

**MARYLAND
STATE ETHICS COMMISSION**

45 CALVERT STREET, 3RD FLOOR
ANNAPOLIS, MARYLAND 21401

410-260-7770

1-877-669-6085

FAX: 410-260-7746

<http://ethics.gov.state.md.us>

28TH ANNUAL REPORT

**JANUARY 1, 2006 THROUGH
DECEMBER 31, 2006**

GENERAL STATUTORY IMPLEMENTATION

OVERVIEW

The State Ethics Commission met in regular session 9 times during Calendar Year 2006 and considered issues related to all areas of its statutory mandate: financial disclosure, conflict of interest, lobbyist disclosure and conduct restrictions, local government ethics laws, school board ethics regulations, advisory opinions, enforcement matters, employee training, lobbyist training and public information activities. It also met one time for the expressed purpose of long term planning, at which meeting no other issues were considered.

The State Ethics Commission, as directed in State Government Article § 15-205, must administer the provisions of the Public Ethics Law; prescribe and provide forms for each document required by the Public Ethics Law; retain as a public record each document filed with the Commission for at least four years after receipt; periodically review the adequacy of public ethics laws; review each statement and report filed in accordance with the Public Ethics Law and notify officials and employees of any omissions or deficiencies; and publish and make available to persons subject to the Public Ethics Law, and to the public, information that explains the provisions of the Law, the duties imposed by it, and the means for enforcing it.

The Commission is required to compile annually, by March 1st, a list of entities doing business with the state during the preceding calendar year and make this information available to individuals required to file annual financial disclosure statements; to provide training courses for public officials and for regulated lobbyists; and to submit to the General Assembly an annual report on its activities.

In 1999, the Legislature added § 15-602(d) to the Public Ethics Law, requiring the Commission to develop procedures under which financial disclosure statements could be filed electronically and without additional cost to the individual filing the statement. As funding became available in FY 2005, electronic filing was developed and offered to all financial disclosure filers for reporting year 2004. More than 6,000 of the 11,000 filers took advantage of electronic filing that first year. The improved efficiency resulting from the electronic process permitted the Commission staff to complete the review of more than 2,600 statements by the end of May 2005, a process that took many months to accomplish in the review of paper forms. For reporting year 2005, more than 8,000 filers utilized the electronic filing system, and Commission staff reviewed more than 4,000 financial disclosure statements for reporting year 2005.

In 2001, the Legislature added § 15-709 to the Public Ethics Law, requiring the Commission to develop procedures under which lobbying reports could be filed electronically without additional cost to the individual who would opt to file electronically, and to make the filed reports available for public inspection electronically. In 2005, the Commission, working with its technology contractor, developed a process by which regulated lobbyists could begin the registration process and complete and submit all lobbying reports electronically and by which the public would have immediate access to electronically submitted reports. Electronic registration for lobbyists became available November 1, 2005, and electronic lobbying reporting for event reports and activity reports for the lobbying period of November 1, 2005 through April 30, 2006 was on-line before the end of calendar year

2005. During calendar year 2006, all lobbying registrations, event reports and activity reports were either submitted electronically or electronically input by Commission staff, and all registrations and reports were available to the public electronically from our website, <http://ethics.gov.state.md.us>.

The Commission staff continued to place substantial emphasis on the training for public officials and employees and regulated lobbyists. In its Strategic Plan, the Commission asserted its commitment to education and training on its belief that increased and improved education and training will lead to an increase in advice responsibilities and a decrease in the volume of enforcement actions. Commission staff has continued to focus on providing training to smaller groups of employees at their particular agencies, which has permitted the training to address the specific ethical issues confronted by State employees and public officials in their particular service to the public. This has resulted in a marked increase in the requests for advice that come to the Commission from employees and public officials. During calendar year 2006, the Commission conducted 20 general ethics training programs for agencies, boards and commissions, attended by 622 State employees and public officials, focusing on conflicts of interest and the electronic filing process for financial disclosure statements. The 20 training programs and 622 attendees satisfying the mandatory training sessions required in the Public Ethics Law § 15-205(d). In addition, the Commission staff conducted 18 additional training sessions addressing conflicts of interest, electronic filing and procurement attended by an additional 979 members of public and special interest groups, bringing total number of individuals who attended general ethics and conflicts of interest training to 1601. The Commission staff also conducted six lobbying training programs, attended by 149 regulated lobbyists pursuant to Public Ethics Law § 15-205(e), and two additional lobbying programs attended by an additional 50 members of chambers of commerce and other non-profit organizations. The lobbying programs focused on electronic filing and general lobbying prohibitions and reporting requirements.

