
- ensures compliance with federal laws that incentivize the increased use of ignition interlock devices, especially for repeat drunk driving offenders; and
- requires all those convicted of a drunk driving offense, including first-time offenders, to use ignition interlock devices.

According to the National Conference of State Legislatures, although all states have an ignition interlock law, only 21 states have mandatory ignition interlock provisions that apply to all offenders, including first-time offenders (Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Hawaii, Illinois, Kansas, Louisiana, Mississippi, Nebraska, New Hampshire, New Mexico, New York, Oregon, Tennessee, Utah, Virginia, Washington, and West Virginia). In addition, California has a pilot for a mandatory ignition interlock program in four of its largest counties, and laws in Colorado and Maine contain strong incentives for first-time offenders to participate in the state ignition interlock program.

Criminal Law

Marijuana Decriminalization and Paraphernalia

Although the use or possession of small amounts of marijuana was decriminalized in the State, penalties for possession of marijuana-related paraphernalia remain unchanged. Many jurisdictions have adopted a policy of not arresting an individual for paraphernalia possession if the individual is in possession of a small amount of marijuana; however, the policy may vary by jurisdiction.

Possession of Marijuana as a Civil Offense

During the 2014 legislative session, the General Assembly passed legislation decriminalizing the use or possession of small amounts of marijuana. Though the use or possession of marijuana is still illegal in the State, effective October 1, 2014, Chapter 158 of 2014 reclassified the use or possession of less than 10 grams of marijuana from a criminal offense to a civil offense, subject to a fine of up to $100 for a first offense, $250 for a second offense, and $500 for a third or subsequent offense. Proponents of the legislation cited the inefficient use of law enforcement resources, changing public perceptions on marijuana use, and racial disparities in arrests for marijuana possession as some of their reasons in support of decriminalization.

Under Chapter 158, if a person commits a third or subsequent violation or is an adult offender younger than age 21, a court must order the offender to attend a drug education program approved by the Department of Health and Mental Hygiene (DHMH) and refer the person to an assessment for a substance abuse disorder. After the assessment, the court must refer the person to substance abuse treatment, if necessary.

A police officer must issue a citation if the officer has probable cause to believe that an offense has been or is being committed. Chapter 158 contains requirements for the contents of the civil citation that must be issued in these cases, as well as procedural requirements for the adjudication of the offense in District Court. While Chapter 158 does authorize the prepayment of fines for this civil offense, if a citation is issued to an adult under the age of 21, the court must summon the person for trial. If the court finds that a person who is at least 21 years old has committed a third or subsequent violation, the court must summon the person for trial.

A person younger than age 18 charged with this civil offense is subject to juvenile court procedures and dispositions, including referral to an alcohol or a substance abuse education or rehabilitation program. A citation for possession of less than 10 grams of marijuana and the related public court record are not subject to public inspection and may not be included on the public website maintained by the Maryland Judiciary.

The provisions of Chapter 158 that make the possession of marijuana a civil offense may not be construed to affect laws relating to (1) operating a vehicle or vessel under the influence of or while impaired by a controlled dangerous substance; or (2) seizure and forfeiture. The civil penalties collected are to be remitted to DHMH, which must use the money only for funding drug treatment and education programs.

Chapter 158 retained statutory provisions that provide individuals charged with the use or possession of marijuana who meet specified criteria with affirmative defenses and the opportunity to present mitigating factors. In a prosecution for the use or possession of marijuana, the defendant may introduce, and the court must consider as a mitigating factor, any evidence of medical necessity. If the court finds that the person used or possessed marijuana because of medical necessity, on conviction the maximum penalty that the court may impose is a $100 fine.

In a prosecution for the use or possession of marijuana, it is an affirmative defense that the defendant used or possessed marijuana 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 (*i.e.*, a relationship in which the physician has an ongoing responsibility for the assessment, care, and treatment of a patient's medical condition); (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 either using marijuana in a public place or in possession of more than one ounce of marijuana.

A similar affirmative defense is available to a defendant who possessed marijuana because the defendant was a caregiver and the marijuana was intended for medical use by an individual with a debilitating medical condition.

Prior to October 1, 2012, except in cases of medical necessity, possession of marijuana was generally a misdemeanor, punishable by imprisonment for up to one year and/or a fine of up to $1,000. However, Chapters 193 and 194 of 2012 established a reduced penalty of imprisonment for up to 90 days and/or a maximum fine of $500 for possession of less than 10 grams of marijuana. In addition, Chapters 504 and 505 of 2012 required a police officer to issue a citation for possession of marijuana or, with certain exceptions, any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment or for which the maximum penalty of imprisonment is 90 days or less.

According to the Maryland Judiciary, in fiscal 2014, there were a total of 33,805 violations involving the use or possession of less than 10 grams of marijuana in the District Court. Of these, 3,616 violations resulted in the imposition of fines and/or the issuance of sentences (some of which may have been totally or partially suspended). During fiscal 2014, there were 2,117 cases involving possession of less than 10 grams of marijuana in the State's circuit courts, excluding the Circuit Court for Prince George's County; 196 of these cases resulted in guilty verdicts.

Possession of Drug Paraphernalia

Generally, a person who violates prohibitions against the use of, or possession with intent to use, drug paraphernalia is guilty of a misdemeanor and subject to a fine of up to $500; for each subsequent violation, a violator is subject to a fine of up to $2,000 and/or imprisonment for up to two years. If the drug paraphernalia is related to marijuana, the defendant may introduce, and the court must consider as a mitigating factor, any evidence of medical necessity. If the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, on conviction, the maximum penalty that the court may impose is a $100 fine.

The same affirmative defenses available to individuals with debilitating medical conditions and their caregivers under the use or possession of marijuana statute are also available under the drug paraphernalia statute.

Although Chapter 158 of 2014 reclassified the use or possession of less than 10 grams of marijuana from a criminal offense to a civil offense, the Act did not address or alter existing penalties for possession of drug paraphernalia. Advocates have raised the concern that individuals could be punished more severely for possession of marijuana-related paraphernalia than for the drug itself. The Maryland State's Attorneys Association has indicated that most jurisdictions have adopted a policy that an individual will not be arrested for paraphernalia possession if the individual is in possession of less than 10 grams of marijuana; however, this policy may vary by jurisdiction.

Criminal Law

Pretrial Representation of Indigent Defendants

The Courts of Appeals decision in *DeWolfe v. Richmond* that indigent criminal defendants have a constitutional right to appointed counsel during initial appearances before a judicial officer put pretrial representation in the spotlight as a major issue. Unfortunately the 2014 session did not result in a legislative solution. Since the 2014 legislative session, the District Court Appointed Attorneys Program has been created within the Judiciary, and the Governor's Commission to Reform Maryland's Pretrial System has been established and begun its work.

Background

When an individual is arrested, he or she must go before a judicial officer for an initial appearance. The judicial officer, usually a District Court commissioner, has a number of duties at the initial appearance, among which is to determine whether there was probable cause for the arrest and, if so, whether the defendant should be released on his or her own recognizance, on bail, or not at all. Under the Maryland Rules, a defendant who is denied pretrial release by a District Court commissioner or who for any reason remains in custody after a District Court commissioner has determined conditions of release must be presented to a District Court judge immediately if the court is in session or, if the court is not in session, at the next session of the court. Prior to 2012, public defender representation was provided to indigent defendants at bail review only in Montgomery and Harford counties and Baltimore City.

The *DeWolfe v. Richmond* Case

In *DeWolfe v. Richmond*, 434 Md. 403(2012), the Maryland Court of Appeals held on January 4, 2012, that under the then-effective version of the Maryland Public Defender Act, no bail determination may be made by a District Court commissioner concerning an indigent defendant without the presence of counsel, unless representation by counsel is waived ("*Richmond I*").

The plaintiffs in the case represented a class of indigent criminal defendants who were arrested, detained at the Central Booking and Intake Facility in Baltimore City (CBIF), brought before a commissioner for initial bail hearings, and requested and were denied representation by counsel at the initial bail hearings. The facts were undisputed that the initial appearances of criminal defendants in Baltimore City were not conducted in a courtroom, open to the public, or recorded. The initial appearances occurred at CBIF, in a small room, with the defendant and the commissioner on opposite sides of a plexiglass window talking through a speaker system. Evidence was presented that the commissioner's initial bail decision often was not disturbed by the District Court judge on bail review.

The *Richmond I* opinion was based on the then-effective wording of the Maryland Public Defender Act, including language that the Office of the Public Defender (OPD) must represent an indigent defendant “in all stages” of a criminal proceeding. The court did not address the plaintiffs’ federal and State constitutional claims of a right to representation. However, the Circuit Court for Baltimore City had previously held, based on *Rothgery v. Gillespie County*, 554 U.S. 191 (2008), that indigent arrestees have a federal and State constitutional right to be appointed counsel at initial appearance.

Activity during 2012 Legislative Session

Richmond I sparked a heated debate during the 2012 session of the General Assembly. There was much concern about how the State would fund the obligation of OPD to begin representing people at the initial appearance phase. It was estimated that the cost to OPD alone (aside from costs that would be incurred by the Judiciary, the Department of Public Safety and Correctional Services, State’s Attorneys’ offices, law enforcement agencies, and local correctional facilities) would exceed $27 million annually. On the other hand, serious questions were raised about whether people do possess a constitutional right to legal representation at initial appearance, regardless of cost. A number of bills were introduced to attempt to counteract or mitigate the effect of *Richmond I*.

Ultimately, the General Assembly passed Chapters 504 and 505 of 2012, which (1) amended the Public Defender Act to specify that OPD is required to provide legal representation to an indigent defendant at a bail hearing before a District Court or circuit court judge, but is not required to represent an indigent criminal defendant at an initial appearance before a District Court commissioner; (2) prohibited a statement made during an initial appearance before a District Court commissioner from being used as evidence against the defendant in a criminal or juvenile proceeding; (3) codified the rule that a defendant who is denied pretrial release by a District Court commissioner or who remains in custody after a District Court commissioner has determined conditions of release must be presented to a District Court judge immediately if the court is in session or, if the court is not in session, at the next session of the court; (4) required a police officer to charge by citation for specified offenses if certain conditions are met; (5) authorized a District Court commissioner to issue an arrest warrant based on an application for a statement of charges filed by an individual only if specified criteria are met; (6) established the Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender; and (7) required specified entities to develop a format and procedures to record specified citation data and required the Maryland Statistical Analysis Center within the Governor’s Office of Crime Control and Prevention to analyze citation data for five years beginning January 1, 2013.

2012-2013 Developments

Subsequently, the Court of Appeals was asked to decide whether there was a federal or State constitutional right to State-furnished counsel for indigent defendants at their initial appearance before a District Court commissioner. On September 25, 2013, the Court of Appeals issued an opinion (434 Md. 444 (2013)) in the *Richmond* case holding that, under the Due Process component of Article 24 of the Maryland Declaration of Rights, an indigent defendant has a right to State-furnished counsel at an initial appearance before a District Court commissioner ("*Richmond II*"). The Court of Appeals issued a temporary stay of implementation of the *Richmond II* decision pending legislative action.

The task force created by Chapters 504 and 505 met several times during 2012 and 2013 and submitted a final report containing 16 recommendations, including elimination of the money bond system; implementation of a statewide pretrial services agency that utilizes risk and need-based supervision, referral, and treatment options in all Maryland counties; and adoption of an objective, validated risk assessment tool for use by pretrial services agents.

2014 Developments

Several bills were introduced during the 2014 session to specifically address the *Richmond II* decision. Proposals considered involved establishing a statewide pretrial release services program, requiring that release decisions be based on risk assessments, limiting the authority of District Court commissioners, altering procedures relating to the initial appearance process and the filing of criminal charges by police officers, expanding the hours of operation of the District Court, establishing a task force on pretrial risk assessment, and amending the State constitution to establish that the Maryland Declaration of Rights may not be construed to require OPD to represent a defendant at an initial appearance before a District Court commissioner. Additional funding for OPD was also a major topic of discussion for the budget committees.

Although no bills specifically addressing the *Richmond II* decision passed, the fiscal 2015 budget restricts $10,000,000 of the Judiciary's general fund appropriation to be used only for the purpose of providing attorneys for required representation at initial appearances before District Court commissioners, consistent with the *Richmond II* decision. Any funds not expended for this purpose must revert to the general fund. The Budget Reconciliation and Financing Act of 2014 (BRFA) specifies that authorization of State funds in the fiscal 2015 State budget for this purpose represents a one-time allocation and provides no authority for additional State expenditures or commitment of funds without separate authorization in the State budget as passed by the General Assembly.

The BRFA also requires that, in implementing the holding of the Court of Appeals in *DeWolfe v. Richmond*, if attorneys are appointed in a county to provide legal representation at an initial appearance before a District Court commissioner in fiscal 2015, the cost of compensating the attorneys beyond the amount restricted for that purpose in the State budget must be billed by the appointing authority to the county in which the representation is provided and must be paid by that county.

On May 27 and 28, 2014:

- the Court of Appeals adopted changes to the Maryland Rules to implement *Richmond II*'s requirement that indigent defendants be provided counsel at initial appearances and lifted the stay of *Richmond II* effective July 1, 2014;

- the Judiciary created the District Court of Maryland Appointed Attorneys Program to provide attorney representation to indigent criminal defendants during initial appearances; and

- the Governor issued an executive order establishing the Governor's Commission to Reform Maryland's Pretrial System to look at best practices from around the country and recommend how an objective-validated risk assessment tool could be used in Maryland to help determine who should be detained and who should be released before trial. The executive order directed the 23-member panel to identify ways to reduce detainment times, assist and advise the State on issues arising from the ongoing implementation on a pilot basis of a risk assessment tool in one or more counties, and develop and issue legislative recommendations.

To be eligible to participate in the District Court of Maryland Appointed Attorneys Program, an attorney must be licensed to practice law in the State of Maryland and be in good standing and not subject to any pending disciplinary proceedings; attend an in-person training session or a webinar and certify that the rules on initial appearances have been reviewed; and agree to compensation of $50 an hour for services rendered (or receive *pro bono* credit). From July 2014 through September 2014, 39,849 initial appearances were conducted statewide. The Appointed Attorneys Program represented defendants in approximately 35% of those proceedings, while the defendant waived counsel in approximately 65% of the proceedings. The Administrative Office of the Courts projects that the Appointed Attorneys Program will cost at least $4,084,850 from July 2014 through December 2014.

The Governor's Commission to Reform Maryland's Pretrial System met several times during 2014. Three subcommittees were established at the second meeting: the Managing Public Safety through Risk-based Decision Making Subcommittee; the Pretrial System Improvement Subcommittee; and the Individual Rights and Collateral Consequences Subcommittee. The subcommittees worked independently and kept the full task force abreast of their progress. A final report of the commission is due December 1, 2014.

Courts and Civil Proceedings

Domestic Violence

Advocates for victims of domestic violence assert that individuals in "dating relationships" should qualify for the enhanced protections available under a protective order and that Maryland law should designate strangulation as a felony offense.

Civil Protective Orders and Dating Relationships

Background

Individuals who are victims of abuse may petition the courts for civil orders of protection. Depending on the type of relationship the individual has with the respondent (the alleged abuser), the individual may petition for either a peace order or a protective order. In order to file for a protective order, an individual must be a "person eligible for relief." A person eligible for relief includes (1) a current or former spouse of the respondent; (2) a cohabitant of the respondent; (3) a person related to the respondent by blood, marriage, or adoption; (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition; (5) a vulnerable adult; or (6) an individual who has a child in common with the respondent.

Individuals, including dating partners, co-workers, and neighbors, who experience violence from others but do not meet the relationship requirements of the protective order statute, may petition for a peace order, a more limited civil order of protection. Although peace orders offer protection to individuals in dating relationships, advocates have argued that it is more appropriate to include these relationships within the protective order statute, since dating relationship violence is more akin to the type of intimate partner violence experienced by those in the familial relationships delineated under the protective order statute, rather than the type of violence experienced among co-workers or neighbors. Although the U.S. Department of Education advises that 43% of college women report experiencing violent and abusive dating behaviors, including physical, sexual, verbal, and controlling abuse, due to eligibility requirements under current State law, these individuals would be eligible for a protective order only if they had a child in common with or had cohabitated with the abusive dating partner.

Proponents of expanding eligibility for domestic violence protective orders also note that the differences between the two types of orders may leave individuals in dating relationships without important protections that are afforded to individuals who are granted protective orders. For example, warrantless arrests are permitted only for violations of protective orders and not for violations of peace orders. Additionally, under a final protective order, a respondent is required to surrender all firearms in the respondent's possession during the term of the order, while this requirement to surrender firearms does not apply to a respondent under a final peace order.

Protective orders can also be longer in duration than peace orders. Generally, final protective orders may be granted for a maximum of 12 months and extended for an additional 6 months. In limited circumstances specified by statute, final protective orders may be granted and extended for longer periods of time. A final peace order may be granted for a maximum of only 6 months and may be extended for 6 additional months.

Finally, although the burden of proof for peace orders and protective orders is identical, individuals seeking a peace order may have a higher evidentiary threshold to meet due to specific language within the peace order statute. In order to grant a final peace order, unless the respondent consents to the entry of an order, a judge must find by a preponderance of the evidence not only that the respondent has committed a specified act (including assault, stalking, an act causing serious bodily harm, etc.), but also that the respondent is likely to commit such an act in the future. Furthermore, a peace order petition must allege that one of the specified acts occurred within 30 days before the filing of the petition. In contrast, the issuance of a final protective order does not require that the underlying act of abuse have taken place within the past 30 days nor does it require the judge to make a finding that the respondent is likely to commit abuse again.

In recent years, a number of unsuccessful measures have been introduced to extend eligibility for protective orders to a wider range of individuals. Proposed language regarding eligibility has varied, with bills or amendments introduced to include individuals in sexual relationships, dating relationships, or relationships otherwise characterized by intimate involvement.

Other States

A review of statutes in other states found that 42 states and the District of Columbia specifically include individuals in dating, sexual, personal, or intimate relationships within eligibility guidelines for protective orders. Thirty of the states and the District of Columbia include in their statutes terminology relating to a "dating" relationship. Other states use language such as "romantic or sexual" relationships, "intimate" relationships, "a continuing social relationship of a romantic or intimate nature," "sexual or intimate partner," "personal" relationships, "sexually intimate" relationships, and "significant romantic" relationships.

Strangulation as a First Degree Assault

Although often referred to as choking (which is the *internal* blocking of the trachea by a foreign object such as food), strangulation occurs when blood vessels and air passages are closed as a result of *external* pressure on the neck. The *Journal of Emergency Medicine* reports that strangulation can induce the loss of consciousness within approximately 10 seconds and death within four to five minutes. Adverse health conditions associated with strangulation can include dizziness, sore throat, voice changes, breathing and swallowing problems, ringing in the ears, vision changes, facial and eyelid droops, loss of memory, paralysis, depression, and insomnia.