After a year-long review, on December 5, 2006, the Office of Legislative Audits completed and published the results of its performance audit of the State Ethics Commission. The audit was limited in scope to the financial disclosure program and the Commission's enforcement process, and it compared the Maryland law and processes with those of other states. A more complete discussion of the audit findings, recommendations and the Commission's responses is found below and in Appendix E, attached hereto.

In June 2003, the Commission conducted a complaint hearing on charges of lobbying violations by lobbyist Bruce C. Bereano. The Commission issued its decision and public order on June 30, 2003, finding a violation of § 15-713(1) for being engaged for lobbying purposes for contingent compensation. On December 28, 2004, the Honorable Raymond Kane of the Howard County Circuit Court, in case No. 13-C-03-057038, upheld the Commission's decision and sanction of a 10-month suspension of Mr. Bereano's lobbying registrations. Mr. Bereano's appeal of Judge Kane's decision was heard in the Court of Special Appeals on November 9, 2005. On November 9, 2006, the Court of Special Appeals upheld Judge Kane's decision. On December 8, 2006, Mr. Bereano filed for reconsideration, and on December 29, 2006, the Commission filed its response to Mr. Bereano's motion.

In April 2006, Governor Ehrlich appointed Paul Vettori to fill the vacancy created by the expiration of Dorothy Fait's term of appointment. On September 25, 2006, H. Richard Duden was nominated by Speaker of the House of Delegates, Michael Busch, to fill the vacancy created by the resignation of Darryl Jones. The Governor subsequently appointed Mr. Duden to a term

ending June 30, 2009. In June 2006, Julian L. Lapidés was elected by the other members as Chairman of the Commission.

The Fiscal Year 2007 budget was approved for General Funds of \$623,194 and Special Funds of \$126,884, for a total appropriate of \$750,078.

LEGISLATIVE PERFORMANCE AUDIT

The audit, which began in 2005, involved a detailed examination and analysis of the Commission's financial disclosure program, enforcement process and the Public Ethics Law itself. The Executive Summary stated, in pertinent part:

The Office of Legislative Audits conducted a performance audit to assess the adequacy of the State Ethics Commission's administration of the Maryland public ethics system with respect to the State's Executive Branch employees. The audit had two stated objectives, the results of which are summarized in the following two sections.

Our audit disclosed that the structure of the ethics oversight in Maryland results in one of the most comprehensive financial reporting processes, with one of the largest filing groups in the nation. Coupling this with a comparatively small Commission staff size, a lack of sophisticated automated analysis tools (to review financial reports), and the centralized nature of the monitoring (in which State agencies are not required to take an active role), the result is weak oversight and a reduction in the potential effectiveness of the ethics law.

During the course of our audit, there were indications that the Commission is understaffed given its current responsibilities, especially considering the comprehensive annual reporting that is undertaken by a large number of public employees and officials (not to mention lobbyists, which were excluded from our audit).

The audit contained eleven findings and recommendations related to various aspects of the Commission's performance in the scrutinized programs to which it responded both in writing and at a hearing before the Legislative Joint Audit Committee on December 14, 2006. A copy of the Findings, Recommendations and Responses is attached to this Annual Report as Appendix E.

ADVICE ACTIVITIES

The Maryland Public Ethics Law §§ 15-301 through 15-303 provides that the State Ethics Commission may issue formal advisory opinions in response to requests from officials, employees, lobbyists, and others who are subject to the Ethics Law. Formal opinions generally follow an appearance before the Commission by the requestor, are published in the Maryland Register, and are accessible electronically through State Documents in COMAR Title 19A. The Commission's regulations, COMAR 19A.01.02.05, also permit the staff and the Commission to provide informal

advice. Informal advice generally results in a letter or email to the requestor referencing prior formal and informal Commission opinions addressing similar facts and issues.