Because the injuries sustained by a victim are not always obvious, strangulation presents a significant challenge to law enforcement and prosecutors. The Training Institute on Strangulation Prevention reports that in a 2009 evaluation of 300 strangulation cases, no visible injuries were present in 50% of the cases. In another 35% of cases, the injuries were too minor to photograph. Regardless of the frequent lack of visible injuries, strangulation is known to be one of the most lethal forms of domestic violence, and studies have shown strangulation to be a significant risk factor for domestic violence homicides or attempted homicides. For example, one study in the *Journal of Emergency Medicine* found that 45% of attempted homicide victims and 43% of homicide victims had been strangled in the past year by their male partner. Other studies have shown that up to 68% of female victims of domestic violence have experienced at least one strangulation assault by a male partner.

Under current law, a person commits a first degree assault if the person intentionally causes or attempts to cause serious physical injury to another person or commits an assault with a firearm. A person who commits first degree assault is guilty of a felony and is subject to imprisonment for a maximum of 25 years. A person who commits a misdemeanor second degree assault is subject to imprisonment for up to 10 years or a maximum fine of $2,500 or both. Despite the severity and potential lethality of the act, unless the elements of attempted murder can be proven, most strangulation cases in the State are prosecuted as second degree assault cases because of the lack of proof of "serious physical injury" that is required for a prosecution of first degree assault. Prosecuting strangulation as an attempted murder is also difficult since prosecutors must prove that the defendant intended to kill the victim. However, most abusers do not strangle with the intent to kill or even to do serious physical harm, but rather to demonstrate that they are capable of killing and to exercise control over their victims.

In light of these challenges, the majority of states have either codified a strangulation-specific offense or enacted legislation to include strangulation within felony or aggravated assault statutes. In Maryland, legislation to specifically designate strangulation as a first degree assault has been proposed for the last several years.

For further information contact: Jennifer K. Botts (410) 946/(301) 970-5510

Courts and Civil Proceedings

False Claims Act

The Maryland False Health Claims Act authorizes individuals to file an action on behalf of the State for false health claims made under a State health care plan or program. In the 2014 session, legislation to enact a false claims act applicable to *any* false claim made to the State or a county received favorable committee action in both chambers of the General Assembly but did not pass.

Federal False Claims Act (FCA)

Federal Whistleblowing Statutes

In general, the federal False Claims Act (FCA), 31 U.S.C. §§ 3729-3733, authorizes the federal government to recover damages from and seek civil penalties against individuals who knowingly submit false or fraudulent claims to the federal government. Another key feature of the FCA is that it allows a private citizen (relator) to bring an action on behalf of the federal government against individuals who knowingly submit false or fraudulent claims against the federal government, seeking remedies for those claims. The act of filing such an action (often referred to as a "*qui tam*" action) is informally called "whistleblowing." If successful, the relator is entitled to a share of the recovery of federal damages and penalties, depending on the extent to which the relator substantially contributed to the case.

Several changes to the FCA were included in the Fraud Enforcement and Recovery Act of 2009 (FERA). The most significant amendments to the FCA included provisions making it easier to prove fraudulent intent and expanding the types of actions that may be considered a violation of the Act.

The $3.8 billion in false claims recoveries by the U.S. Justice Department in fiscal 2013 represent the fourth year in a row that the department recovered more than $3 billion and are surpassed only by the approximately $5 billion the department recovered during fiscal 2012. As in previous years, the largest recoveries in fiscal 2013 related to health care fraud ($2.6 billion). According to the department, the majority of false claims actions under the FCA are filed under the Act's *qui tam* provisions. Recoveries in *qui tam* cases during fiscal 2013 totaled $2.9 billion.

Federal Incentives to Model State Law after FCA

The federal Deficit Reduction Act of 2005 (DRA) established incentives for states to enact certain antifraud legislation modeled after the federal FCA. States that enact qualifying legislation are eligible to receive an increase of 10% in their share of recovered funds in Medicaid fraud cases. The 10% increase in the state share of the recovery corresponds to a 10% reduction in the federal share.

To qualify, a state false claims act must (1) establish liability to the state for false or fraudulent claims, as described in the FCA, with respect to Medicaid spending; (2) contain provisions that are at least as effective in rewarding or facilitating *qui tam* actions for false or fraudulent claims as those provided by the federal FCA; (3) require *qui tam* actions to be filed under seal for 60 days with review by the state Attorney General; and (4) impose a civil penalty not less than in the amount of the civil penalty authorized under the federal FCA. At least 27 states and the District of Columbia have enacted state false claims acts with *qui tam* provisions. Several of these laws are limited to health care fraud, while others encompass additional types of fraud. According to the Office of the Inspector General of the U.S. Department of Health and Human Services, 18 states have qualified for the federal incentive.

Maryland False Health Claims Act of 2010

Chapter 4 of 2010, also known as the Maryland False Health Claims Act (MFHCA), authorizes individuals to file *qui tam* actions for false health claims made against the State under a State health care plan or program. Because the MFHCA does not permit an action to continue once the State declines to intervene and does not provide a minimum civil penalty equivalent to the minimum penalty under the federal FCA, the MFHCA did not qualify for the monetary incentives under the DRA.

In addition to authorizing *qui tam* actions for false claims made against a State health plan or program, the enactment of the MFHCA allowed Maryland to be named as a plaintiff in *qui tam* actions filed in federal court. Prior to the MFHCA, Maryland could only participate in settlements of these lawsuits through collaboration of the National Association of Medicaid Fraud Control Units (NAMFCU) with the U.S. Department of Justice in settling Medicaid fraud cases and the State's waiver of its right to sue in these cases under common law fraud. The Medicaid Fraud Control Unit (MFCU) in the Office of the Attorney General (OAG) is a member of NAMFCU.

According to OAG's MFCU, the State collected $3.7 million in false claims settlements in fiscal 2011, $1.2 million in fiscal 2012, and approximately $12.0 million during the first half of fiscal 2013. Of these settlements, $112,000 would have been unrecoverable absent Maryland's false claims law. Given the length of time required to bring a *qui tam* false claims action, this amount is expected to increase in future years. In several of the settlements, the State would have recovered a smaller amount absent the 2010 State false claims law.

Efforts to Expand the MFHCA

In the 2013 and 2014 sessions, efforts were made to expand the principles of MFHCA to apply to *any* false claim made to the State, a county, or Baltimore City. HB 867 of 2014 would have (1) prohibited a person from knowingly making a false or fraudulent claim for payment or approval by a governmental entity; (2) authorized a governmental entity to file a civil action against a person who makes a false claim; (3) established civil penalties for making a false claim;

(4) permitted a private citizen to file a civil action on behalf of a governmental entity against a person who has made a false claim; (5) required the court to award a certain percentage of the proceeds of the action to the private citizen initiating the action; and (6) prohibited retaliatory actions by a person against an employee, contractor, or grantee for disclosing a false claim or engaging in other specified false claims-related activities.

Supporters of the bill, including the Maryland Association of Counties, the Mayor of Baltimore City, and various labor organizations, urged the General Assembly to provide additional means to protect against false claims in areas other than health care and to entities other than the State government and to expand the protection of whistleblowers to those areas. Opponents of the bill, including the Maryland Chamber of Commerce, argued that (1) the State, rather than private citizens, should enforce State law; (2) the expanded standard for prosecuting alleged fraud was unfair to persons doing business with the State; and (3) the bill was unnecessary due to the existence of other State laws against fraud. HB 867 received favorable committee action in both chambers in the 2014 session but fell short of final passage.

For further information contact: John J. Joyce (410) 946/(301) 970-5350

Courts and Civil Proceedings

Abolishing Contested Elections for Circuit Court Judges

Circuit court judges are the only judges in the State who are subject to contested elections to remain in office following appointment by the Governor. Numerous attempts have been made in the past to abolish contested elections and substitute retention elections, the process used for appellate court judges. Advocates for the abolishment of contested elections for circuit court judges may renew their efforts in the 2015-2018 term.

The Judicial Selection and Retention Process

Most judges within the State are appointed and retained through a hybrid process. At all four court levels (the Court of Appeals, the Court of Special Appeals, circuit courts, and the District Court), the Governor appoints a qualified member of the Maryland Bar in the case of a vacancy or the creation of a new judgeship. For both appellate courts, these appointments must be confirmed by the Maryland Senate, and the judge holds the office until the next general election following the expiration of one year from the date of the occurrence of the vacancy. At the general election, the incumbent judge's name is placed on the ballot without opposition, and citizens vote for or against the retention of the judge for a 10-year term. For the District Court, judges are appointed by the Governor and serve 10-year terms upon confirmation by the Senate.

To assist in the selection process for judges at all levels, numerous governors since 1970 have issued executive orders creating judicial nominating commissions to recommend candidates for appointment. The nominating commissions review applications from interested attorneys, interview candidates, and consider recommendations from citizens and various bar associations. The commissions must submit to the Governor a list of candidates who are deemed to be legally and professionally most fully qualified for judicial office, and the Governor must make the appointment from the list.

In contrast to the other judges in the State, circuit court judges face a different process. They are also appointed by the Governor and must stand for election at the first general election following the expiration of one year after the occurrence of the vacancy. However, unlike their colleagues on the appellate courts, they are elected to 15-year terms and may face a contested election in which any member of the Maryland Bar who meets the minimum constitutional requirements may challenge the incumbent judges by filing as a candidate. Thus, judges at the circuit court level are the only judges within the State who may face a contested election in order to retain their appointment. It is also only at the circuit court level where an individual may become a judge without a gubernatorial appointment and without being screened and recommended by a judicial nominating commission.

Previous Legislative Action

Since 2002, numerous bills have proposed an amendment to the Maryland Constitution to alter the method by which circuit court judges are selected. Most of the bills have proposed that vacancies in circuit court judgeships be filled in the same manner as vacancies on the Court of Appeals or the Court of Special Appeals, including gubernatorial appointment and Senate confirmation, followed by approval or rejection via retention election by the voters. The bills have also proposed decreasing the term of office for circuit court judges from 15 to 10 years. The most recently introduced bill was Senate Bill 295 of 2013, which received no further action after a hearing in the Judicial Proceedings Committee.

Opponents of judicial elections generally argue that an independent judiciary is essential to maintaining public trust in the judicial system, and that such trust is eroded when judges who face contested elections are thrust into the role of politicians and must solicit campaign funds, which often come from the attorneys who appear before the court. Opponents also argue that attorneys who challenge the incumbent judges may not have been subjected to the same screening process as the sitting judges. However, others contend that the issues with judicial elections are predominantly within states in which members of the appellate courts are subject to election and/or judges run as partisan candidates. Furthermore, the use of judicial nominating commissions also has been criticized in some states, as opponents argue that the power to select judges should not be transferred to commissions that are typically made up of political appointments. Proponents of judicial elections argue that, as with other elected offices, any individual who wishes to become a judge and otherwise meets basic criteria should have an opportunity to campaign and be elected by the voters.

Other States

The process of judicial selection and retention in Maryland mirrors the process that many other states use to fill their judicial vacancies. According to a 2013 report from the American Judicature Society, 24 states enlist a judicial nominating commission for the initial selection of judges at some level of the court system, while judges in four states are exclusively appointed by the Governor or the legislature (without use of a nominating commission). In the remaining 22 states, all judges are initially selected through elections. Regarding the retention or continuance of judges in office, at least some trial court judges must stand for election in 31 states. In approximately 20 of the states, all judges are subject to election, while in the remaining states, including Maryland, only some judges face contested elections, and the remainder stand in retention elections only. Other states either reappoint their judges or do not have a retention method since the judges receive a lifetime tenure upon selection.

For further information contact: Jordon D. More (410) 946/(301) 970-5530

Courts and Civil Proceedings

Termination of Parental Rights of Father of Child Conceived through Rape, Incest, or Sexual Abuse

Although Maryland law provides a process for terminating the parental rights of the father of a child conceived through sexual assault, to protect victims of sexual violence from having to face the abuser in court, advocates have sought legislation to exclude a man from legal status as a child's father if the child was conceived as a result of sexual violence.

Background

Statistics regarding the number of women who become pregnant annually as a result of a sexual assault vary widely. The Centers for Disease Control and Prevention reports that rape is a factor in approximately 32,000 pregnancies annually, while the Rape, Abuse, and Incest National Network estimated approximately 17,000 pregnancies from rape in 2012. Studies also vary widely on the outcome of pregnancies resulting from rape. For example, one study found that 26% of women who became pregnant through rape underwent abortions. Of those women who carried their pregnancies to term, 64% raised the children and the remainder of the women placed the children for adoption. Another study found that approximately half of the women who became pregnant by rape underwent abortions.

In some states, including Maryland, a man who conceived a child through rape may assert or attempt to assert parental rights over the child. Parental rights may include the rights to custody and visitation, as well as the right to consent before a child can be adopted. The General Assembly has considered legislation in past sessions that would exclude a man from legal status as a child's father for purposes of guardianship or adoption and deny custody and visitation to the man if the child was conceived as a result of sexual violence perpetrated by the man against the child's mother. Proponents of such legislation argue that a victim of sexual assault who becomes pregnant and chooses to have the child should not be forced to have an ongoing relationship with the perpetrator of the abuse, including facing the rapist in court during a termination of parental rights and adoption proceeding. Additionally, proponents assert that the rapist should not be allowed to assert control over the victim's life by having the right to object to an adoption of the child. Proponents further argue that perpetrators may attempt to coerce a victim into not reporting the crime or not cooperating with law enforcement by threatening to assert parental rights over the child.

Current Maryland Law

Maryland common law requires courts to be guided by the best interest of the child in making custody and visitation decisions. However, the U.S. Supreme Court and the Court of

Appeals of Maryland have also recognized that parents have a fundamental right to govern the care, custody, and control of their children without state interference, unless there is a showing of parental unfitness or the existence of exceptional circumstances. (*See, e.g. Troxel v. Granville*, 530 U.S. 57 (2000), *Koshko v. Haining*, 398 Md. 404 (2007), and *Janice M. v. Margaret K.*, 404 Md. 661 (2008).) Although the General Assembly has limited the discretion of the courts to award visitation in cases where there is a finding that the noncustodial parent has committed abuse toward the child, the spouse, or other household members, courts have not denied all visitation except under exceptional circumstances, and court decisions have demonstrated that the finding of exceptional circumstances is a high threshold to meet. For example, in *Arnold v. Naughton*, 61 Md. App. 427 (1985), *cert. denied*, 303 Md. 295 (1985), the Court of Special Appeals held that a finding that a noncustodial parent sexually abused the child did not preclude all visitation rights to that parent. A court could order limited, supervised visitation without abusing its discretion.

When determining whether to terminate a parent's rights to a child, a juvenile court must give primary consideration to the health and safety of the child and consideration to all other relevant factors needed to determine whether terminating a parent's rights is in the child's best interests, including whether the parent has been convicted in any state or in a federal court of a crime of violence against a minor offspring of the parent, the child, or another parent of the child or has been convicted of conspiring or aiding the commission of these crimes. A termination of parental rights terminates the parent's duties, obligations, and rights to the child and eliminates the right of the parent to object to the adoption of the child.

Other States

Approximately three-fourths of the states have specific statutory provisions that limit some or all of the rights of a parent who conceived a child through a forced sexual act. Of these states, at least 20 allow or require the termination of all parental rights if a child is conceived by rape. At least 10 of the states provide partial restrictions on parental rights through laws establishing that a man's consent is not needed in order to proceed with the adoption of a child who was conceived by rape, and at least 7 states establish limitations on custody and/or visitation. While most of the states require a conviction in order for the loss of parental rights to be triggered, several states, including Oklahoma, Pennsylvania, Vermont, and Wisconsin do not require a conviction. Finally, despite the termination of parental rights, in at least 6 states, a man may still be required to pay child support.

For further information contact: Jennifer K. Botts (410) 946/(301) 970-5510

Environment and Natural Resources

The Status of Chesapeake Bay Restoration

Maryland is achieving its short-term bay restoration goals and is making progress toward its 2017 pollution reduction commitments under the Chesapeake Bay Total Maximum Daily Load. However, the State faces ongoing challenges to long-term success, including the lack of (1) a complete and detailed estimate of the costs to implement pollution control measures; and (2) a clear strategy for managing pollution associated with future growth.

Background

In December 2010, the U.S. Environmental Protection Agency (EPA) established a Chesapeake Bay Total Maximum Daily Load (TMDL) that sets forth specific pollution reduction requirements for Maryland and other jurisdictions within the bay watershed. All reduction measures must be in place by 2025, with at least 60% of the actions completed by 2017. To achieve the TMDL, a robust assessment and planning framework was established. Bay jurisdictions committed to developing two-year milestones to assess progress toward achieving the pollution reduction goals in the TMDL. Furthermore, EPA required each bay jurisdiction to develop watershed implementation plans (WIP) detailing the strategies and specific actions that will be implemented to reduce pollution. Phase I WIPs were completed in 2010, and more detailed Phase II WIPs were completed in early 2012. A Phase III WIP, which must be submitted to EPA in 2018, will ensure that all practices are in place by the 2025 deadline.

Progress to Date

Maryland achieved both its 2009-2011 and 2012-2013 milestone goals, completed the two required WIPs, and is on track to achieve its 2014-2015 milestone goals. The State achieved its short-term milestones, in part, by implementing a variety of best management practices, including the planting of cover crops, wastewater treatment plant upgrades, the planting of forest buffers, and carrying out the Fertilizer Use Act of 2011. **Exhibit 1** shows pollution loads for 2010 and 2013 and illustrates Maryland is making progress toward achieving the 2017 and 2025 target pollution loads.

Exhibit 1
Maryland's 2010, 2013, and Target Pollution Loads
(Million Pounds Per Year)

Pollutant	2010 Loads	2013 Loads	2017 Target	2025 Target
Nitrogen	52.76	47.57	45.48	41.17
Phosphorus	3.30	3.00	3.01	2.81
Sediment	1,376.00	1,253.00	1,367.00	1,350.00

TMDL: Total Maximum Daily Load

Source: BayStat; The Chesapeake Bay TMDL Tracking and Accounting System

Ongoing Challenges

Despite the pollution reduction progress made by the State, ongoing challenges remain, including the lack of (1) a complete and detailed estimate of WIP implementation costs; and (2) a clear strategy for managing new pollution associated with future growth.

WIP Implementation Costs

As shown in **Exhibit 2**, the estimated cost of implementing Maryland's Phase II WIP, covering calendar 2010 through 2025, is approximately $14.4 billion. However, because the Phase II WIP incorporates dozens of strategies involving multiple partners across the State, this estimate is incomplete and may change significantly. For example, the estimate excludes costs associated with financing, inflation, combined sewer and sanitary overflows, and Healthy Air Act implementation. Additionally, estimating restoration costs is complicated by strategy adjustments made by the State and local governments in response to new demands and opportunities.

Exhibit 2
Maryland's Estimated Phase II WIP Implementation Costs
($ in Millions)

Source Sector	Total 2010-2025 Cost
Agriculture	**$928**
Municipal Wastewater	**$2,368**
Major Municipal Plants	2,306
Minor Municipal Plants	62
Stormwater	**$7,388**
Maryland Department of Transportation	1,500
Local Government	5,888
Septic Systems	**$3,719**
Upgrades	2,358
Connections	1,273
Pumping	88
Total	**$14,403**

WIP: Watershed Implementation Plan

Note: Exhibit 2 does not reflect costs associated with controlling combined sewer and sanitary overflows or the implementation of the Healthy Air Act. The exhibit reflects the final Phase II WIP estimate released October 26, 2012.

Source: *Phase II Watershed Implementation Plan,* Maryland Department of the Environment

A key area of uncertainty that is likely to have a significant impact on the State's WIP cost estimate is the implementation of cross-sector trading (*i.e.*, nonpoint-to-nonpoint source trading) in Maryland. The State is currently in the process of developing a draft cross-sector trading policy that will authorize select nonpoint source sectors to achieve reductions toward their WIP targets by purchasing credits for reductions that are achieved at a lower cost from other sectors. The sources identified in this policy include urban nonregulated stormwater systems, septic systems, and Phase II Municipal Separate Storm Sewer Systems.

It is unclear to what extent the State is relying on the implementation of cross-sector trading to help mitigate WIP implementation costs. Maryland's Phase II WIP indicates that it is expected that, over time, alternative lesser cost agreements will be identified and sorted out. The WIP also indicates that costs are expected to decline when market forces, and other strategy refinements, come into play in the future. Currently, there is no specific timeframe for when the new policy will be implemented. It is anticipated that as part of the Department of the Environment's December 2014 report to the budget committees on historical and projected Chesapeake Bay restoration spending, the department will include a revised Phase II WIP cost estimate that incorporates the potential cost savings associated with the State's cross-sector trading policy.

Managing Growth

A key component of the State's plan to manage pollution loads in the future includes establishing a new growth policy to offset pollution loads from development. The Administration proposed a draft growth offset strategy in 2012; however, it prompted significant stakeholder concerns. In response, the Administration convened an Accounting for Growth Workgroup – comprised of agricultural, environmental, developer, local government, and public interest stakeholders – to craft a policy for offsetting future pollution loads. Although the workgroup issued recommendations in August 2013, two outstanding issues remained:

- **Baseline –** how much pollution a new development should be allowed to contribute to the bay before having to offset any remaining pollution; and

- **Phosphorus –** whether phosphorus offsets should be required.

During the 2014 session, the Administration indicated it would continue to work with stakeholders on the two outstanding issues. In June 2014, EPA directed Maryland to develop and submit a detailed schedule for adopting accounting for growth regulations during the 2014-2015 milestone goal period.

Policy Implications

While Maryland is making progress toward achieving the TMDL, implementation of the State's Phase II WIP will continue to garner significant attention. Possible legislative activity may result from the anticipated revision to the WIP cost estimate, the development of a cross-sector trading policy, or the development or discussion of a growth offset policy. Interest in adjusting current strategies for achieving bay restoration that prioritize the most cost-effective approaches or accelerate the use of specific pollution reduction measures, such as tree planting, may arise. Additionally, the release of an economic impact analysis of the new Phosphorus Management Tool may trigger legislative action. Finally, concerns have been raised about the release of sediment and associated nutrients from the reservoir behind the Conowingo Dam. In fall 2014, the U.S. Army Corps of Engineers is expected to release a draft report on the Lower Susquehanna River Watershed Assessment, a study that began in 2011 to evaluate both watershed and reservoir contributions to sediment and nutrient pollution in the bay. While it is not anticipated that the study will propose changes to existing laws or regulations, the study's findings may prompt legislative activity.

For further information contact: Cristen C. Flynn/Chantelle M. Green Phone: (410) 946/(301) 970-5350

Environment and Natural Resources

Local Stormwater Management

Preliminary estimates indicate that local jurisdictions will generate approximately $109.8 million in new revenue for stormwater management projects as a result of the first full year of implementing Chapter 151 of 2012. Several jurisdictions have already begun maximizing fee revenues by developing new innovative programs.

Introduction

The federal Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States. The National Pollutant Discharge Elimination System (NPDES), a component of the CWA, regulates, among other things, stormwater discharges from municipal separate storm sewer systems (MS4). There are 10 jurisdictions in Maryland that hold NPDES Phase I MS4 permits (Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, and Prince George's counties and Baltimore City). Chapter 151 of 2012 required these 10 jurisdictions to establish a local stormwater remediation fee to assist in financing the implementation of the local MS4 permits.

Chapter 151 was enacted in the context of a substantial projected shortfall in funding for local water quality related stormwater projects. For example, State projections of the cost to implement the Phase II Watershed Implementation Plan under the Chesapeake Bay Total Maximum Daily Load (TMDL) in 2012 showed that the largest cost, by a significant margin, was attributed to local stormwater management. Chapter 151 required the establishment of a dedicated fee and fund, but otherwise provided flexibility for each jurisdiction to decide the level and structure of the fee, how it is collected, and other details.

First Full Year of Implementation Complete

Most of the 10 jurisdictions subject to Chapter 151 have not yet released final fiscal 2014 revenues but have provided year-end estimates that should closely approximate the actual revenues for the fiscal year ending June 30, 2014. **Exhibit 1** shows these fiscal 2014 stormwater remediation fee estimates, including a total of about $109.8 million for the 10 jurisdictions together. This estimate is slightly greater than the $103.0 million in fee revenues projected in a 2013 Department of Legislative Services stormwater report.

Exhibit 1
Estimated Fiscal 2014 Stormwater Remediation Fee Revenues

Jurisdiction	Revenues
Anne Arundel	$13,168,000
Baltimore City	21,431,746
Baltimore	23,400,550
Carroll	n/a
Charles	2,155,700
Frederick	490
Harford	1,047,144
Howard	10,279,000
Montgomery	24,101,094
Prince George's	14,243,267
Total	**$109,826,991**

Note: Revenues reflect recent year-end estimates from public reports required by Chapter 151 of 2012, local fiscal 2015 budget documents and analyses, and responses to inquiries made by the Department of Legislative Services. However, none of the revenue figures reflect reported actual revenues or audited statements, which will become available within the next year. Carroll County has not established a fee but has financed its stormwater management program with general funds. Beginning in fiscal 2015, Carroll County plans to fund its program through a dedicated portion of its property tax revenues.

Source: Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, and Prince George's counties and Baltimore City

These jurisdictions have been subject to a Phase I MS4 permit for many years and have an understanding of their local stormwater infrastructure needs and where to direct the new fee revenues. Several jurisdictions are attempting to devise innovative programs to maximize the use of the new fee revenues. These programs help counties access privately held land, leverage community resources, and achieve the biggest "bang for the buck." A few examples are provided below.

- Anne Arundel County plans to implement a grant program to provide funding for nonprofit organizations to install large-scale projects and is also considering a pilot project to work with consultants on performance-based restoration projects.

- Howard County is providing reimbursements for the cost incurred by property owners of installing approved projects and has also created a youth summer employment program focusing on rain gardens and tree plantings on nonprofit and government properties.

- Montgomery County has established a rebate program that includes technical assistance for property owners and also targets nine neighborhoods of privately held land identified by engineers as being most in need of additional stormwater management.

- Prince George's County is developing a public-private partnership with a company that will establish a design-build-finance-operate-maintain agreement to remediate 2,000 or more acres of urban street over a 30-year period.

MS4 Permit Status and Pending Permit Litigation

The five large MS4 permit holders (Anne Arundel, Baltimore, Montgomery, and Prince George's counties and Baltimore City) have been issued a current permit with a five-year permit term, which requires the restoration of 20% of previously developed impervious land with little or no stormwater management controls. The medium jurisdictions have recently received a tentative determination from the Maryland Department of the Environment (MDE) to issue a new permit.

A coalition of environmental groups are currently suing MDE over MS4 permits issued by the department to the five large jurisdiction holders of MS4 permits. The plaintiffs contend that the permits violate the CWA and State water pollution laws. The first lawsuit was filed in the Montgomery County circuit court and, after the Court of Special Appeals eventually settled a procedural dispute, the circuit court found that the permit lacked, among other things, specific and enforceable standards, benchmarks, and deadlines. The department has since appealed the circuit court's order, and the case is once again before the Court of Special Appeals, as of October 2014. The central issue in the case concerns which water quality standards apply in the specific context of an MS4 permit and what degree of specificity must be included in the permit to ensure that it is enforceable. The suits may have broad implications for the 10 jurisdictions holding Phase I MS4 permits, including compliance costs and deadlines.

Conclusion

Stormwater remediation fees have generated significant controversy since the enactment of Chapter 151. Although many bills were introduced in the 2014 legislative session to repeal Chapter 151 or to exempt a jurisdiction from compliance with the law, none passed. The Budget Reconciliation and Financing Act of 2014 did authorize Carroll and Frederick counties to develop alternative means of financing. With the first year of stormwater remediation fee collection complete, several jurisdictions are developing expenditure plans and other innovative stormwater programs. Nonetheless it is likely the imposition and implementation of these fees will continue to be controversial.

For further information contact: Evan M. Isaacson/Andrew D. Gray Phone: (410) 946/(301) 970-5530

Environment and Natural Resources

Fisheries Management

Managing the Chesapeake Bay's oyster, striped bass, blue crab, and menhaden fisheries remains a challenge. In recent years, the State has committed significant resources to protect the species, including rehabilitating degraded habitat, restricting harvests, promoting aquaculture, and enhancing law enforcement.

Background

The Department of Natural Resources (DNR) is responsible for the conservation, management, and allocation of the State's fishery resources and for ensuring the long-term sustainability and use of these resources. In recent years, DNR has expended significant resources to support the Chesapeake Bay's keystone species and to implement new mandates from the Atlantic States Marine Fisheries Commission (ASMFC), a regional organization responsible for coordinating the conservation and management of near-shore migratory fish stocks. DNR has also made a significant effort to upgrade its enforcement capabilities.

Oysters, Striped Bass, Blue Crab, and Menhaden

Oysters

Public Oyster Fishery

The Chesapeake Bay oyster population is currently at less than 1% of its historical level due to disease, habitat loss, reduced water quality, and harvest pressure. In recent years DNR has taken many steps to restore the native oyster population, including: (1) rehabilitating degraded habitat; (2) expanding sanctuaries; (3) facilitating and promoting the commercial production of oysters through aquaculture; (4) increasing the hatchery production of juvenile oysters for restoration purposes; and (5) enhancing law enforcement. The oyster biomass index, a combined measure of oyster abundance and size, has more than doubled since 2010, increasing by 2.4 times.

Aquaculture

In recent years, Maryland has significantly restructured its shellfish aquaculture program. New lease laws have removed location, size, and corporate ownership limitations, reduced the minimum harvest size for farm-raised oysters, and streamlined aquaculture permitting processes. In addition, new active use requirements have allowed DNR to rescind inactive leases. These actions have increased the acreage available for leasing and made the program more attractive to private investors, including out-of-state businesses. Since the new program began in September 2010, approximately 200 active leases have continued to operate. DNR subsequently has issued

112 new leases to businesses operating on 2,245 acres and is currently processing another 80 lease applications.

Exhibit 1 shows the most recent annual harvests for oysters.

Exhibit 1
Oysters Annual Harvests
(In Thousands of Pounds)

	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Oysters	921	828	738	1,553	2,871

Source: Department of Natural Resources

Striped Bass

To comply with new ASMFC requirements and address difficulties in managing the commercial striped bass fishery, DNR recently adopted an individual transferable quota (ITQ) system for the Chesapeake Bay gill net and hook and line striped bass fisheries. Under the ITQ system, DNR allocates a certain share of the State's total commercial quota (established by ASMFC) to each striped bass permit holder, based, in part, on the permit holder's catch history. Individual allocations may be transferred between permit holders participating in the same fishery and may be harvested at any point during the open season for striped bass. Adoption of the ITQ system created controversy in 2014, as some permit holders believed that the system would result in a smaller individual harvest than would be the case under the previous management system. As a result, legislation introduced in 2014 would have either altered the allocation under the ITQ system (Senate Bill 591) or prohibited the use of an ITQ system for 2015 and beyond (House Bill 1104).

Due to a population decline for migratory striped bass, the Maryland striped bass quota for the Chesapeake Bay will be reduced by 20.5% for 2015 and 2016.

Blue Crab

The 2014 Blue Crab Winter Dredge Survey measured the blue crab population of the Chesapeake Bay to be 297 million crabs, down slightly from 2013 levels and down significantly from the recent high of 765 million crabs in 2012. Of equal concern, the number of spawning age female crabs dropped from 147 million crabs in 2013 to 69 million – just below the minimum manageability threshold set by DNR. DNR believes that one reason for the population decline is that the long, cold winter and corresponding drop in water temperature killed a significant percentage of adult crabs. Other likely factors include natural forces, such as coastal currents, weather patterns, and predation, which have historically made the blue crab population volatile.

DNR does not believe that harvesting was a factor in the decline. On a positive note, the juvenile crab population increased 78% from the 2013 count.

Menhaden

Menhaden is a small fish species that serves as an important source of prey for numerous other Chesapeake Bay fish and bird species. Menhaden are also harvested for the production of fish oils, dietary supplements, fishmeal for agricultural and aquacultural uses, and bait. Due to decades of overfishing, in 2012 ASMFC established state specific quotas for the menhaden harvest based on the historical harvest and then reduced the quota for each state by 20%. The 2013 quota for Maryland was approximately 5.2 million pounds, which is significantly lower than recent harvests.

Exhibit 2 shows the most recent annual harvests for striped bass, blue crab, and menhaden.

Exhibit 2
Striped Bass, Blue Crab, and Menhaden Annual Harvests
(In Thousands of Pounds)

	2009	2010	2011	2012	2013
Striped Bass	2,382	2,149	1,951	1,958	1,754
Blue Crab	40,700	59,880	50,244	41,736	25,564
Menhaden	6,842	6,903	6,505	13,681	7,063

Source: Department of Natural Resources

Enforcement of Fishery Laws

In recent years, the State has embraced robust enforcement, particularly of fishing laws, as a key component of natural resources management. Recent changes to State law have increased penalties for violators and made it easier for law enforcement officials to inspect fishing vessels suspected of illegal activities. Maryland's Natural Resources Police (NRP) is also making use of advanced surveillance technology to detect fishing violations and improve the efficiency of conservation patrols.

In 2010, NRP launched the Maritime Law Enforcement Network (MLEIN), a network of marine radar covering much of the Chesapeake Bay and Maryland's Atlantic coast. The system also includes several closed circuit cameras, which provide limited video coverage of vessel traffic in and out of port areas. A computer program overlays the video and radar information on color coded maps showing important landmarks, navigational buoys, and regulatory boundaries, which may be accessed via a secure web browser. The MLEIN allows officers to systematically track small vessels, including fishing vessels, operating in State waters. Based on this information, NRP officers can identify certain fishing violations, such as oyster dredging in prohibited areas, and plan patrols to target particular types of fishing activity.

A report issued by the Department of Legislative Services in September 2014 suggests that additional surveillance technologies, such as unmanned aerial vehicles (drones) or vessel-mounted monitoring systems, could eventually be incorporated into the MLEIN to give NRP an even more comprehensive view of fishing activity in Maryland waters. This raises the possibility of future legislation either enabling or restricting the use of surveillance technologies for marine conservation purposes, based on cost, efficacy, or privacy considerations.

For further information contact: T. Patrick Tracy Phone: (410) 946/(310) 970-5350

State Government

Public Campaign Financing

For the first time in 20 years, public campaign financing was used in the 2014 Maryland gubernatorial campaign. As a result of that use – along with the reallocation by the General Assembly in recent years of some money from the Fair Campaign Financing Fund to support other election-related initiatives and the repeal of the fund's prior funding mechanism – the fund balance is very low. Without an infusion of money, the fund will not be sufficient to support gubernatorial candidates interested in public campaign financing in the 2018 gubernatorial election. Meanwhile, under a plan enacted this year by Montgomery County, for the first time ever in this State, public campaign financing will be an option for candidates vying for county elective offices, starting with the 2018 elections for the county executive and county council.

Introduction

Maryland's system of public campaign financing for tickets for Governor and Lieutenant Governor has been used in this election year after a long period of dormancy. However, the special fund used to finance the system has insufficient money to support qualifying tickets in future elections due to disbursements to tickets in the current election, previous use of the fund for other election-related projects, and the elimination of the fund's principal revenue source. Legislation to replenish the fund and expand public campaign financing for State offices was introduced in the General Assembly in 2014. Meanwhile, Montgomery County became the first county to adopt public campaign financing for county offices, utilizing new authority extended to all counties under legislation enacted in 2013.

Public Financing Act

The General Assembly established public campaign financing for gubernatorial tickets in the Fair Campaign Financing Act of 1974 (later renamed the Public Financing Act) for the purpose of "eliminating corruption and the undemocratic effects of large private contributions." To qualify for public funding, a gubernatorial ticket must raise "seed money" equal to 10% of the expenditure limit for eligible tickets in the election. The expenditure limit is calculated for each election using a formula based on the population of the State and inflation. The limit applies separately to each primary and general election. For 2014, the expenditure limit is $2,586,124. Accordingly, the amount of seed money a qualifying ticket must raise in 2014 is $258,612.

Seed money must be raised in the form of "eligible private contributions," which are contributions of $250 or less from individuals. Contributions from business entities or political committees do not qualify as eligible private contributions. Once a ticket has qualified by raising seed money, public funds are disbursed for the primary election on a matching basis. For a ticket with opposition, the ticket receives $1 in public funds for each $1 in eligible private contributions it raises. For a ticket without opposition, the ticket receives $1 in public funds for each $3 in eligible private contributions it raises. A participating ticket may accept contributions of more than $250 or contributions from business entities or political committees, but these funds are not seed money, may not be matched with public funds, and count toward the ticket's expenditure limit for the election.

If a participating ticket wins the primary election, it is entitled to receive public funds for the general election equal to the expenditure limit for the election. There is no requirement to raise eligible private contributions to receive public funds for the general election. Any private contributions a participating ticket raises in the general election will count toward its expenditure limit for the election and correspondingly reduce the amount of public funds the ticket may spend. Expenditures by the State or local central committee of a political party that are coordinated with a participating ticket do not count toward the expenditure limit. In 2014, the amount that party committees may spend on behalf of a participating ticket is limited to $1.86 million for the State central committee and an equal amount for the county central committees collectively. A participating ticket may actively fundraise for a party committee that will spend the funds on the ticket's behalf. However, any other expenditure that is coordinated with a participating ticket, expenditures of a slate of which a ticket is a member, and in-kind contributions do count toward the ticket's expenditure limit.