The State Ethics Commission is responsible for interpreting the Public Ethics Law. In late 1979, when the Commission was established, most advice requests resulted in published formal opinions. During its first five years of operation, the Commission issued a total of 205 formal opinions, and during the next five years, another 128 formal opinions were issued. As a result, there is a large body of published opinions available to the Commission staff providing guidance in response to advice requests. During its twenty-eight years in existence, the Commission has issued a total of 491 formal opinions. During the past five years the number of formal opinions has decreased while informal reviews and letter advice have increased. A major factor reducing the need for formal Commission opinions is the large number of existing opinions that provide guidance to the staff in responding to requests for informal advice, thus expediting the advice process.

During calendar year 2006, the Commission issued three (3) formal published opinions. The first (Opinion No. 06-01) was the result of a request of a President of a Board of County Commissioners regarding his County's Ethics Ordinance. He asked whether the conflict of interest provisions of the County's Ethics Ordinance were similar to the conflict of interest provisions in Subtitle 5 of the Maryland Public Ethics Law and whether the County was in compliance with the requirements of Section 15-804 of the Public Ethics Law. The Commission devoted substantial time and staff resources to this request in order to use it as a vehicle to discuss the Commission's responsibilities regarding the review and approval of substantive provisions of county and municipal government ethics ordinances. Opinion No. 06-01 also addressed which post-1979 amendments to the conflict of interest, financial disclosure, and lobbying provisions of the State Law should be imposed on local subdivisions and municipalities pursuant to the requirements of Sections 15-803 and 15-808 of the Law.

Opinion No. 06-02 addressed the procurement participation restrictions of Section 15-508 and its application to members (and their employers) of a volunteer study group established by a State agency. Specifically, the Commission advised the Executive Director of the Maryland Health Care Commission ("MHCC") that the activities of the Primary Percutaneous Coronary Intervention ("PCI") Data Work Group, a volunteer group established by another Advisory Committee to the MHCC, were sufficiently related to a proposed request for proposals to establish and operate a PCI Data Center to be viewed as assistance in the drafting of the specifications thus precluding members of the Data Work Group and their employers from submitting proposals in response to the RFP.

Opinion No. 06-03 advised a newly hired employee of the Maryland Institute for Emergency Medical Services that she could continue to have part-time employment as a weekend ambulance driver with a commercial ambulance service subject to certain restrictions proposed by her agency. The opinion discussed the general restrictions on secondary employment (§ 15-502) and the application of the Commission's exception regulations (COMAR 19A.02.01).

The Commission's informal docket, initiated in 2002, logs requests for advice resulting in informal advice from the staff or Commission. The log may include telephone advice or responses to routine questions from individuals who either call, email or walk-into the office. The Commission and its staff provided informal advice in the following subject areas during calendar years 2004 through 2006:

Subject Matter of the Advice	2006	2005	2004
Lobbying Registration, Reporting and Conduct	5	9	11
Secondary employment Advice	110	121	108
Participation Advice	15	21	17
Procurement Restrictions	8	15	6
Post-Employment Advice	17	23	13
Gift Questions	17	22	21
Other	28	40	220
Total	200	251	220

The number of informal matters decreased in 2006 compared to 2005. The 110 informal secondary employment requests considered in 2006 arose from the following Departments and agencies:

DEPARTMENT	2006	2005	2004
Department of Human Resources	45	33	40
Department of Health and Mental Hygiene	18	30	22
Department of Transportation	5	13	4
Executive Department	1	4	5
Department of Agriculture	1	1	3
University System of Maryland	1	5	2
Dept. of Public Safety & Correctional Services	2	4	3
Department of Natural Resources	1	6	4
Other Agencies/Departments	36	25	25
Totals	110	121	108

The thirty-six (36) secondary employment requests arose from 22 “other agencies.” The Department of Labor, Licensing, & Regulation submitted 9 secondary employment requests.

The Department of Business and Economic Development presented 3 requests. The remaining twenty (20) agencies presented twenty-four (24) requests. During calendar year 2006, the Commission’s Executive Director, General Counsel, Staff Counsel, and Assistant Counsel responded to more than 1,700 phone inquiries.

**UNIVERSITY OF MARYLAND PUBLIC-PRIVATE PARTNERSHIP
EXEMPTIONS**

In 1990, the General Assembly enacted legislation allowing the University System of Maryland (USM) to grant to university faculty certain exemptions from the conflict of interest provisions of the Public Ethics Law. The exemptions were for “sponsored research and development” activities. Sponsored research and development was defined in the law as an “agreement to engage in basic or applied research or development at a public senior higher education institution, and includes transferring university-owned technology or providing services by a faculty member to entities engaged in sponsored research or development.” Faculty members were not fully exempted from all Public Ethics Law requirements, and public disclosure of the interest or secondary employment was required. The institution granting the exemption was required to maintain the exemption as a public record and to file a copy with the State Ethics Commission.

In 1996, the General Assembly enacted the Public-Private Partnership Act. This law expanded the exemptions beyond faculty to include vice-presidents and presidents of institutions as well as the chancellor and vice-chancellors of the USM. The legislation also broadened the exemption from the conflict of interest provisions to include USM officials, faculty members, and employees. The USM Board of Regents and the USM institutions adopted procedures pursuant to § 15-523 to allow the conflict of interest exemptions. The USM Board of Regents and seven of the affiliated institutions adopted policies, and the Commission’s authority was limited to comment on the policy’s conformity to Public-Private Partnership Act. The definition of “sponsored research” was expanded to include “participation in State economic development activities.”

The records filed by the institutions with the Commission reflect a total of 134 faculty exemptions granted by the university presidents between 1996 and 2005, including exemptions at the University of Baltimore (UMB), University of Maryland at Baltimore County (UMBC), and the University of Maryland Biotechnology Institute. During calendar year 2006, USM institutions reported to the Commission an additional 7 individual faculty members exemptions. The University of Maryland, Baltimore reported two exemptions to the Commission in 2006 that were actually for calendar year 2005 and had been overlooked. The exemptions were from the following institutions:

Institution	Number of Exemptions
University of Maryland, Biotechnology Institute	1
University of Maryland Center for Environmental; Science	1

University of Maryland, College Park	4
University of Maryland, Baltimore	1
TOTAL FACULTY EXEMPTIONS	7

In some instances the individual faculty member had more than one interest exempted. Also during 2006, the Commission staff was contacted by the Provost at Coppin State University in regard to drafting of “conflict of interest procedures” for faculty at that university pursuant to Section 15-523(b)(2)(ii). As of the end of 2006, the procedures had not been finalized.

FINANCIAL DISCLOSURE

The financial disclosure program continued to identify those required to file, provide technical assistance to filers, and monitor compliance with the Law. In accordance with Public Ethics Law § 15-103, the Commission reviewed a large number of requests by various agencies to add or delete positions from the financial disclosure filing list, along with an extensive review of some outdated listings, the net result was an increase in the number of filers from approximately 11,783 in 2005 to 12,445 in 2006.

In accordance with Public Ethics Law §§ 15-103 and 15-209, the Commission made decisions and forwarded them to the Department of Budget and Management for its concurrence regarding the status of newly created boards and commissions as “executive units.” The Commission also considered and acted upon requests by a number of boards and commissions for exemption from the requirement to file financial disclosure statements. In recent years, the Commission has seen a substantial increase in the number of boards, commissions, task forces, and technical advisory groups created by the General Assembly.

Individuals who are public officials only as the result of their participation on boards or commissions are required to file a limited financial disclosure statement (Form #2). Legislators are required to file a more extensive disclosure statement (Form #19). The Commission staff conducts compliance reviews of financial disclosure statements and notifies filers of identifiable errors or omissions, and it pursues enforcement actions against those who fail to file. During 2006, the Commission staff reviewed more than 4,000 financial disclosure statements for reporting year 2005.

In 1999, the Legislature, in § 15-602(d) mandated that the Commission develop and implement a process by which filers would be able to file their financial disclosure statements electronically, at no additional cost to the filer. It was not until FY 2005 that the Commission was able to obtain funding sufficient to develop electronic filing. With the appropriated funds we were able to secure the services of a technology contractor, and we were able to implement electronic filing through a secure web site, <https://efds.ethics.state.md.us>. The Commission was hopeful that 20 to 25% of

the filers would opt to file electronically the first year and 25 to 40% the second year, and both the Commission and staff were gratified to note that more than 8,000 filers used the electronic process in 2006. The Commission continues to work with the technology contractor to improve the process for filing, review and notification.

In order to create a user friendly and less intrusive form, the electronic filing system uses a survey process of question and answer that leads the filer through each schedule of the form. Additionally, the electronic system provides the filer with access to the previous year's statement so that he or she can make the required changes for the current year with the benefit of working from the previous year's information. The feedback from filers has been overwhelmingly positive.