Since its establishment in 1974, the gubernatorial public funding system has been used in only two elections. In 1994, three gubernatorial tickets participated in the system. A total of approximately $1.3 million in public funds was disbursed. In 2014, two tickets received public funds for the primary election totaling approximately $1.1 million and one ticket received funding for the general election totaling approximately $2.59 million.

Fair Campaign Financing Fund

The Public Financing Act is funded through the Fair Campaign Financing Fund (fund). From its inception, the principal source of money for the fund was a voluntary checkoff on the State personal income tax return that allowed an individual to contribute up to $500 to the fund. The amount of any contribution was in addition to the individual's tax liability; the fund did not receive any revenue that would otherwise be appropriated in the State budget. The fund also receives revenue from investment earnings on the money in the fund.

Annual contributions to the fund through the checkoff ranged from $0 to approximately $184,000. In most years, the contributions were greater than $100,000. Following the 1994 elections, no candidate chose to use public financing for several elections and the fund balance continued to build. By fiscal 2010, there was approximately $5.6 million in the fund.

The long lack of interest in public financing led the General Assembly to reallocate the money in the fund to other projects to improve the election process beginning in 2009. That year, the legislature authorized up to $2 million in the fund to be spent for the procurement of an optical scan voting system, but these funds were not ultimately used. In 2010, the General Assembly repealed the income tax checkoff because contributions to the fund were no longer being used for their intended purpose. The legislature authorized several subsequent transfers from the fund for various projects, including:

- to the Department of Legislative Services for a consultant to study various voting system issues in 2010 ($150,000);
- to the State Board of Elections (SBE) to implement an online campaign finance reporting system in 2010 ($500,000);
- to SBE to offset the cost to local governments of implementing an online voter registration system in 2011 ($250,000);
- to SBE to conduct several studies required by Chapters 157 and 158 of 2013 ($250,000).

The fiscal 2014 budget bill included a deficiency appropriation of $50,000 for fiscal 2013 and $1.15 million in fiscal 2014 from the fund to begin planning for the new optical scan voting system. The $250,000 authorized for the studies required by Chapters 157 and 158 of 2013 was later appropriated by budget amendment in fiscal 2014. Nearly all of the money from the fund included in the fiscal 2014 appropriation was later withdrawn (approximately $1.3 million of $1.4 million) due to the expressed interest in public financing by candidates in the 2014 elections. A small portion of the appropriated funds had already been spent prior to the expressions of interest and could not be withdrawn.

As noted above, a total of approximately $3.69 million was disbursed to eligible tickets in the 2014 elections. As a result, the remaining fund balance, as of October 9, 2014, is approximately $1.1 million. The estimated cost of fully funding one gubernatorial ticket in the 2018 primary and general elections is $4.3 million. This estimate assumes the ticket would raise sufficient eligible private contributions to receive the maximum possible amount of public matching funds for the primary election (which is half of the expenditure limit) and also win nomination and receive public funds equal to the full expenditure limit for the general election.

In the future, if there are insufficient funds to fully fund the system, any money remaining in the fund will be distributed as set forth in State law. Half of the money in the fund will be available for the primary election. Each eligible ticket will receive a share of the available funds that is proportionate to the amount to which it would otherwise be entitled. For the general election, all money remaining in the fund will be divided equally among eligible tickets that are nominated.

Montgomery County Public Campaign Financing

The Campaign Finance Reform Act of 2013 included a provision authorizing counties to adopt public campaign financing for offices in the Executive and Legislative branches of county government. Montgomery County became the first county to exercise this authority when it enacted a law in October 2014 implementing a public funding system beginning with the 2018 election. To qualify for public funding, a candidate must collect a specified number of "qualifying contributions" of between $5 and $150 from individuals who are county residents. A candidate for county executive must collect at least 500 qualifying contributions totaling at least $40,000. A candidate for at-large councilmember must collect at least 250 qualifying contributions totaling at least $20,000. A candidate for district councilmember must collect at least 125 qualifying contributions totaling at least $10,000.

Once a candidate is certified to receive public funding, qualifying contributions that the candidate raises are matched with public funds on a sliding scale. For county executive candidates, the first $50 is matched at a 6-to-1 ratio, the second $50 is matched at a 4-to-1 ratio, and the third $50 is matched at a 2-to-1 ratio. The matching ratios are slightly lower for contributions raised by county council candidates. Total public funding is limited to $750,000 each for the primary and general election for county executive candidates, $250,000 for at-large county council candidates, and $125,000 for district county council candidates. Candidates who accept public financing may not (1) take a contribution from a political action committee, corporation, labor union, or a political party; (2) be a member of a slate; or (3) take a loan from anyone other than the candidate or candidate's spouse. A participating candidate or the candidate's spouse may not lend or contribute more than $6,000 each to the candidate's campaign. A participating candidate may, however, accept an unlimited number of contributions of $150 or less from individuals, whether or not the contributors reside in the county. There is no overall expenditure limit for participating candidates.

Montgomery County estimated that if the public financing system had been in effect during the 2010 election and all candidates had participated and received the maximum amount of public funding available, the county would have spent $9.6 million on the program.

State Legislative Proposals

Several proposals to enhance the State's public campaign financing system were introduced in the 2014 session, although none advanced out of a committee. One bill would have simply restored the income tax checkoff for the Fair Campaign Financing Fund. Other bills would have expanded public financing to General Assembly candidates, who would receive fixed amounts of public funds after qualifying by raising a certain amount of small contributions. Another bill would have created a system in which candidates for Governor and Lieutenant Governor, Attorney General, Comptroller, and the General Assembly would receive public matching funds for small contributions at a greater than 1-to-1 ratio, similar to the system enacted in Montgomery County. Each of the bills proposing to expand public campaign financing used the balance in the fund or restored the income tax checkoff to support the new system, although funding from another source clearly would be needed.

For further information contact: Stanford Ward/Tonya Zimmerman/Scott Kennedy Phone: (410) 946 (301) 970-5350

State Government

Developments in Campaign Finance Law

Major changes to Maryland's campaign finance law are set to take effect January 1, 2015. The changes are a result of legislation enacted in 2013 based on the recommendations of the Commission to Study Campaign Finance Law. Nonetheless, campaign finance law issues continue to emerge, including a question of what constitutes "coordination" between a candidate and a Super PAC (political action committee) that makes expenditures benefitting the candidate.

Introduction

Over a two-year period in 2011 and 2012, Maryland's campaign finance law underwent a thorough review by the Commission to Study Campaign Finance Law, which was established under Joint Resolution 1 of 2011. As a result of the commission's recommendations, significant legislative changes were made by the Campaign Finance Reform Act of 2013 (Chapter 419). The majority of these changes will first take effect in 2015.

In addition, the issue of what constitutes coordination between a candidate's campaign and a Super PAC or other entity in the context of independent expenditures has been raised both nationally and in Maryland. Thus, notwithstanding the recent overhaul of State campaign finance law, activities during the 2014 campaign season may prompt further proposals for modifications to the law, potentially including addressing "coordination" between candidates and other entities engaged in campaign activity.

Changes Taking Effect in 2015

In addition to authorizing the establishment of county public campaign financing systems (see "Public Campaign Financing" under this section), the changes under the Campaign Finance Reform Act of 2013 that take effect January 1, 2015, include:

- an increase – from $4,000 to $6,000 – in the limit on the amount that a person can contribute to any *one* candidate or political committee during a four-year election cycle;
- a rule that considers contributions made by separate limited liability companies (LLCs) or other business entities that have a specified amount of common ownership or control to have been made by a single contributor for purposes of the contribution limits;
- full implementation of an authorization for political parties to establish legislative party caucus committees (one for each house of the General Assembly) that have increased flexibility in how they raise and spend money in comparison to other political committees;

- a requirement that the membership of a slate (which is a joint political committee formed by two or more candidates and into which unlimited amounts can be transferred from the individual candidates' committees) consist only of candidates who have filed a certificate of candidacy and officeholders for whom the candidacy filing deadline for the office has not yet passed;
- enhancement of independent expenditures reporting requirements, including (1) requiring more immediate reporting; (2) requiring reporting the names of donors of $6,000 or more to persons making independent expenditures; and (3) increasing the penalties for reporting violations; and
- revisions to the reporting requirements for government contractors that make political contributions.

Chapter 419 also increased the limit on the amount a person can contribute to *all* candidates and political committees (the "aggregate limit") during an election cycle from $10,000 to $24,000. However, the aggregate limit has since become unenforceable because of the U.S. Supreme Court decision in *McCutcheon v. Federal Election Commission*. In *McCutcheon*, the Supreme Court held that aggregate contribution limits are invalid under the First Amendment. Following that April 2014 decision, the State Board of Elections (SBE) issued guidance, based on advice from the Office of the Attorney General, indicating that the State's aggregate limits are unconstitutional and cannot be enforced. The guidance indicates that a person may make an unlimited aggregate amount of contributions, but may not make contributions in excess of $4,000 (or $6,000, beginning January 1, 2015) to any *one* political committee.

Coordination

Independent expenditures – political spending by individuals or organizations without coordination with a candidate – have received a significant amount of attention since the 2010 Supreme Court decision in *Citizens United v. FEC* and the subsequent decision of the D.C. Circuit Court of Appeals in *SpeechNow.org v. FEC* (also in 2010). The Supreme Court and D.C. Circuit held, respectively, that corporate independent expenditures could not be limited or prohibited and that contributions to political committees that make only independent expenditures (Super PACs) could not be limited. Limits on independent expenditures were differentiated from limits on contributions to candidates (which "have been an accepted means to prevent *quid pro quo* corruption") based on the conclusion that, in the case of independent expenditures, "[t]he absence of prearrangement and coordination of an expenditure with the candidate … alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate."

Maryland's campaign finance law establishes limits on contributions to candidates and political committees and requires reporting of independent expenditures. Following the *Citizens United* and *SpeechNow.org* decisions, SBE guidance indicates that the board does not interpret the statutory contribution limits to apply to Super PACs. As previously stated in other SBE guidance, however, and as explicitly stated in statute beginning January 1, 2015 (pursuant to Chapter 419), if coordination exists between a candidate and a person (including a political committee) making an expenditure benefitting the candidate, then the expenditure is *not* an independent expenditure and is instead a contribution subject to the statutory contribution limits. The statute does not define what constitutes coordination. In the absence of a statutory definition, SBE has issued guidance that lists factors it would consider in determining whether coordination has occurred. The list of eight factors includes "sharing of campaign material, strategies, or information that is not generally available to the public" and "the extent to which a candidate shares operations, responsible officers, staff, consultants and other third party vendors with another candidate or person."

State Government

A Fresh Look at the State Procurement Law

Building on a review ordered by the Board of Public Works at the request of Governor O'Malley in 2012, the Department of Legislative Services (DLS) has taken a fresh look at the State's procurement system. As a result of its comprehensive review of procurement structures, policies, and practices, DLS made findings and recommendations aimed at improving the efficiency and transparency of the State procurement system by reducing administrative fragmentation and maximizing strategic sourcing and best practices.

Background

Each year, the State of Maryland procures about $7.0 billion in construction, services, and commodities from outside vendors. Although the laws and regulations governing the procurement process have changed over the years, the basic organization and structure of the State procurement system have remained largely unchanged since 1980. By contrast, an increasing number of states have recently reformed their procurement systems to refocus on strategic goals, including maximizing the buying power of the state and enhancing transparency.

During the 2014 interim, the Department of Legislative Services (DLS) conducted a review of procurement structures, policies, and practices in Maryland. The review followed and was intended to build upon a review ordered by the Board of Public Works (BPW). During its meeting of July 12, 2012, Governor O'Malley asked BPW to "bring someone in to kick the tires…we need to pull this apart and put it back together." In response, BPW contracted with Treya Partners to conduct a comprehensive review of Maryland's procurement system and make recommendations for its improvement. Treya's report contained 11 findings and recommendations targeted at reducing fragmentation in the structure of the State's procurement system and maximizing strategic sourcing and best practices.

The DLS review examined the current condition of State procurement, described reforms undertaken by other states, and provided policy recommendations to enhance the cost effectiveness, efficiency, and transparency of State procurement. For its review, DLS carried out the following data collection and analysis activities:

- interviewed senior staff at BPW and senior procurement staff in each of the State's procurement control agencies;
- reviewed documents and findings from recent studies, audits, and task forces concerned with State procurement;
- collected and analyzed data on the compensation and tenure of State procurement staff;

- interviewed senior procurement staff in other states that have recently undergone procurement reform; and

- reviewed research reports and textbooks on public procurement published by national organizations, including the National Association of State Procurement Officers (NASPO) and the National Institute of Governmental Purchasing (NIGP).

Recommendations

Based on its comprehensive review, DLS concurred with many of Treya's findings and concluded that Maryland would benefit from the types of reforms implemented in other states, adapted to the State's unique conditions, but that implementation of such reforms has been hampered by a fragmented system and inadequate human resource development. To address the fragmented system, DLS recommended establishing the position of Chief Procurement Officer (CPO) within BPW to report directly to the board and carry out the board's procurement control functions as head of a new Office of the Chief Procurement Officer. Within this structure, the CPO should have the flexibility to allow specified agencies to take the lead on specialized procurements for which they have expertise. The DLS report notes that Maryland is one of only a handful of states that lacks a CPO, which has hampered its ability to institute meaningful procurement reform that maximizes the State's buying power. Further, fragmented oversight of procurement by multiple control agencies has resulted in conflicting or inconsistent interpretation of procurement policies and procedures, inadequate data on State spending patterns, lax contract management, and poor relationships with State vendors. Consolidating procurement control under one office should enhance coordination, efficiency, transparency, and vendor satisfaction.

Additional recommendations in the DLS report included:

- retaining BPW as the lead control agency for procurement by most Executive Branch agencies, and maintaining the current exemption from BPW oversight for capital projects related to State roads, bridges, and highways;

- reorienting the purpose of State procurement to be obtaining the best value for the State rather than the best price, with performance-based metrics developed by the CPO to measure progress;

- charging the CPO with advising the General Assembly on proposed legislation and the appropriateness of existing exemptions and preferences in order to enhance the efficiency and transparency of State procurement;

- increasing the minimum value of most contracts requiring BPW approval from $200,000 to $1.0 million, except that contracts of any value that use general obligation bond proceeds must still be approved by BPW;

- assigning all procurement staff in the State, except those in the Maryland Department of Transportation and University System of Maryland personnel systems, to the Office of the Chief Procurement Officer, including those who remain located in other Executive Branch agencies;

- charging the CPO with working with the Department of Budget and Management to reconfigure position titles, classifications, and compensation for procurement staff to establish clear lines of authority and a career track for procurement professionals;

- placing eMaryland Marketplace (eMM) under the control of the CPO and revisiting the option to link eMM to the State's financial management system;

- repealing obsolete programs and taking advantage of eProcurement to consolidate reporting requirements; and

- raising the ceiling for small procurements from $25,000 to $50,000, and incorporating all small procurements and purchasing card transactions into annual reporting by the CPO.

Local Government

State Aid to Local Governments

State aid to local governments is projected to total $7.3 billion in fiscal 2016, representing a $237.0 million, or 3.4% increase over the prior year.

Local governments are projected to receive $7.3 billion in State aid in fiscal 2016, representing a $237.0 million (3.4%) increase over the prior year. Most of the State aid in fiscal 2016, as in prior years, is targeted to public schools, while funding for counties and municipalities will account for 7.9% of total State aid. Public schools will receive $6.3 billion in fiscal 2016, or 86.0% of total State aid. Counties and municipalities will receive $574.8 million; community colleges will receive $316.1 million; libraries will receive $74.6 million; and local health departments will receive $48.9 million. In terms of year-over-year funding enhancements, State aid for public schools will increase by $182.4 million (3.0%); library aid will increase by $4.8 million (6.9%); community college aid will increase by $18.8 million (6.3%); and local health department grants will increase by $2.0 million (4.3%). Also, county and municipal governments will realize a $28.9 million (5.3%) increase in State aid. **Exhibit 1** shows the change in State aid by governmental entity for fiscal 2016. **Exhibit 2** shows the change in State aid by major programs.