The electronic administrative tool permits the staff to review electronically submitted statements, compare them to previously electronically filed statements, send email notification to the filer of any omission or question raised by the statement and maintain a copy of that notification in the filer's electronic record. The emails become attached to the electronic file, and a record is therefore compiled of statements, inquiries and responses. The filer may also electronically file an amendment if required. In 2005, Commission staff was able to review 2,600 financial disclosures. In 2006, Commission staff reviewed more than 4,000 financial disclosure statements. Communication with filers, for the most part, was through email, which also saved the Commission substantial supply and postage costs. With full compliance with electronic filing, the Commission will be able to review the statements more efficiently, notify filers of problems earlier than in prior years, and be more efficient in the enforcement process. Full compliance with electronic filing will also reduce the Commission filing space requirements and provide a safer, more secure and more efficient way of collecting, reviewing, and maintaining financial disclosure records.

LOBBYIST DISCLOSURE AND REGULATION

In 2001, the Legislature, in § 15-709 of the Public Ethics Law, mandated the Commission to develop and implement an electronic process for regulated lobbyists to file required reports at no additional cost to the individuals who file electronically. The law also mandated that lobbying reports be made available for public review electronically. In 2005, through the procurement process, the Commission was able to contract with the Canton Group, LLC, who developed the electronic financial disclosure statement filing process, to develop an electronic reporting process for lobbyists. In working with the contractor, the Commission determined that the best approach would be to enable lobbyists to at least begin the registration process electronically, which would create a data base for each lobbyist to report the required information related to his or her employers. Because of the need to have original signatures for the lobbyist and the employer, and because registration requires payment to the State of Maryland of a \$50 per registration fee, only part of the registration process could be electronic. The electronic portion of the registration process (providing the information related to the lobbyist and the employer, the focus of the lobbying, etc) became available to lobbying filers November 1, 2005. Lobbyists are also able to file event notifications (Form 13E), event reports (Form 13F) and Activity Reports (Form 4) electronically. The information provided electronically on the Activity Reports automatically transfers appropriate information to other required forms such as Forms # 13A, B, C, and D.

Through the Commission's web site, <http://ethics.gov.state.md.us>, the public is able to search through lobbyists or employers to gain access to the information that the Commission is required to collect. The administrative tool developed for Commission use, will enable the Commission to calculate totals required for annual reporting in a fraction of the time required in prior years when calculations had to be made by hand.

The lobbying year extends from November 1st to October 31st of the following year. During the lobbying year ending October 31, 2006, 2484 lobbying registrations were filed with the Commission. With those registrations, 687 lobbyists registered on behalf of 1159 employers. This represents a decrease of 51 registrations from the 2,525 filed by October 31, 2005. The following expenditure data summarizes lobbying expenditures for the last three lobbying years:

EXPENDITURES BY LOBBYISTS			
Type of Expenditure	10/31/06	10/31/05	10/31/04
	\$	\$	\$
B-1: Meals and beverages for officials or employees or their immediate families	21,854	3,202	4,493
B-2: Special events, including parties, dinners, athletic events, entertainment, and other functions to which all members of the General Assembly, either house thereof, or any standing committee thereof were invited.	1,708,993	2,301,493	2,060,647
B-3: Food, lodging, and scheduled entertainment of officials and employees and spouses for a meeting given in return for participation in a panel or speaking engagement at the meeting	10,434	13,028	26,283
B-4: Food and beverages at approved legislative organizational meetings	3,901	26,102	16,519
B-5: Ticket or free admission to attend charitable, cultural or political events where all members of a legislative unit are invited.	2,497	4,782	4,350
B-6: Gifts to or for officials or employees or their immediate families (not included on B-1 through B-5)	23,038	24,931	16,478
SUBTOTAL OF ITEMS B 1 THROUGH B 6	1,770,717	\$ 2,373,538	\$ 2,128,770
B-7: Total compensation paid to registrant (not including sums reported in any other section)	31,223,692	28,957,735	32,832,105
B-8: Salaries, compensation and reimbursed expenses for staff of the registrant	1,348,450	1,112,595	980,177

EXPENDITURES BY LOBBYISTS			
Type of Expenditure	10/31/06	10/31/05	10/31/04
	\$	\$	\$
B-9: Office expenses not reported in B-5 or B-6	852,352	846,022	1,146,653
B-10: Cost of professional and technical research and assistance not reported in items B-5 or B-6	333,187	497,145	334,780
B-11: Cost of publications which expressly encourage persons to communicate with officials or employees	742,995	473,243	465,458
B-12: Fees and expenses paid to witnesses	165,374	12,620	122,810
B-13: Other expenses	648,589	525,331	546,036
TOTAL OF ITEMS B-1 THROUGH B-13	37,085,356	\$34,798,229	\$38,556,789

(NOTE: At the time the Annual Report was compiled, some lobbyist expenditure information may have been subject to adjustment based on staff review.)