Exhibit 1
State Aid to Local Governments
($ in Millions)

Governmental Entity	FY 2015	FY 2016	$ Change	% Change
Public Schools	$6,072.9	$6,255.4	$182.4	3.0%
County/Municipal	545.9	574.8	28.9	5.3%
Community Colleges	297.3	316.1	18.8	6.3%
Libraries	69.8	74.6	4.8	6.9%
Local Health Departments	46.9	48.9	2.0	4.3%
Total	**$7,032.8**	**$7,269.8**	**$237.0**	**3.4%**

Source: Department of Legislative Services

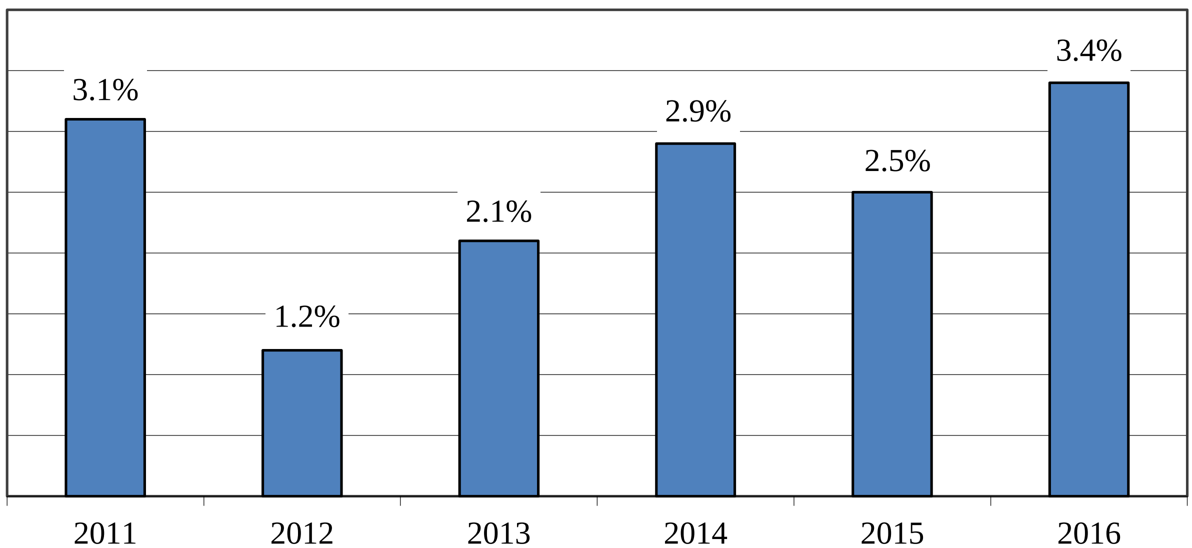
Exhibit 2
State Aid by Major Programs
Fiscal 2014-2016
($ in Millions)

	FY 2014	FY 2015	Baseline FY 2016	$ Change 2015-2016	% Change 2015-2016
Foundation Program	$2,850.5	$2,882.4	$2,941.7	$59.2	2.1%
Supplemental Grant	46.5	46.6	46.6	0.0	0.0%
Geographic Cost Index	130.8	132.7	135.6	2.9	2.2%
Net Taxable Income Education Grants	8.3	26.9	35.1	8.3	30.7%
Foundation – Special Grants	0.0	0.6	0.0	-0.6	-100.0%
Compensatory Aid	1,196.0	1,251.7	1,315.9	64.2	5.1%
Student Transportation	254.5	258.4	265.2	6.8	2.6%
Special Education – Formula Aid	269.3	271.7	277.1	5.4	2.0%
Special Education – Nonpublic Placements	109.8	110.9	114.0	3.1	2.8%
Limited English Proficiency Grants	193.4	197.7	216.1	18.5	9.3%
Guaranteed Tax Base	52.3	59.4	51.3	-8.1	-13.6%
Aging Schools Program	8.1	6.1	6.1	0.0	0.0%
Head Start/Prekindergarten	5.9	6.1	6.1	0.0	0.0%
Other Education Programs	81.1	83.2	84.5	1.2	1.5%
Subtotal Direct Aid	***$5,206.5***	***$5,334.4***	***$5,495.4***	***$161.0***	***3.0%***
Retirement Payments	$728.1	$738.6	$760.0	$21.4	2.9%
Total Public School Aid	**$5,934.7**	**$6,072.9**	**$6,255.4**	**$182.4**	**3.0%**
Library Aid Formula	$34.0	$34.4	$37.2	$2.7	7.9%
State Library Network	16.2	16.3	17.1	0.8	5.0%
Subtotal Direct Aid	***$50.2***	***$50.8***	***$54.3***	***$3.5***	***6.9%***
Retirement Payments	18.3	19.0	20.3	1.3	6.7%
Total Library Aid	**$68.5**	**$69.8**	**$74.6**	**$4.8**	**6.9%**
Community College Formula	$213.0	$226.1	$239.9	$13.8	6.1%
Other Programs	30.3	30.9	32.4	1.5	4.7%
Subtotal Direct Aid	***$243.3***	***$257.0***	***$272.3***	***$15.3***	***5.9%***
Retirement Payments	$38.1	$40.3	$43.8	$3.5	8.8%
Total Community College Aid	**$281.3**	**$297.3**	**$316.1**	**$18.8**	**6.3%**
Local Health Grants	**$41.7**	**$46.9**	**$48.9**	**$2.0**	**4.3%**
Transportation	$196.5	$192.9	$180.9	-$12.0	-6.2%
Public Safety	113.9	116.8	119.1	2.3	2.0%
Program Open Space/Environment	31.0	28.9	47.3	18.4	63.7%
Disparity Grant	127.8	135.8	146.1	10.3	7.6%
Video Lottery Terminal Impact Grants	31.5	39.1	41.7	2.7	6.9%
Teacher Retirement Supplemental Grant	27.7	27.7	27.7	0.0	0.0%
Other Grants	4.5	4.8	12.1	7.3	152.6%
Total County/Municipal Aid	**$532.9**	**$545.9**	**$574.8**	**$28.9**	**5.3%**
Total State Aid	**$6,859.1**	**$7,032.8**	**$7,269.8**	**$237.0**	**3.4%**

Source: Department of Legislative Services

Exhibit 3 shows the annual change in State aid to local governments, beginning with fiscal 2011. The projected growth of 3.4% in fiscal 2016 is above the annual growth exhibited in recent years. The relatively high anticipated growth in fiscal 2016 is in large part due to an increase of $182.4 million in aid to public schools, including a $59.2 million increase in the foundation program, a $64.2 million increase in compensatory aid, and an $18.5 million increase in limited English proficiency grants. Also, an $18.8 million increase in community college aid and an $18.4 million increase in anticipated Program Open Space aid contribute significantly to the overall increase in State aid to local governments.

Exhibit 3
Annual Change in State Aid to Local Governments
Fiscal 2011-2016



Source: Department of Legislative Services

Exhibit 4 shows the increase in State support for local governments in recent years by governmental entity. During this period, State aid has increased by 12.6% or approximately 2.4% on an average annualized basis. Public schools realize the majority of the funding increase with direct education aid increasing by $630.4 million. In addition, county and municipal governments receive a $193.8 million funding increase during this same period. Increases in direct aid are partially offset by an 8.4% decrease in retirement aid to local government employees resulting from changes to retirement plans and sharing of retirement costs, including administrative costs, with local governments.

Exhibit 4
State Aid by Governmental Entity
($ in Millions)

Governmental Entity	FY 2011	FY 2016	$ Change	% Change
Public Schools	$4,865.0	$5,495.4	$630.4	13.0%
Libraries	48.7	54.3	5.6	11.5%
Community Colleges	224.4	272.3	47.9	21.3%
Local Health	37.3	48.9	11.6	31.3%
County/Municipal	381.0	574.8	193.8	50.9%
Subtotal – Direct Aid	**$5,556.4**	**$6,445.7**	**$889.2**	**16.0%**
Retirement Payments	$899.8	$824.1	-$75.7	-8.4%
Total	**$6,456.2**	**$7,269.8**	**$813.6**	**12.6%**

Source: Department of Legislative Services

Local Government

Allocation of State Aid among Local Jurisdictions

The majority of State aid to local governments is distributed inversely to local property and income wealth so that jurisdictions with greater capacity to raise revenue from local sources receive less State aid.

Reliance on State Aid

State aid is the largest revenue source for many county governments in Maryland, accounting for 27.7% of total county revenues in fiscal 2013. In nine counties (Anne Arundel, Baltimore, Calvert, Carroll, Garrett, Kent, Queen Anne's, Talbot, and Worcester), State aid is the second largest revenue source after property taxes. In Howard and Montgomery counties, State aid is the third largest revenue source after both property and income taxes.

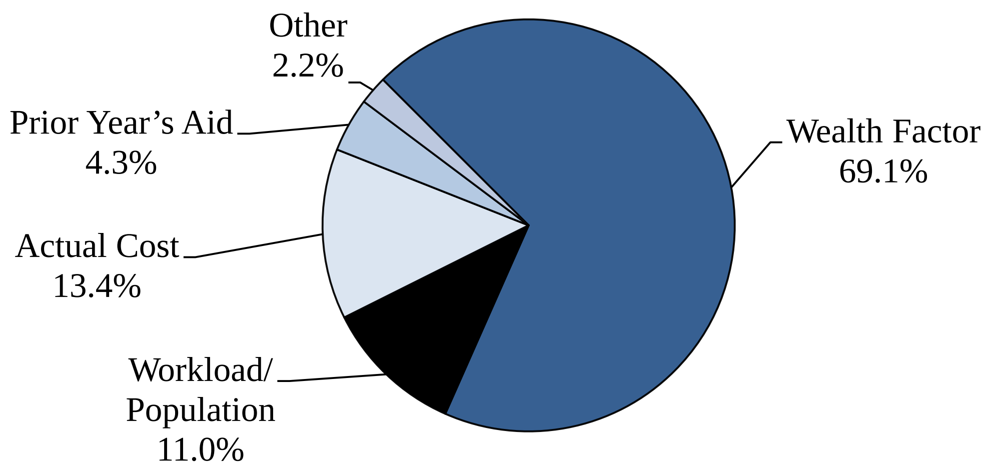
Dependence on State aid varies, with less affluent jurisdictions relying on State aid as their primary revenue source while more affluent jurisdictions rely more heavily on local property and income taxes. For example, State aid accounts for 17.6% of total revenues in Montgomery County but 51.3% in Caroline County. This difference is due to the fact that approximately 70% of State aid is distributed inversely to local wealth. Utilizing local wealth measures to distribute State aid attempts to offset the inequalities in the revenue capacity among local jurisdictions.

State aid is the fourth largest revenue source for municipalities, representing 4.4% of total revenues in fiscal 2013. As with counties, the reliance on State aid varies for municipalities, ranging from 0.6% of total revenues for the one locality in St. Mary's County to 22.5% for localities in Somerset County. State aid to municipalities is targeted primarily to transportation, police and fire services, parks and recreation, and community development projects.

Distribution Basis for State Aid

The State utilizes nearly 80 programs to allocate funding to local governments. Programs that distribute funding inversely to local wealth accounted for about 69% of State aid in fiscal 2015. Most of these programs also base State aid on a workload measure, such as school enrollment or population. In fiscal 2000, around 56% of State aid was distributed based on local wealth. The increased utilization of local wealth as a basis to distribute State aid improves fiscal equity among jurisdictions by making certain jurisdictions less dependent on their own tax base to fund public services. **Exhibit 1** shows State aid by the basis for distribution.

Exhibit 1
State Aid by Basis for Distribution
Fiscal 2015



Trends
($ in Millions)

	FY 2000	% of Total	FY 2015	% of Total
Wealth Factor	$1,935.5	56.1%	$4,860.0	69.1%
Workload/Population	697.0	20.2%	773.1	11.0%
Actual Cost	513.4	14.9%	940.5	13.4%
Prior Year's Aid	146.1	4.2%	299.5	4.3%
Other	158.3	4.6%	157.6	2.2%
Total	**$3,450.3**	**100.0%**	**$7,030.6**	**100.0%**

Source: Department of Legislative Services

Wealth Equalizing and Targeting of Education Aid

Because funding public education is a shared State and local responsibility, part of the State's constitutional responsibility to provide a "thorough and efficient system of free public schools" involves offsetting the disparities in taxable wealth among the counties.

The State aid structure compensates for wealth differences by providing less aid per pupil to the more wealthy jurisdictions and more aid per pupil to the less wealthy jurisdictions through a number of "wealth-equalized" funding formulas. Although most State aid formulas are designed to have the State pay roughly one-half of program costs, the State's share for the less wealthy jurisdictions is higher than 50%, and the State's share for more wealthy jurisdictions is lower than 50%. **Exhibit 2** illustrates the inverse relationship between local wealth and direct per pupil State aid, as discussed further below.

Enhanced targeting of State aid was a primary goal of the Bridge to Excellence in Public Schools Act (Chapter 288 of 2002). The targeted funds are based on enrollment-driven formulas for three groups: (1) special education students; (2) students eligible for free and reduced-price meals; and (3) students with limited English proficiency. The At-risk Student Index shown in Exhibit 2 compares for each county the sum of students in each of these categories to full-time equivalent enrollment. Because a student may be in more than one of these groups, an index result of over 100% is possible, as in the case of Baltimore City.

Results of the State Education Aid Structure

Exhibit 2 shows how State aid per pupil is driven by each county's wealth and by the share of its student population that is identified as being at greater risk of performing below State standards. For example, the exhibit shows that Baltimore City had the second-lowest wealth per pupil in fiscal 2015 and the student population with the greatest needs. As a result, Baltimore City received the most direct State aid per student at $11,511. Somerset County, with the fourth-lowest wealth per pupil in the State and a student population with relatively high needs, received the second-highest per pupil direct aid amount at $10,479. Talbot and Worcester counties, which had the highest wealth per pupil figures in fiscal 2015, received the two lowest levels of direct State aid per pupil, at $3,046 and $3,135, respectively. Examining the needs of each county's student population and the wealth in each county helps to explain the relative amounts of State aid that each school system receives. School systems with high needs and low wealth receive the most State aid per pupil, while systems with high wealth and lower needs receive less State aid per pupil.

Exhibit 2
Local Needs and Wealth and Direct State Aid Per Pupil
Fiscal 2015

At-risk Percentage			Wealth Per Pupil			Direct State Aid Per Pupil		
Rank	County	At-risk Percentage	Rank	County	Wealth Per Pupil	Rank	County	Aid Per Pupil
1	Baltimore City	106.9%	24	Wicomico	$283,502	1	Baltimore City	$11,511
2	Somerset	91.7%	23	Baltimore City	285,568	2	Somerset	10,479
3	Prince George's	87.7%	22	Caroline	288,882	3	Caroline	9,320
4	Dorchester	76.9%	21	Somerset	295,023	4	Allegany	9,209
5	Wicomico	75.4%	20	Allegany	297,930	5	Wicomico	9,209
6	Caroline	73.2%	19	Washington	340,173	6	Prince George's	8,393
7	Allegany	72.2%	18	Dorchester	363,635	7	Dorchester	8,324
8	Kent	66.2%	17	Cecil	379,072	8	Washington	7,524
9	Baltimore	64.0%	16	Prince George's	382,263	9	Cecil	6,675
	State Avg.	**62.2%**	15	Charles	386,351		**State Avg.**	**6,392**
10	Washington	60.3%	14	Frederick	413,288	10	Charles	6,337
11	Worcester	59.3%	13	St. Mary's	433,004	11	Frederick	5,877
12	Montgomery	58.6%	12	Harford	451,161	12	St. Mary's	5,758
13	Garrett	57.7%	11	Carroll	452,370	13	Baltimore	5,689
14	Cecil	56.5%	10	Calvert	463,438	14	Harford	5,476
15	Talbot	55.9%		**State Avg.**	**497,953**	15	Garrett	5,450
16	Anne Arundel	46.2%	9	Baltimore	507,019	16	Calvert	5,176
17	Harford	44.4%	8	Howard	561,258	17	Carroll	5,156
18	Charles	43.9%	7	Queen Anne's	575,026	18	Kent	4,825
19	St. Mary's	42.5%	6	Anne Arundel	612,060	19	Queen Anne's	4,538
20	Queen Anne's	40.8%	5	Garrett	628,829	20	Anne Arundel	4,335
21	Frederick	40.4%	4	Montgomery	718,645	21	Howard	4,309
22	Calvert	33.4%	3	Kent	825,857	22	Montgomery	4,234
23	Howard	32.1%	2	Talbot	1,087,437	23	Worcester	3,135
24	Carroll	31.2%	1	Worcester	1,114,372	24	Talbot	3,046

At-risk percentage equals the sum of students with disabilities, students eligible for free and reduced-price meals, and students with limited English proficiency divided by the number of full-time equivalent (FTE) students. Because of overlap among these three at-risk populations, the figure may be greater than 100%. Per pupil measures are based on FTE.

Source: Department of Legislative Services

For further information contact: Scott Gates

Phone: (410) 946/(301) 970-5510

Local Government

Local Government Revenue Outlook

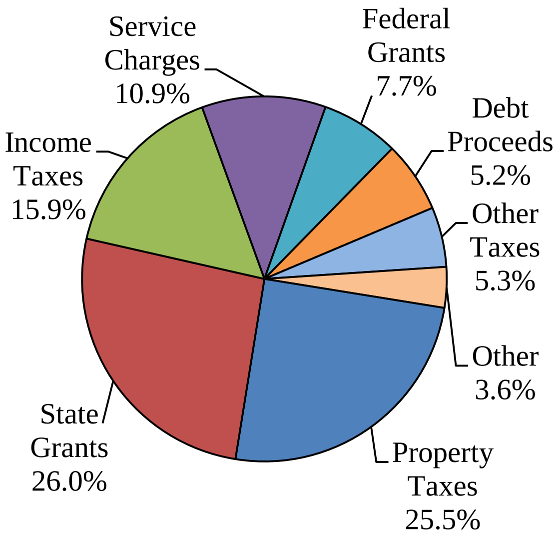
Local taxes account for approximately 47% of county revenues and represent the primary local revenue source for most counties. Overall, county governments are projecting a slight increase in local tax revenues in fiscal 2015. However, while local income, recordation, and transfer tax collections continue to rebound, many local governments continue to experience limited growth or declines in property tax collections.

General fund revenues for county governments are projected to total $13.9 billion in fiscal 2015. As shown in **Exhibit 1**, this represents a 2.3% average annual increase over the amount of general fund revenues collected in fiscal 2013. The projected growth in general fund revenues is slightly above the estimated growth in local tax revenues, which includes both general and special fund revenues. The average annual increase in local tax revenues is projected at 1.6% in fiscal 2015. In total, local governments are projected to collect $13.4 billion in local tax revenues, a $420.3 million increase since fiscal 2013. **Exhibit 2** shows the limited growth in local tax revenues in fiscal 2013 through 2015.

The local government revenue outlook is influenced by two primary factors: a rebound in local income tax collections due to improvements in the overall State economy; and limited growth in property tax collections. Local governments are projected to collect $4.8 billion in local income tax revenues in fiscal 2015, a $238.0 million increase since fiscal 2013. This represents an average annual increase of 2.6% over the two-year period. Property tax collections, however, are only expected to increase by $173.1 million over the two-year period, representing an average annual increase of 1.2%. Local property tax collections will total $7.3 billion in fiscal 2015. The marginal growth in local property tax collections is a direct result of the downturn in the State's housing market. As shown in **Exhibit 3**, property assessments declined sharply in recent years and only began to slightly increase in fiscal 2014.

Two other local revenue sources significantly affected by the downturn in the housing market include recordation and transfer taxes. At the height of the real estate market, local governments collected over $1.2 billion in recordation and transfer taxes, as shown in **Exhibit 4**. By fiscal 2011, collections totaled only $511.8 million. In fiscal 2015, local governments are projecting $724.6 million in recordation and transfer tax collections. This represents a $212.8 million increase over the amount collected in fiscal 2011 and illustrates that recordation and transfer tax collections continue to rebound. A more detailed depiction of the growth in local tax revenues in fiscal 2015 is provided in **Exhibit 5**.

Exhibit 1
Sources of Revenue
Counties and Baltimore City



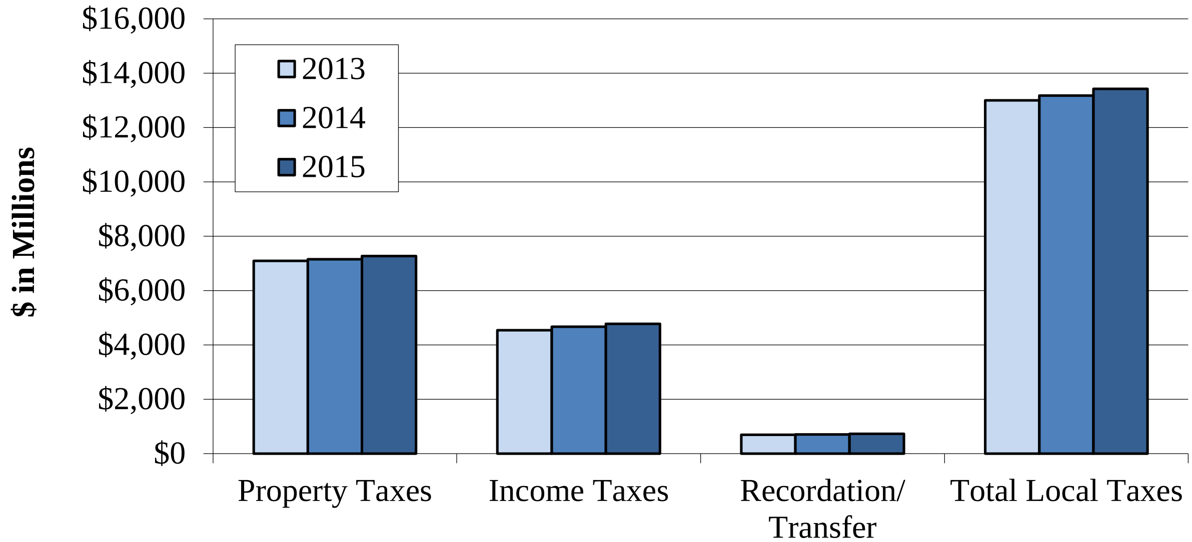
Average Annual Change
Fiscal 2013-2015

Property Taxes	1.2%
Income Taxes	2.6%
Recordation Taxes	0.9%
Transfer Taxes	3.5%
Hotel/Motel Taxes	-0.1%
Admissions Taxes	1.9%
Total Local Taxes	1.6%
General Fund Revenues	2.3%

Fiscal 2013 = $28.6 billion

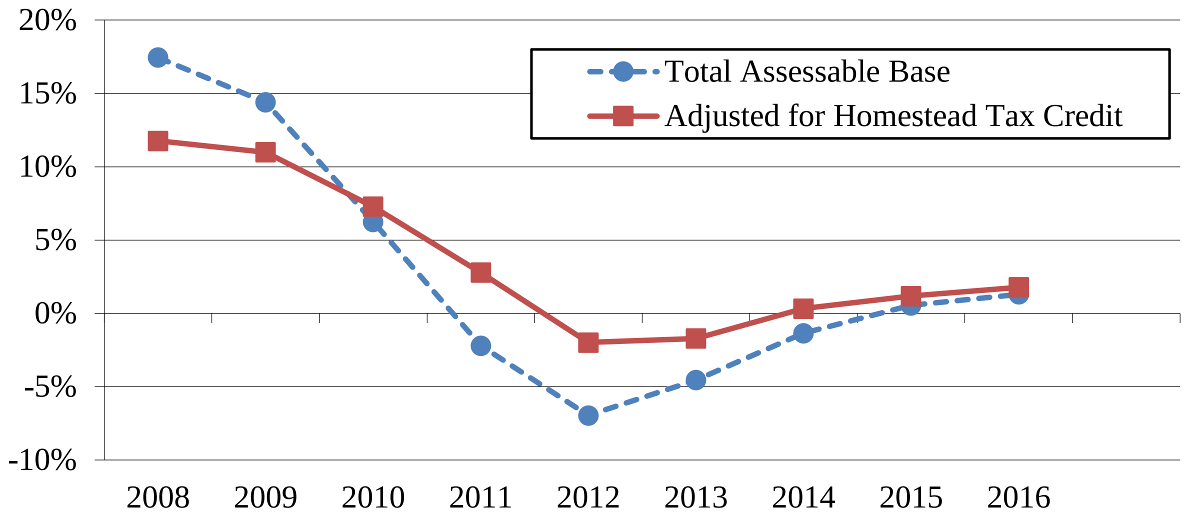
Source: Department of Legislative Services; county budgets

Exhibit 2
Local Tax Revenue Inching Upward
Fiscal 2013-2015



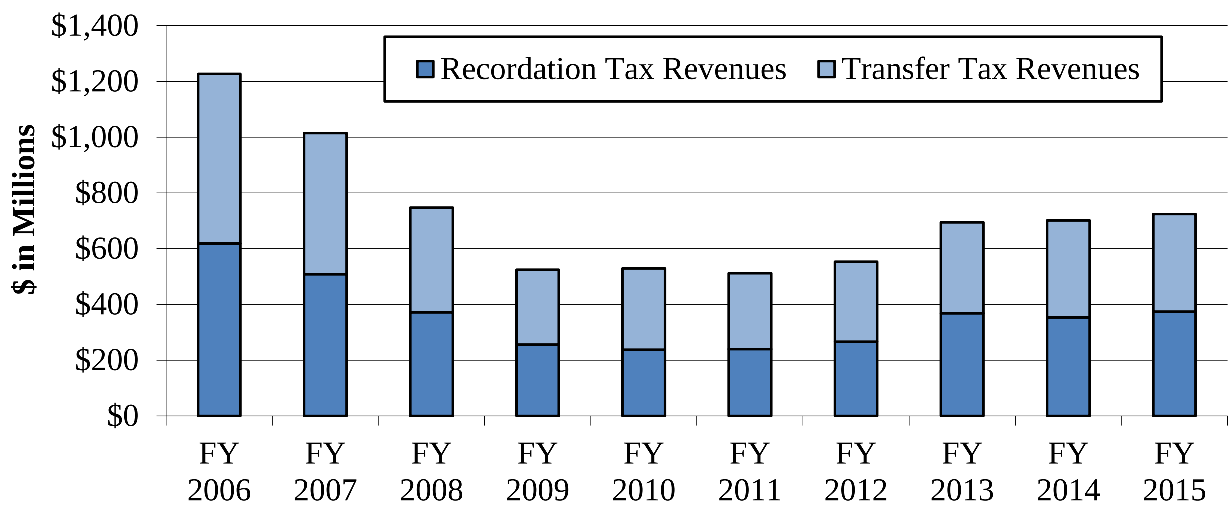
Source: Department of Legislative Services; county budgets

Exhibit 3
Homestead Tax Credit Softened Impact on County Assessable Base



Source: Department of Legislative Services; county budgets

Exhibit 4
Real Estate Meltdown Impacts Recordation and Transfer Taxes



Source: Department of Legislative Services; county budgets

Exhibit 5

Total Local Taxes for Fiscal 2013-2015

County	FY 2013	FY 2014	FY 2015	FY 2013-2014 $ Difference	FY 2014-2015 $ Difference	Average Annual Difference
Allegany	$68,148,748	$71,728,394	$68,226,694	$3,579,646	-$3,501,700	0.1%
Anne Arundel	1,151,671,717	1,177,007,200	1,217,643,500	25,335,483	40,636,300	2.8%
Baltimore City	1,222,782,640	1,226,206,200	1,255,450,690	3,423,560	29,244,490	1.3%
Baltimore	1,605,959,459	1,636,792,020	1,676,261,865	30,832,561	39,469,845	2.2%
Calvert	213,495,802	212,599,800	222,935,909	-896,002	10,336,109	2.2%
Caroline	37,158,825	37,749,046	37,661,610	590,221	-87,436	0.7%
Carroll	338,923,810	340,928,066	342,658,709	2,004,256	1,730,643	0.5%
Cecil	160,871,028	159,612,217	162,011,702	-1,258,811	2,399,485	0.4%
Charles	312,418,049	323,972,845	340,562,100	11,554,796	16,589,255	4.4%
Dorchester	44,246,331	44,746,590	43,358,973	500,259	-1,387,617	-1.0%
Frederick	464,648,850	463,392,130	477,182,577	-1,256,720	13,790,447	1.3%
Garrett	67,844,098	65,117,651	61,908,041	-2,726,447	-3,209,610	-4.5%
Harford	493,293,811	497,781,248	506,215,036	4,487,437	8,433,788	1.3%
Howard	953,855,905	987,169,466	1,020,980,233	33,313,561	33,810,767	3.5%
Kent	42,898,268	45,972,070	43,136,155	3,073,802	-2,835,915	0.3%
Montgomery	3,285,294,085	3,367,432,134	3,377,242,451	82,138,049	9,810,317	1.4%
Prince George's	1,685,604,249	1,659,485,800	1,702,586,400	-26,118,449	43,100,600	0.5%
Queen Anne's	111,551,392	112,769,992	112,442,704	1,218,600	-327,288	0.4%
St. Mary's	190,914,398	194,649,537	202,659,238	3,735,139	8,009,701	3.0%
Somerset	21,461,785	21,492,225	20,391,549	30,440	-1,100,676	-2.5%
Talbot	65,609,653	70,291,602	69,945,500	4,681,949	-346,102	3.3%
Washington	197,577,576	199,290,495	199,848,190	1,712,919	557,695	0.6%
Wicomico	106,647,907	109,428,136	107,030,612	2,780,229	-2,397,524	0.2%
Worcester	159,294,997	155,309,740	154,108,135	-3,985,257	-1,201,605	-1.6%
Total	**$13,002,173,383**	**$13,180,924,604**	**$13,422,448,573**	**$178,751,221**	**$241,523,969**	**1.6%**

Source: Department of Legislative Services; county budgets

For further information contact: Hiram Burch Phone: (410) 946/(301) 970-5510

Local Government

Local Government Tax Actions

Three county governments had to raise the local property tax rate in order to balance their budgets. However, four county governments were able to reduce local property taxes slightly and one reduced its local income tax rate.

Local Government Tax Rates

More local jurisdictions chose to decrease local tax rates in fiscal 2015 than chose to increase them, likely reflecting improved economic conditions and higher revenue attainment at the local level. As shown in **Exhibit 1**, seven counties changed their local property tax rates, with three counties increasing their rates and four counties decreasing them. One county, Carroll, slightly lowered its local income tax rate. No county altered its recordation, transfer, admission and amusement, and hotel rental tax rates, so the rates remain the same as in fiscal 2014. A comparison of local tax rates for fiscal 2014 and 2015 is provided in **Exhibit 2**.

Exhibit 1
Counties Changing Local Tax Rates
Fiscal 2013-2015

	Fiscal 2013		Fiscal 2014		Fiscal 2015	
	▲	▼	▲	▼	▲	▼
Real Property	9	2	7	2	3	4
Local Income	3	0	2	1	0	1
Recordation	1	0	0	0	0	0
Transfer	0	0	0	0	0	0
Admissions/Amusement	0	1	0	0	0	0
Hotel Rental	1	0	0	0	0	0

Note: ▲ represents a tax rate increase. ▼ represents a tax rate decrease.
Source: 2014 Local Government Budget and Tax Rate Survey; Department of Legislative Services/Maryland Association of Counties

Exhibit 2
Local Tax Rates – Fiscal 2014 and 2015

	Real Property		Local Income		Recordation		Transfer		Admissions/Amusement		Hotel Rental	
County	**FY 2014**	**FY 2015**	**CY 2014**	**CY 2015**	**FY 2014**	**FY 2015**	**FY 2014**	**FY 2015**	**FY 2014**	**FY 2015**	**FY 2014**	**FY 2015**
Allegany	$0.980	$0.979	3.05%	3.05%	$3.50	$3.50	0.5%	0.5%	7.5%	7.5%	8.0%	8.0%
Anne Arundel	0.950	0.943	2.56%	2.56%	3.50	3.50	1.0%	1.0%	10.0%	10.0%	7.0%	7.0%
Baltimore City	2.248	2.248	3.20%	3.20%	5.00	5.00	1.5%	1.5%	10.0%	10.0%	9.5%	9.5%
Baltimore	1.100	1.100	2.83%	2.83%	2.50	2.50	1.5%	1.5%	10.0%	10.0%	8.0%	8.0%
Calvert	0.892	0.892	2.80%	2.80%	5.00	5.00	0.0%	0.0%	1.0%	1.0%	5.0%	5.0%
Caroline	0.940	0.960	2.73%	2.73%	5.00	5.00	0.5%	0.5%	0.0%	0.0%	5.0%	5.0%
Carroll	1.018	1.018	3.04%	3.03%	5.00	5.00	0.0%	0.0%	10.0%	10.0%	5.0%	5.0%
Cecil	0.991	0.991	2.80%	2.80%	4.10	4.10	$10/deed	$10/deed	6.0%	6.0%	3.0%	3.0%
Charles	1.205	1.205	3.03%	3.03%	5.00	5.00	0.0%	0.0%	10.0%	10.0%	5.0%	5.0%
Dorchester	0.976	0.976	2.62%	2.62%	5.00	5.00	0.75%	0.75%	0.5%	0.5%	5.0%	5.0%
Frederick	1.064	1.060	2.96%	2.96%	6.00	6.00	0.0%	0.0%	0.0%	0.0%	3.0%	3.0%
Garrett	0.990	0.990	2.65%	2.65%	3.50	3.50	1.0%	1.0%	4.5%	4.5%	6.0%	6.0%
Harford	1.042	1.042	3.06%	3.06%	3.30	3.30	1.0%	1.0%	5.0%	5.0%	0.0%	0.0%

County	Real Property FY 2014	Real Property FY 2015	Local Income CY 2014	Local Income CY 2015	Recordation FY 2014	Recordation FY 2015	Transfer FY 2014	Transfer FY 2015	Admissions/Amusement FY 2014	Admissions/Amusement FY 2015	Hotel Rental FY 2014	Hotel Rental FY 2015
Howard	1.190	1.190	3.20%	3.20%	2.50	2.50	1.0%	1.0%	7.5%	7.5%	7.0%	7.0%
Kent	1.022	1.022	2.85%	2.85%	3.30	3.30	0.5%	0.5%	4.5%	4.5%	5.0%	5.0%
Montgomery	1.021	1.008	3.20%	3.20%	3.45	3.45	1.0%	1.0%	7.0%	7.0%	7.0%	7.0%
Prince George's	1.319	1.319	3.20%	3.20%	2.75	2.75	1.4%	1.4%	10.0%	10.0%	5.0%	5.0%
Queen Anne's	0.847	0.847	3.20%	3.20%	4.95	4.95	0.5%	0.5%	5.0%	5.0%	5.0%	5.0%
St. Mary's	0.857	0.857	3.00%	3.00%	4.00	4.00	1.0%	1.0%	2.0%	2.0%	5.0%	5.0%
Somerset	0.915	0.915	3.15%	3.15%	3.30	3.30	0.0%	0.0%	4.0%	4.0%	5.0%	5.0%
Talbot	0.512	0.527	2.40%	2.40%	6.00	6.00	1.0%	1.0%	5.0%	5.0%	4.0%	4.0%
Washington	0.948	0.948	2.80%	2.80%	3.80	3.80	0.5%	0.5%	5.0%	5.0%	6.0%	6.0%
Wicomico	0.909	0.952	3.20%	3.20%	3.50	3.50	0.0%	0.0%	6.0%	6.0%	6.0%	6.0%
Worcester	0.770	0.770	1.25%	1.25%	3.30	3.30	0.5%	0.5%	3.0%	3.0%	4.5%	4.5%

Notes: The real property tax rates shown for Charles, Howard, Montgomery, and Prince George's counties include special tax rates. Real property tax is per $100 of assessed value. Income is a percentage of taxable income. Recordation tax is per $500 of transaction.

Source: 2014 Local Government Budget and Tax Rate Survey; Department of Legislative Services/Maryland Association of Counties

Property Tax

For fiscal 2015, three counties – Caroline, Talbot, and Wicomico – increased their real property tax rates. Allegany, Anne Arundel, Frederick, and Montgomery counties decreased real property tax rates slightly. Real property tax rates range from $0.527 per $100 of assessed value in Talbot County to $2.248 in Baltimore City.

Local Income Tax

Carroll County was the only jurisdiction to alter its local income tax rate for calendar 2015, slightly lowering the rate from 3.04% to 3.03%. Local income tax rates range from 1.25% in Worcester County to 3.2% in Baltimore City and Howard, Montgomery, Prince George's, Queen Anne's, and Wicomico counties.

Recordation Tax

No county changed its recordation tax rate for fiscal 2015. Recordation tax rates range from $2.50 per $500 of transaction in Baltimore and Howard counties to $6.00 per $500 of transaction in Frederick and Talbot counties.

Transfer Tax

No county changed its transfer tax rate for fiscal 2015. Local transfer tax rates range from 0.5% in six counties (Allegany, Caroline, Kent, Queen Anne's, Washington, and Worcester) to 1.5% in Baltimore City and Baltimore County. Seven counties (Calvert, Carroll, Cecil, Charles, Frederick, Somerset, and Wicomico) do not impose a tax on property transfers.

Admissions and Amusement Tax

Admissions and amusement tax rates remain the same in fiscal 2015. Caroline and Frederick counties are the only jurisdictions that do not impose an admissions and amusement tax. Currently, admissions and amusement tax rates range from 0.5% in Dorchester County to 10.0% in six jurisdictions – Baltimore City and Anne Arundel, Baltimore, Carroll, Charles, and Prince George's counties.

Hotel Rental Tax

No county altered its hotel rental tax rate for fiscal 2015. Hotel rental tax rates range from 3.0% in Cecil and Frederick counties to 9.5% in Baltimore City. Harford County is the only jurisdiction that does not impose a hotel rental tax.

Tax Limitation Measures

Five charter counties (Anne Arundel, Montgomery, Prince George's, Talbot, and Wicomico) have amended their charters to limit property tax rates or revenues. In Anne Arundel County, the total annual increase in property tax revenues is limited to the lesser of 4.5% or the increase in the Consumer Price Index. In Montgomery County, the growth in property tax revenues is limited to the increase in the Consumer Price Index; however, this limitation does not apply to new construction. In addition, the limitation may be overridden by a unanimous vote of all nine county council members. In Prince George's County, the general property tax rate is capped at $0.96 per $100 of assessed value. Special taxing districts, such as the Maryland-National Capital Park and Planning Commission, are not included under the tax cap. In Talbot and Wicomico counties, the total annual increase in property tax revenues is limited to the lesser of 2% or the increase in the Consumer Price Index.

The counties may exceed the charter limitations on local property taxes for the purpose of funding the approved budget of the local board of education. If a local property tax rate is set above the charter limit, the county governing body may not reduce funding provided to the local board of education from any other local source and must appropriate to the local board of education all of the revenues generated from any increase beyond the existing charter limit. Any use of this authority must be reported annually to the Governor and the General Assembly. This authority was adopted at the 2012 session in order to ensure that counties have the fiscal ability to meet new maintenance of effort requirements. In fiscal 2013, Talbot County became the first jurisdiction to exercise this new authority by establishing a 2.6 cent supplemental property tax rate for the local board of education. No jurisdiction exercised this authority in fiscal 2014 or 2015.

Local Government

Local Government Salary Actions

The majority of county governments and boards of education provided salary enhancements to their employees in fiscal 2015, with 15 counties and 11 boards providing cost-of-living adjustments and 14 counties and 18 boards providing merit/step increases.