ENFORCEMENT ACTIVITIES

The Public Ethics Law provides that any person may file a complaint with the Commission. Complaints filed with the Commission must be signed under oath and allege a violation of the Public Ethics Law by a person subject to the law. The Commission may file a complaint on its own initiative, and, at its discretion, may proceed with preliminary inquiries of potential Public Ethics Law violations.

The Commission divides preliminary matters into two categories: Preliminary Consideration Matters (A matters) and Preliminary Inquiry Matters (B matters), the latter of which involves more extensive investigation. In 2006, the Commission opened 77 A matters, including: 40 conflict of interest matters, 36 lobbyist matters, and 1 local government matter. The Commission entered into 22 Late Filing Agreements with lobbyists during 2006, resulting in payments of \$6640.00 to the State of Maryland. The Commission closed 67 A matters in 2006.

The Commission opened 22 Preliminary Inquiry Matters (B matters) in 2006. Nineteen (19) of the B matters involved conflict of interest issues and 3 involved lobbying issues. The Commission entered into 1 Late Filing Agreement with a lobbyist during 2006 resulting in a payment of \$500.00 to the State of Maryland. In 2006, the Commission closed 13 B matters, including two pending matters from 2005.

In calendar year 2006, the Commission issued 19 complaints: including 7 financial disclosure matters, 10 lobbying matters and 2 conflict of interest matters. The Commission closed 20 complaints in 2006, including some pending matters from 2005. The Commission collected \$1500.00 from lobbying complaints stemming from late filings of lobbying registrations, lobbying activity reports and other required lobbying forms. The Commission collected \$1189.94 through a Stipulation of Settlement Agreement in a conflict of interest complaint in which a former Maryland National Capital Parks and Planning Commission member failed to reimburse the agency for personal expenses. The money the State Ethics Commission collected was returned to the Maryland National Capital Parks and Planning Commission.

All enforcement payments collected through Stipulations of Settlement or Late Filing Agreements were deposited in the State's general fund and cannot be used by the Commission. The Commission collected a total of \$8640.00 in enforcement payments in 2006.

On November 9, 2006, the Maryland Court of Special Appeals issued its decision in this case *State Ethics Commission v. Bereano*, and affirmed the decision of the Circuit Court for Howard County in this matter. On December 28, 2004, the Circuit Court for Howard County affirmed the Commission's June 2003 order suspending his lobbying registrations for a period of ten months and assessing a fine of \$5,000 for a knowing and willful violation of § 15-713(a) of the Public Ethics Law. The appellant's Motion for Reconsideration is currently pending with Maryland Court of Special Appeals' decision.

On June 20, 2005, lobbyist Ira C. Cooke voluntarily agreed to a revocation of his lobbying registrations pursuant to a Stipulation of Settlement Agreement in Complaint C-3-05. The action arose from Mr. Cooke's December 2004 conviction in the State of California on three felony charges arising from his Maryland lobbying relationship with Desert Counseling Clinic. On December 11, 2006, the conviction was overturned. At its December 14, 2006 meeting, the Commission considered the reinstatement of Mr. Cooke and determined, on the basis of the reversal of the conviction in California, that his revocation was required to be lifted because the conviction against him arising from his Maryland lobbying relationship with Desert Counseling Clinic was overturned. Although the formal determination to lift the revocation was not issued until January 8, 2007, the decision to do so was made at the December 14, 2006 Commission meeting.

LOCAL GOVERNMENT ETHICS LAWS

The Public Ethic Law requires Maryland counties and cities to enact local laws similar to the State's Public Ethics Law. In addition to the requirement that counties and cities enact ethics laws, the General Assembly amended the Law in 1983 to require local school boards either to promulgate ethics regulations similar to the State Law or to be covered by county ethics laws. During 2006, the Commission's General Counsel participated in excess of seventy-five (75) phone discussions with county and local ethics officials regarding questions relating to conflicts of interests and financial disclosure. The calls were from officials in 11 different counties, Baltimore City, 5 municipalities. The Commission reviewed proposed draft revisions to ethics laws for Baltimore City, Carroll, Frederick, St. Mary's and Queen Anne's Counties, the Towns of Brunswick, Oakland, and

Thurmont, and the City of Hyattsville during 2006.

During 2006, the Commission staff continued its review of the county ethics ordinances in terms of proposed revisions to the Commission's local government regulations and the process to determine whether a local jurisdiction's ethics provisions are "similar" or "substantially similar" to the Public Ethics Law. (See Advisory Opinion No. 06-01.) A summer intern assisted in the review and created a database to aid in the Commission review of county laws. It is anticipated that the review of the county and local ordinances and the amendments to the Commission's regulations will be completed in 2007.

The Commission also received and reviewed two reports from Prince George's County Clerk of the County Council and five reports from the Montgomery County Director of the Office of Zoning and Administrative Hearings regarding the special land use ethics disclosure reports required in those jurisdictions (See §15-829 through §15-841).

EDUCATIONAL AND INFORMATIONAL ACTIVITIES

The Commission staff has been active in providing formal training to State employees, lobbyists and local jurisdictions. The training has involved advising and assisting employees, officials, candidates and lobbyists on completion of forms, and providing training related to the conflict of interest provisions of the Public Ethics Law. The Commission staff has assisted local government and school board officials in drafting their ethics laws and regulations. The staff has also provided technical advice to local government ethics boards. Legislation passed in 1999 requires new financial disclosure filers to receive 2 hours of Ethics Law training (§15-205(d)). The Commission began implementation of this mandate in calendar year 2000. During calendar year 2005, the Commission staff conducted 40 training sessions for State employees at various locations throughout the State. The Commission provided training to a total of 1987 employees and public officials.

The Commission has placed an increasing emphasis on training smaller groups of employees and officials and has done so within the employees' agencies. In this way, those attending the training sessions participate more, and the training can be tailored to address the concerns of the various employees in the context of their work experiences. Additionally, the Commission staff has provided training to agency leadership and to various boards and commissions that support agency work. The Commission staff has received very positive response to the training, which consists of a PowerPoint presentation, interactive lecture, and supplemental documents that provide resource material. Although the training commitments have placed a significant burden on the Commission's staff, as each training session requires that at least one, and many times two, of the professional staff make the presentations, which causes a shortage of professional staff available in the office to respond to telephone and "other" inquiries in the office, the benefits of the training far outweigh the inconvenience to staff. Expanded training programs have resulted in a significant increase in the number of telephone and email requests for guidance from employees who have attended the sessions. What is significant is that the number and severity of enforcement matters has decreased due to closer contact and better communication with employees and public officials.

In accordance with § 15-205(e) of the Public Ethics Law, which mandates the Ethics Commission to provide a training course for regulated lobbyists and prospective regulated lobbyists at least twice each year, the Commission staff provided training to 213 lobbyists during calendar year 2005. A total of twelve training sessions were held on eight different days during the year.

Part of the Commission's public information activity involves distribution of lists of registered lobbyists and provision of assistance to persons inspecting various forms filed with the Commission. The Commission's staff distributes, through interagency mail, a special two-page summary of ethics requirements and other applicable memoranda to State agency managers. In order to ensure adequate public access to the Commission's memoranda, the Commission staff posts them on our web site, <http://ethics.gov.state.md.us>, and provides them to agencies for distribution to their employees. On a limited basis, the Commission is also distributing another pamphlet covering ethics requirements for part-time members of State boards and commissions. The staff provides memoranda on lobbying laws relating to private colleges, lobbyist political activity, and a memorandum regarding adjustments to the procurement ethics provisions by request and on its web site. The Commission staff has also developed a special memorandum to advise potential new members of boards and commissions of the impact of the Ethics Law.

The Ethics Commission maintains a complete and up-to-date home page on the Internet. The home page directs users to the Annual Report, special explanatory memoranda, and a bi-monthly bulletin, downloadable forms for lobbying and State employees and Public Officials, the State vendor list, the Public Ethics Law and Formal Advisory Opinions. Another feature is an ethics question of the month, which answers hypothetical questions based on past Commission opinions. The Internet provides a cost effective mechanism for providing ethics information and training to those covered by the Ethics Law and public access to ethics information. The Commission is hopeful that it will eventually have sufficient funds to update its web software to include an interactive dialogue with users enabling it to respond to questions on-line, provide educational programming on-line, and allow users to navigate the site with more ease.