County Salary Actions

With salary actions still pending in one jurisdiction, at least 19 counties are providing their employees a cost-of-living adjustment (COLA), general salary increase (GSI), step increase, or combination of enhancements in fiscal 2015, while 21 counties did so in fiscal 2014. More specifically, 15 counties have indicated that they are providing their employees with a COLA or GSI in fiscal 2015, compared to 18 counties in fiscal 2014. Fourteen counties are providing step or merit increases in fiscal 2015, compared to 13 in fiscal 2014.

Similarly, the number of boards of education providing salary enhancements remained relatively constant in fiscal 2015. With one pending salary action, at least 19 boards of education are providing a COLA, GSI, step increase, or combination of enhancements for their employees in fiscal 2015, while 21 boards did so in fiscal 2014. Eleven boards of education have indicated that they are providing COLAs or general salary increases for teachers in fiscal 2015, compared to 7 boards in fiscal 2014. However, 18 boards of education provided step or merit increases for teachers in fiscal 2015, while 21 boards did so in fiscal 2014. **Exhibit 1** compares local salary actions in fiscal 2014 and 2015, while **Exhibit 2** shows specific local salary actions for fiscal 2015.

No county governments designated service reduction days or implemented employee furloughs in fiscal 2014 or 2015. However, one board of education reduced the work year for 10 month clerical employees by one day in fiscal 2014 and two days in fiscal 2015. Although most county governments and boards of education indicated that no layoffs are planned for fiscal 2015, two boards eliminated 15 positions through employee layoffs. In addition, several jurisdictions revised layoff plans during fiscal 2014, resulting in county governments eliminating 19 positions and boards of education eliminating only 7 positions. Some boards of education also eliminated positions through attrition. **Exhibit 3** describes the local government furlough, salary reduction, and layoff plans for fiscal 2015 and changes made during fiscal 2014.

State Salary Actions

For comparison purposes, the State provided its employees with a 2% COLA in fiscal 2015, effective January 1, 2015, and a step increase, effective July 1, 2014, or January 1, 2015, depending on the date the employee was hired.

Exhibit 1
Local Government Salary Actions
Fiscal 2014 and 2015

	County Government		Public Schools	
Salary Action	**FY 2014**	**FY 2015**	**FY 2014**	**FY 2015**
COLA/GSI				
No COLA/GSI	6	8	17	12
COLA/GSI	18	15	7	11
Still Pending	0	1	0	1
Stipend/Bonus[1]	0	2	1	3
Step/Merit Increases	13	14	21	18
Furlough/Salary Reductions	0	0	1	1
Layoffs	3	0	3	2

	State Government		CPI-Urban Consumers	
	FY 2014	**FY 2015**	**FY 2014**[2]	**FY 2015**[2]
COLA Amount[3]	3.0%	2.0%	1.60%	1.60%
Furloughs	No	No		
Step/Merit Increases[4]	Yes	Yes		

COLA: Cost-of-living adjustment
CPI: Consumer Price Index
GSI: General Salary Increase

[1] In fiscal 2014, Carroll County Public Schools provided a bonus to all employee groups. For fiscal 2015, Garrett County will provide a performance incentive in addition to a GSI; Frederick County Public Schools will provide a payment to offset insurance premium increases in addition to a COLA; Baltimore County and Baltimore County Public Schools will provide a bonus in addition to a step increase; and Carroll County Public Schools will provide a bonus.

[2] Forecast of the CPI for 2014 (actual) and 2015 (estimate) comes from IHS, Inc.

[3] Fiscal 2014 COLA was implemented January 1, 2014; fiscal 2015 COLA effective January 1, 2015.

[4] Fiscal 2014 increment effective April 1, 2014; fiscal 2015 increment effective July 1, 2014, or January 1, 2015, depending on date hired.

Source: 2014 Local Government Salary Action Survey; Department of Legislative Services

Exhibit 2
Local Government Salary Actions in Fiscal 2015

County	County Government Generally		Board of Education Teachers	
	COLA/GSI	Step/Merit	COLA/GSI	Step/Merit
Allegany[1]	3.0%	No	0.0%	Yes
Anne Arundel[2]	3.0%	Yes	2.0%	Yes
Baltimore City[3]	pending	pending	1.0%	Yes
Baltimore[4]	0.0%	Yes	0.0%	Yes
Calvert[5]	0.5%	Yes	pending	pending
Caroline[6]	$1,750	No	0.0%	Yes
Carroll[7]	1.5%	Yes	0.0%	No
Cecil[8]	1.75%	Yes	1.2%	Yes
Charles	0.0%	No	0.0%	No
Dorchester[9]	1.0%	No	0.0%	Yes
Frederick[10]	2.0%	Yes	1.1%	No
Garrett[11]	1.5%	No	1.0%	Yes
Harford	0.0%	No	0.0%	No
Howard[12]	3.0%	Yes	3.0%	Yes
Kent[13]	$1,500	No	2.0%	Yes
Montgomery[14]	3.25%	Yes	1.5%	Yes
Prince George’s[15]	varies	varies	2.0%	Yes
Queen Anne’s[16]	2.5%	Yes	0.0%	Yes
St. Mary’s[17]	0.0%	Yes	0.0%	No
Somerset[18]	0.0%	No	1.0%	Yes
Talbot[19]	0.0%	Yes	0.0%	Yes
Washington[20]	0.0%	Yes	0.0%	Yes
Wicomico[21]	0.0%	No	0.0%	Yes
Worcester[22]	0.5%	Yes	0.5%	Yes
Number Granting	**15**	**14**	**11**	**18**

COLA: cost-of-living adjustment
GSI: general salary increase

Comments

[1] While Allegany County employees in general receive a 3% cost-of-living adjustment (COLA), transit employees receive an increase of $0.36 per hour.

[2] Anne Arundel County Public Schools teachers transition to a new salary scale and receive a 1-step increase; school administrators receive a 2% compensation increase equal to a 2-step advancement; American Federations of State, County and Municipal Employees (AFSCME), Secretaries and Assistants of Anne Arundel County (secretaries and assistants), and nonunion employees receive a 2% COLA.

[3] While Baltimore City is still negotiating with several employee groups, eligible firefighters and officers receive a step increase, but no COLA; Managerial and Professional Society of Baltimore (managerial/professional) employees receive a 2% COLA, but no step increase. While Baltimore City Public Schools is still negotiating with PSRP (paraprofessionals and school-related personnel) and unaffiliated employees do not receive a COLA or step increase, most employee groups receive an interval movement and teachers receive a 1% COLA, administrators receive a 2% COLA, City Union of Baltimore (CUB) members receive a 1.6% COLA, and Fraternal Order of Police and AFSCME Local Number 44 members receive a 1.7% COLA.

[4] Baltimore County employees on the payroll as of October 1, 2014, will receive a 3% bonus in November 2014. Baltimore County Public Schools employees receive a step increase and a bonus equal to 3% of base.

[5] Calvert County employees will receive a merit increase effective January 2015. Calvert County Public Schools employee groups are still negotiating.

[6] Caroline County employees receive a base salary increase of $1,750. All eligible Caroline County Public Schools employees receive a step increase; teachers and support services on longevity steps also receive a 1.5% increase.

[7] While Carroll County employees in general receive a 1.5% COLA, sheriff's office employees are under a new salary plan and do not receive a COLA. Carroll County Public Schools employees receive a 3% bonus.

[8] All eligible Cecil County employees receive a 1.75% COLA and employees with more than one year of service receive a step increase.

[9] Dorchester County Public Schools teachers, administrators, and support personnel receive a 2-step increase; employees at top of scale receive a 1% GSI in lieu of the step increase; and employees with 30 years of service receive longevity increases.

[10] Frederick County Public Schools employees also receive a $105 increase to offset insurance premium increases.

[11] All eligible full-time Garrett County employees also receive a $500 performance incentive payment. While Garrett County Public Schools teachers and administrators receive a 1% COLA and a step increase, support personnel receive a 2% COLA, but no step increase.

[12] While Howard County employees in general receive a 3% GSI, fire and rescue employees receive 2%, and police unions are still negotiating. Howard County Public Schools employees receive a half step increase on July 1, 2014, and a half step increase on June 30, 2015.

[13] Kent County Public Schools employees will receive a 2% COLA January 1, 2015, and a step increase April 1, 2015.

[14] Montgomery County employees in general receive a 3.25% GSI and, except for management leadership service, a 3.5% service increment; fire and rescue receive a 2.75% GSI, police receive 2.1% GSI, eligible fire and police also receive catch up increments; and management leadership service receive a performance-based merit increase. While Montgomery County Public Schools employees in general receive a 1.5% GSI and a step increase, employees who did not receive a merit step or longevity increase receive a 2% increase.

[15] Prince George's County employees in general receive a 2% COLA, but no merit increase; correctional officers receive a 5% COLA and 3.5% merit increase; police receive merit increases that vary by rank, but no COLA; deputy sheriffs, fire and rescue, and civilian police and fire and rescue employees receive a 3.5% merit increase, but no COLA; and civilian correctional and sheriff employees receive a 2.5% COLA and 3.5% merit increase.

[16] Queen Anne's County Public Schools employees receive a 1-step or 2-step increase based on date hired.

[17] St. Mary's County employees at top of grade receive a $1,000 stipend in lieu of the 1-step merit increase.

[18] Somerset County Public Schools teachers with national certification receive a $2,000 bonus; some administrators receive bonuses in varying amounts based on enrollment, years of service, and degree level.

[19] Talbot County Public Schools employees on the top step receive a 1.5% GSI in lieu of the 1-step increase.

[20] In lieu of the step increase, Washington County Public Schools teachers on the top step receive a 1% recurring increase; and support personnel on the top step and administrators at top of scale receive a 1% nonrecurring increase.

[21] While Wicomico County Public Schools teachers and classified employees in general will not receive a COLA, they receive 2 step increases, one on July 1, 2014, and another on April 30, 2015, and employees not receiving a step increase receive a $250 stipend; administrators receive a 1.5% COLA and 1 step increase.

[22] Full-time Worcester County employees with 20 years or more of service also receive a longevity bonus.

Exhibit 3

Local Government Furloughs, Salary Reductions, and Layoffs: Plans for Fiscal 2015 and Changes Made During Fiscal 2014

County	Furlough/Reduction	Layoffs	
Allegany	No	No	School system indicated that 107.5 positions have been eliminated through attrition since the beginning of fiscal 2013, including 18.5 positions in fiscal 2015.
Anne Arundel	No	No	
Baltimore City	No	No	City laid off 11 employees during fiscal 2014. School system did not lay off employees.
Baltimore	No	No	
Calvert	No	No	School system laid off two employees during fiscal 2014.
Caroline	No	No	
Carroll	Yes	No	School system indicated that the work year for 10-month clerical employees was reduced by one day in fiscal 2014 and two days in fiscal 2015; and parent educator positions were reduced, with employees reassigned.
Cecil	No	No	
Charles	No	No	
Dorchester	No	No	County laid off one employee during fiscal 2014.
Frederick	No	Yes	County laid off 7 employees during fiscal 2014. School system laid off 3 employees in fiscal 2014 and 13 employees in fiscal 2015.
Garrett	No	No	
Harford	No	No	School system indicated that teachers who were laid off at the beginning of fiscal 2014 were rehired in fiscal 2014.
Howard	No	No	
Kent	No	Yes	School system did not renew two teachers for fiscal 2015; but did not lay off any employees in fiscal 2014.

County	Furlough/Reduction	Layoffs	
Montgomery	No	No	
Prince George's	No	No	
Queen Anne's	No	No	
St. Mary's	No	No	School system laid off two employees during fiscal 2014.
Somerset	No	No	
Talbot	No	No	
Washington	No	No	
Wicomico	No	No	
Worcester	No	No	School system indicated that any reductions will be done through retirements or attrition.
Total Jurisdictions Implementing Plans	**1**	**2**	

For further information contact: Kathryn Selle Phone: (410) 946/(301) 970-5350

Local Government

Recent Developments in Home Rule Authority of County Governments

In recent years, two additional counties – Cecil County (effective in 2012) and Frederick County (effective in 2014) – established charter home rule authority. However, at the general election of 2014 the voters of Charles County voted to retain the code home rule form of government rather than transition to the charter home rule form of government for the county. Despite the defeat of the charter home rule question in Charles County, the recent trend suggests renewed interest by citizens regarding their form of local government and whether to have their county elected officials exercise greater control over local matters. The trend also signals a continuing evolution in the history of county government and the authority of the General Assembly over the counties.

Background

Historically, both county and municipal governments were strictly seen as "creatures of the State" and had no inherent powers of their own. Because of the lack of governing power at the local level, the General Assembly spent considerable time dealing with local issues. Despite the tradition of "local courtesy," by which the General Assembly gave considerable weight to the sentiment of the representatives of the local jurisdiction that was the subject of a particular bill, significant time was devoted to local matters by the State legislature.

The impact of local legislation on the General Assembly's time and resources, as well as the developing trend in other states to grant home rule powers to their municipal and county governments, prompted Maryland to become the second state to adopt a constitutional provision permitting counties and Baltimore City to adopt and frame their own charters. The State's first grant of home rule authority to local governments, Article XI-A of the Maryland Constitution, the so-called charter home rule amendment, was passed by the General Assembly in 1914 and ratified by the voters in 1915. Despite having this new vehicle to exercise home rule powers, only two jurisdictions took advantage of this opportunity during the next several decades: Baltimore City in 1918 and Montgomery County in 1948.

Since Article XI-A had limited implementation for the first half of the twentieth century, the General Assembly continued to handle voluminous amounts of local legislation. Only three more counties adopted home rule under Article XI-A during mid-century: Baltimore County in 1956 and Anne Arundel and Wicomico counties in 1964. It was suggested that this slow moving trend indicated a need for an alternative form of home rule government for the counties, a form that could meet the need of counties that might adopt home rule but for the arduous process and political challenges associated with the adoption of a charter and the restructuring of government. With this goal in mind, the General Assembly proposed another constitutional amendment, Article XI-F, in 1965 to authorize an alternative form of county government referred to as "code" home rule. This proposal was ratified by the voters in 1966. To help further distinguish the various emerging forms of county government, the counties that did not adopt a form of home rule became known as "commission" counties, essentially referring to the board of county commissioners that was established as the local governing body when each county was created by the General Assembly.

The 1970s witnessed significant growth in the adoption of home rule authority: during this decade, three counties adopted charter home rule and three counties adopted code home rule. For the next couple of decades however, there was just one new code county in each decade of the 1980s and 1990s and no new charter counties. The first decade of the twenty-first century also witnessed very slow growth in the adoption of home rule, with only one new charter county and one new code county.

Today, as **Exhibit 1** shows, 11 counties and Baltimore City exercise charter home rule under Article XI-A of the Maryland Constitution, and 6 counties operate under code home rule under Article XI-F of the Maryland Constitution. The other six counties remain commission counties.

Exhibit 1
Forms of County Governments in Maryland

Charter Home Rule		Code Home Rule		Commission
Anne Arundel	1964	Allegany	1974	Calvert
Baltimore City	1918	Caroline	1984	Carroll
Baltimore	1956	Charles	2002	Garrett
Cecil	2012	Kent	1970	St. Mary's
Dorchester	2002	Queen Anne's	1990	Somerset
Frederick	2014	Worcester	1976	Washington
Harford	1972			
Howard	1968			
Montgomery	1948			
Prince George's	1970			
Talbot	1973			
Wicomico	1964			

Source: Department of Legislative Services

Recent Events

In contrast to previous decades, the consideration of home rule by the counties has recently increased. For the past several years, a ballot question regarding the adoption of home rule by a county has appeared in each election: in 2010, Cecil County adopted charter home rule, effective in 2012; in 2012, Frederick County also adopted charter home rule, effective in 2014; and in 2014, Charles County considered whether to adopt charter home rule, but the voters opted to retain the code home rule form of government.

In addition to the recent steady uptick in the appearance of home rule ballot questions, the Charles County ballot question, had it passed, would have broken new ground in the landscape of county government because it would have been the first time a code county adopted charter home rule. Each of the other new home rule counties, either code or charter, had been a commission county immediately preceding the adoption of home rule. Never has there been a successful transition by a county from one form of home rule to another form of home rule. And the defeat of the question in Charles County does not support speculation that was first posed when Article XI-F of the Maryland Constitution was ratified that code home rule is but an intermediate step toward charter home rule.

Interestingly, if Charles County had become a charter county, it would have left empty the current Southern Maryland class of code counties. In 1997, the General Assembly exercised its prerogative under Article XI-F of the Maryland Constitution and divided the State into four regions or "classes," thereby enabling the legislature to pass bills concerning local matters applicable to a class of code counties regardless of the number of counties in the class. Having only one county in the Southern Maryland class has enabled the General Assembly to pass legislation on a local matter applicable to just Charles County, despite the county having code home rule. Had the charter home rule ballot question prevailed in Charles County, it would have marked yet another milestone in the history of county government and the authority of the General Assembly over the counties.

Local Government

Baltimore City Homestead Property Tax Credit Study

Baltimore City's property tax rate of $2.248 per $100 of assessed value is the highest in the State and more than twice as high as adjacent counties. There is widespread concern that high property taxes have contributed to the city's loss of population and are impacting the city's economy. To address this concern, legislation enacted in 2014 established a study to determine the net impact on homeowners of using increased revenue from a higher homestead property tax credit assessment cap to offset a reduction in the city's property tax rate.

The Homestead Property Tax Credit Program

The homestead property tax credit program limits the annual increase in taxable assessments for owner-occupied residential properties to 10% or less. The credit applies to State, county, and municipal property taxes and is equal to the amount of property tax attributable to any annual assessment increase above a specified "cap." The percentage cap on assessment increases is set at 10% for purposes of the State property tax. Each county and municipality annually sets its assessment cap between 0% and 10%. Twenty-one counties have assessment caps below 10% in fiscal 2013, 2014, and 2015.

The homestead property tax credit limits assessments only as long as a property owner continues to reside in a dwelling. When a property is sold to a new owner, the new owner will pay property taxes on the full assessed value of the property, even if the previous owner was paying taxes on a smaller portion of the assessment. In subsequent years, the new property owner will begin to benefit from the homestead credit if later assessment increases exceed the cap. The homestead credit does not apply if, in the previous tax year, the zoning classification of the property was changed at the request of the homeowner or the use of the property was changed substantially.

The homestead property tax credit is of particular importance to senior citizens on fixed incomes and other homeowners of limited means who could be seriously burdened or even forced to leave their homes by increasing property taxes. However, homeowners with expensive properties realize the largest benefits from the program because the amount of property tax relief increases with the assessed value of the property. Individuals who have owned their homes for long periods of time are more likely to benefit from the credit. And homeowners in neighborhoods that have experienced significant assessment increases due to high demand for housing also disproportionately benefit.

The extent to which the homestead property tax credit program may actually restrict the ability of a county to raise property tax revenues depends on the county's need for revenues from the property tax and other legal and practical limitations. For example, a county impacted by a charter-imposed property tax limitation measure would presumably reduce tax rates to offset the impact of rising assessments in the absence of the homestead credit.

Baltimore City Initiative to Reduce Property Tax Rates

To provide property tax relief to homeowners and attract new city residents, Baltimore City adopted the Targeted Homeowners Tax Credit (THTC) in 2012. The goal of the program is to reduce the effective tax rate for owner-occupied dwellings by 20 cents by the year 2020. Homeowners who have an approved application for the homestead property tax credit program on file with the State Department of Assessments and Taxation automatically receive the THTC. Consequently, only properties that the owner occupies for more than six months a year qualify for the credit. To receive the THTC in any given year, a property owner only has to be eligible to receive the homestead property tax credit; the owner does not have to be actually benefitting from the homestead credit that year.

The THTC is calculated by multiplying the credit rate by the assessed value of the improved portion of the property so as to reward homeowners who have invested in their properties. The credit rate is set annually by the Baltimore City Board of Estimates, and is based on the amount of funding available for the credit. The credit is currently funded with 90% of the city's revenue from the new downtown casino and reductions in city spending. The total cost of the tax credit program is estimated at $38 million by 2020. There are currently 116,159 homeowners receiving the credit, with the average credit totaling $174.

2014 Legislation

Chapter 624 of 2014 requires the Department of Legislative Services (DLS) to study the feasibility and effects of increasing Baltimore City's homestead property tax credit assessment cap and using the increased revenue to offset a reduction in the city's property tax rate. The study must estimate (1) the amount of reduction in Baltimore City's property tax rate that could be offset by various increases in the homestead property tax credit assessment cap; and (2) the net impact on homeowners of increasing Baltimore City's homestead property tax credit assessment cap while decreasing the property tax rate. In addition, the study must consider (1) the significance of the homestead property tax credit assessment cap as a revenue stabilization mechanism; and (2) alternative revenue stabilization mechanisms that could be utilized in lieu of the homestead property tax credit assessment cap. DLS must submit a report of its findings and recommendations to the Mayor and City Council of Baltimore City and the Baltimore City House Delegation and Baltimore City Senators by December 31, 2014.

For further information contact: Michael Sanelli Phone: (410)946/(301)970-5510

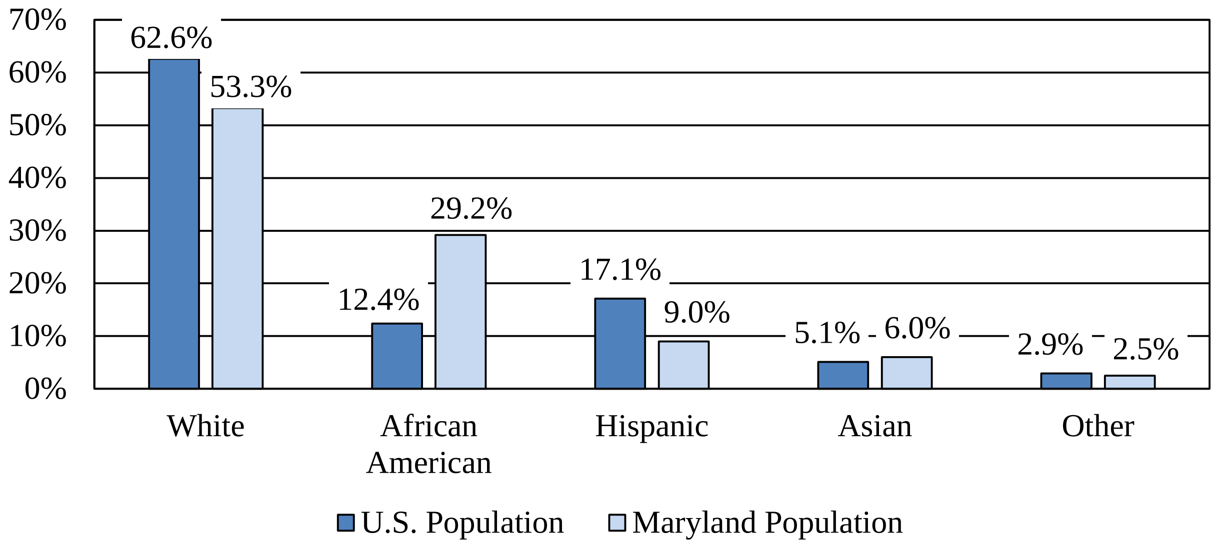
Maryland Demographic Profile

Over the last decade Maryland has become one of the most diverse and affluent states in the nation. Maryland ranks sixth in terms of the minority share of the State's population. The State had the highest median household income and second lowest poverty rate based on a three-year average for 2010 through 2012.

Introduction

Maryland is one of the most diverse and affluent states in the nation. Various socio-economic characteristics, including racial composition, poverty rates, and education attainment continue to influence policymakers at the federal, State, and local levels. While the national population totals over 316 million people, Maryland accounts for nearly 6 million of the total population. Even with a relatively small population, Maryland continues to be a leader in diversity, as illustrated in **Exhibit 1**. Maryland also continues to be ranked as one of the most affluent states, with high median household income and low poverty rates compared to the rest of the population in the United States.

Exhibit 1
U.S. and Maryland Population



Source: American Community Survey 2010-2012

Current Demographics

According to the U.S. Census Bureau, 5.9 million people currently live in Maryland. Minorities (including African Americans, Hispanics, and Asians) comprise 47% of the State's population. Maryland ranks sixth in terms of the minority share of the State population, while Hawaii ranks highest out of all other states. In Maryland, African Americans are the largest minority group, followed by Hispanics and Asians. African Americans comprise 29.2% of the State's population, while Hispanics account for 9.0%, followed by Asians at 6.0%. Four out of the 24 counties in the State have a majority minority population: Baltimore City and Charles, Prince George's, and Montgomery counties, as illustrated in **Exhibit 2**.

Maryland continues to be one of the most prosperous states in the nation with a high median household income and low poverty rate. Maryland had the highest median household income and the second lowest poverty rate based on a three-year average for 2010 through 2012. Maryland's median household income is $71,707 compared to $51,771 nationally. The poverty rate is 10.1% in Maryland compared to 15.7% nationally. However, the median household income and poverty rates are dissimilar when looked at through the lens of different racial, ethnic, and geographic areas in Maryland. Overall, Maryland still has better statistics for wealth and poverty for those groups than most other states in the nation.

Population Trends

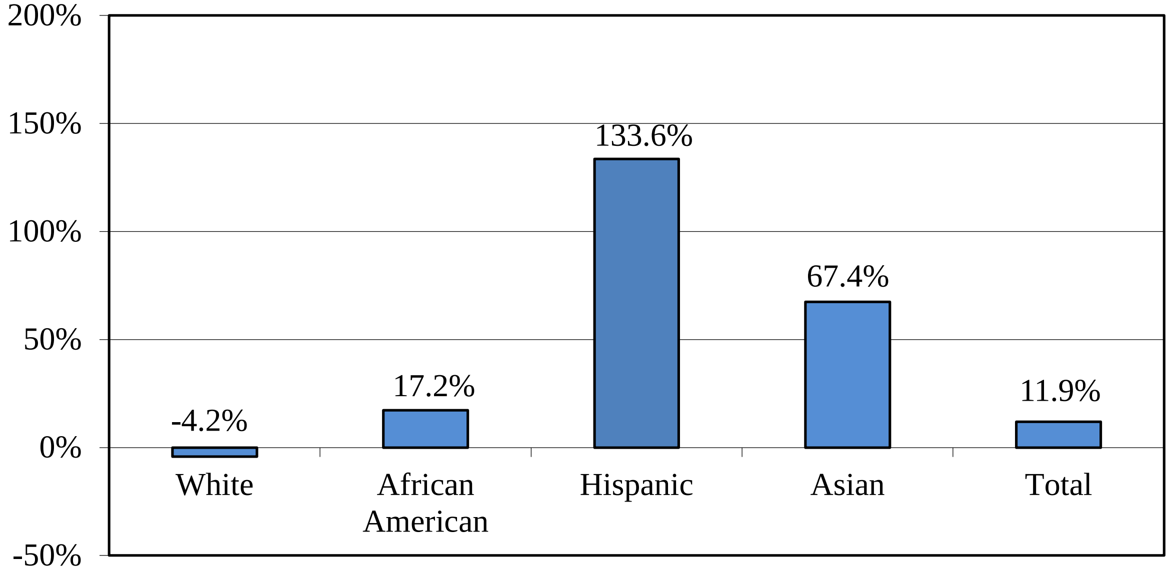
Over the last decade, all racial and ethnic groups in Maryland have grown, except for non-Hispanic whites, as illustrated in **Exhibit 3**. Since 2000, the Hispanic population has more than doubled in Maryland. All counties have seen growth in their Hispanic population, with Prince George's and Montgomery counties leading the way. The Asian population has also seen gains in every county in Maryland. Most of the growth has been situated in Montgomery, Howard, and Baltimore counties. The African American population has grown at a relatively slower rate since 2000. Baltimore City has seen a reduction in the number of its African American residents, while Baltimore County has led the change in growth of African American residents. Overall, since 2000, there has been a greater population change in minorities in the counties of Montgomery, Prince George's, and Baltimore than in the rest of Maryland's counties combined.

Exhibit 2
Minority Population in Maryland

County	Minority Population	Total Population	Percent Minority	Ranking
Allegany	9,026	73,521	12.3%	22
Anne Arundel	161,846	555,743	29.1%	10
Baltimore City	445,928	622,104	71.7%	2
Baltimore	325,109	823,015	39.5%	7
Calvert	18,754	90,484	20.7%	17
Caroline	7,426	32,693	22.7%	13
Carroll	16,001	167,564	9.5%	23
Cecil	13,796	101,913	13.5%	20
Charles	82,998	152,864	54.3%	3
Dorchester	11,377	32,660	34.8%	8
Frederick	56,845	241,409	23.5%	12
Garrett	924	29,889	3.1%	24
Harford	54,830	249,215	22.0%	14
Howard	132,287	304,580	43.4%	6
Kent	4,297	19,944	21.5%	15
Montgomery	538,641	1,016,677	53.0%	4
Prince George’s	761,372	890,081	85.5%	1
Queen Anne’s	6,342	48,517	13.1%	21
St. Mary’s	26,643	109,633	24.3%	11
Somerset	12,865	26,273	49.0%	5
Talbot	8,118	37,931	21.4%	16
Washington	27,552	149,588	18.4%	19
Wicomico	34,879	100,896	34.6%	9
Worcester	10,344	51,620	20.0%	18
Maryland	**2,768,200**	**5,928,814**	**46.7%**	

Source: U.S. Census Bureau; Maryland Department of Planning

Exhibit 3
Maryland Population Growth
by Racial/Ethnic Composition
2000-2013



Source: U.S. Census Bureau; Maryland Department of Planning

Report on Maryland's Demographic Profile

The Department of Legislative Services will issue a report in January 2015 that summarizes various components of demographic attributes and compares Maryland's rankings to other states, including:

- Maryland's current population profile by race and ethnicity;
- population trends in the last several years;
- snapshot of Maryland's Hispanic community;
- snapshot of Maryland's Asian community;
- economic conditions in Maryland by race and ethnicity;
- educational levels of Maryland's population broken down by race and ethnicity; and
- population projections for Maryland.

Local Government

2015 Legislative Agenda – Maryland Municipal League

The 2015 legislative agenda for the Maryland Municipal League concerns (1) the restoration of local highway user revenues and the creation of protective measures that will ensure that local transportation funding is not diverted to the State's general fund in future years; (2) revisions to local comprehensive plans; and (3) financial disclosure requirements for local elected officials.

Highway User Revenues

Most municipalities in Maryland rely upon State shared highway user revenues to maintain and improve public roads within their municipal corporate limits, and more than half of all municipalities rely on police aid to assist in providing law enforcement services. Aside from these two revenue sources, municipal governments in Maryland receive limited State support to finance public services. As a result, most municipal governments in Maryland rely on property taxes and service charges to finance public services. In recent years, Maryland's municipal governments have been subject to reduced State funding resulting from decreases in their share of highway user revenues and police aid to help balance the State's operating budget. While full funding for police aid was restored in the fiscal 2014 State budget, State support for local roadways has not been fully restored to prior funding levels.

Prior to the reduction in State support in fiscal 2010, municipalities received 2.5% of highway user revenues. Today, the municipal share of highway user revenues totals only 0.4%, resulting in a sharp decline in State funding. Municipalities received $46.8 million in highway user revenues in fiscal 2007, compared to approximately $7.0 million in fiscal 2014 and 2015. However, the fiscal 2014 State budget did include a grant of $15.4 million to assist municipalities with local transportation projects. The fiscal 2015 budget funded the municipal transportation grant for an additional year at $16 million. Even with the grants, the reduction in State funding continues to affect the ability of local governments to provide transportation services within their communities.

Due to the ongoing fiscal outlook, the Maryland Municipal League (MML) has adopted as one of its 2015 legislative initiatives the reinstatement of funding for municipal highway user revenues and the creation of protections to ensure that municipal highway user revenues are not diverted to the State's general fund in the future.

Local Comprehensive Plans

Section 3-205(d) of the Land Use Article authorizes a local jurisdiction to adopt an entire comprehensive plan, a plan for one or more geographic sections or divisions of the local jurisdiction, or an amendment or extension of or addition to the plan. In addition, the recommendation of the planning commission is considered approved if the legislative body fails to act within 60 days after the date the recommendation is submitted. During the code revision process for the Land Use Article, the Article Review Committee noted for the consideration of the General Assembly that § 3-205(d) of the Land Use Article "does not appear to authorize a remand of a recommended plan or amendment from the legislative body to the planning commission. The current provision forces the legislative body to approve or reject the recommended plan or amendment outright, which might be considered cumbersome by both bodies, and might unnecessarily prolong an adoption process that may involve the need to make minor changes to a recommended plan or amendment." The Article Review Committee also noted that "under [§ 3-205(d)(1)(iii)] it is unclear whether the "extension" of a plan that may be adopted is a geographic or a temporal extension."

MML will support legislation during the 2015 legislative session to address the concerns noted by the Article Review Committee.

Financial Disclosure for Local Elected Officials

Chapter 277 of 2010 specifies that county and municipal conflict of interest and financial disclosure provisions for elected local officials must be equivalent to or exceed State conflict of interest and financial disclosure requirements, subject to specified modifications and an existing authorization of the State Ethics Commission to exempt certain municipalities from the Maryland Public Ethics Law, or to modify the requirements applicable to the municipality.

MML contends that the breadth and depth of the contents of the required financial disclosure forms could deter capable new candidates from seeking local office and influence current elected officials to decline to seek reelection. MML states that it will support legislation to alleviate the financial disclosure requirements of the State ethics law for municipal government officials so that business and other interests not germane to municipal government operations are not required to be disclosed.

Local Government

2015 Legislative Agenda – Maryland Association of Counties

The Maryland Association of Counties (MACo) has four legislative priorities for the 2015 session, two of which are ongoing efforts from prior years and two of which are new for the upcoming year. Because of the potential for changes after the November general election in local elected officials serving on the association's Legislative Committee, MACo notes that the Legislative Committee will discuss and vote on these legislative initiatives again in January 2015.

Restoration of Local Transportation Funding

MACo continues to promote the restoration of local transportation funding as one of its legislative priorities for the 2015 session. However, in light of the recent expansion of transportation funding by the State, MACo is pursuing the initiative this year with increased vigor. For example, MACo maintains that since many new State projects, including transit, have been added into the 2014-2019 *Consolidated Transportation Plan*, local governments should also receive some relief from their persistent struggle to maintain and preserve local roadways. Moreover, MACo argues that all possible avenues should be explored to restore local transportation funding, including the use of federal revenues, the redistribution of funds from delayed projects, and the incremental reallocation of State highway user revenues. MACo urges State policymakers to re-evaluate transportation funding and take the necessary steps to restore highway user revenues and local roadway infrastructure.

Facilitation of Local Cooperation and Investment in Education

The second renewed legislative initiative of MACo is the facilitation of school board and county funding partnerships in education. MACo maintains that strict State school funding laws may deter investment by counties above required minimums and dampen cooperation between county governments and local school boards. In particular, the reduction of funding disincentives may encourage county budget support for innovative pilot programs and more fairly recognize short-term needs or investments as outside perpetual mandates. In addition, a more innovative system for budget submissions to the State can encourage counties and school boards to consider reducing overall costs through joint administration of programs and other collaborations. MACo strongly supports altering State school funding policies so as to encourage school boards and county governments to work together to uncover cost-savings strategies while improving classroom education.

Enhanced Tools to Address Growing Drug Abuse Crisis

As in many other parts of the country, the epidemic of drug abuse and drug-related deaths from the illegal use of drugs such as heroin and opioids continues to grow in Maryland. To address this crisis, first responders need additional training and equipment; public health providers need enhanced treatment and preventative services; and citizens need improved access to life-saving medications and innovative policies to protect their individual and collective well-being. While all regions of the State will benefit from increased support and improved cooperation among State and local agencies, a customized approach is required to address the unique needs of each county. MACo supports a new initiative this year for comprehensive legislation and budget measures to address this alarming drug crisis while providing enhanced tools targeted to each county.

Coordinated Improvements to Pretrial Services

During the 2014 session, the fiscal 2015 budget restricted $10 million of the Judiciary's general fund appropriation to be used only for the purpose of providing attorneys for required representation at initial appearances before District Court commissioners, consistent with the decision of the Maryland Court of Appeals in the so-called *Richmond II* case (*DeWolfe v. Richmond*, 434 Md. 444 (2013)). Although no legislation specifically addressing the *Richmond II* decision passed in the 2014 session, the Budget Reconciliation and Financing Act of 2014 (BRFA) specifies that the authorization of State funds in the fiscal 2015 budget for this purpose represents a one-time allocation and provides no authority for additional State expenditures without separate authorization in the State budget. The BRFA also requires that, if attorneys are appointed in a county to provide legal representation at an initial appearance before a District Court commissioner in fiscal 2015, the cost of compensating the attorneys beyond the amount restricted for that purpose in the State budget must be billed by the appointing authority to the county in which the representation is provided and must be paid by that county. MACo argues that the one-time budget earmark in the fiscal 2015 budget offers only a temporary fix. For example, MACo points out that District Court locations are seeing process back-ups, local jails face housing challenges, and counties await unknown cost burdens. MACo advocates for a second new legislative initiative this year that urges the State to adopt effective measures that improve pretrial services in the District Court while not overloading local jails or county budgets.

For further information contact: Laura P. Lodge Phone: (410) 946/(301) 970-5350