2006 LEGISLATION REPORT

During the 2006 legislative session, the Ethics Commission did not request that any bills be introduced on its behalf. However, several bills were introduced in both houses that resulted in requests from Legislative Services that the Commission provide a fiscal note. Two bills raised public ethics concerns that caused the Commission to take positions against the proposed legislation: HB 709, which proposed that lobbyists serving on the Bay Restoration Fund Advisory Committee be exempted from the Public Ethics Law § 15-504(d) post-employment restrictions; and HB 588, which proposed exempting certain Department of Agriculture employees from the conflict of interest provisions. Neither bill was enacted into law.

LEGISLATIVE RECOMMENDATIONS

PROPOSED CHANGES TO FINANCIAL DISCLOSURE (SUBTITLE 6) PROVISIONS

In the coming year, the Commission will continue to focus its attention on several of the financial disclosure provisions in subtitle 6 of the Public Ethics Law. Now that the State Ethics Commission has had 27 years of experience, it has had the opportunity to review the reporting requirements and recognize those areas, which appear to be the root of most conflicts, and those areas, which, since the Commission's inception, have not caused any discernable problems. Additionally, the law in other areas has developed so there are additional retirements and deferred compensation plans that should be included in the exemption granted to 401K and 501K plans.

With electronic filing being implemented, the Commission has reviewed the filing requirements, and it has concluded that some discreet changes in requests for information would be helpful in simplifying the reporting requirements without jeopardizing the benefits of public disclosure.

- In the 1999 Session of the General Assembly, the Harford County Liquor Board and its employees were placed under the authority of the State Ethics Commission. However, the employees of the Board, regardless of salary or duties, were excluded from financial disclosure requirements. This general exclusion should be withdrawn to make the disclosure requirements for these employees the same as other employees subject to the State Ethics Law.
- Disclosure of interests in all State deferred compensation plans should be added to the exemption now provided for those who have interests in 401 and 501 plans (§ 15-102(t)(2)(iv)). The exemption is warranted as the State provides a discreet list of investments into which employees may invest, and there is no latitude for the employee to select investments other than those provided by the State.
- Consideration should be given to eliminating the need for reporting of investment in any mutual fund publicly traded on a national scale. The basis for the request is that the employee has no control over the trading of the individual holdings of the mutual fund, and, therefore, it is improbable that an employee could effectuate any

change in value of the mutual fund by his or her official act as a State employee.

- Judicial candidates should be required to file financial disclosure in each year of their candidacy in the same way as other candidates for State office.

PROPOSED CHANGES TO CONFLICT OF INTEREST (SUBTITLE 5) PROVISIONS

The Commission has also reviewed Subtitle 5, **Conflicts of Interest** and suggests Legislative consideration of the following issues:

- Specific provisions should address membership by public officials on boards or directors of private corporations having sensitive business or regulatory involvement with the State.
- The post-employment provisions (§ 15-504) should be revised to address more specifically the problems that are common to higher-level management positions.
- Like legislators, legislative staff should be prohibited from lobbying for one legislative session after leaving their State employment.
- The law prohibiting misuse of confidential information should be extended to cover former officials and employees as to confidential information acquired during their State service.

PROPOSED CHANGES TO LOCAL JURISDICTIONS (SUBTITLE 8) PROVISIONS

Subtitle 8 of the Public Ethics Law, which address local jurisdictions and boards of education, is also a priority. The Commission is looking at the following issues:

- The provisions covering school board ethics regulations need strengthening to assure that there are adequate sanctions for violations by board members, candidates for board membership and lobbyists.
- Subsequent to the issuance of *Seipp v. Baltimore City Board of Elections, et al*, 377 Md. 362, 833 A.2d 551 (2003), which interpreted sections of subtitle 8 of the Public Ethics Law and determined the degree to which local jurisdiction ethics ordinances must be similar to the Public Ethics Law, the Commission seeks to replace the language requiring that the local ordinance language be similar or substantially similar to the Public Ethics Law with language requiring that the Commission's review of local ordinances be in accordance to law.

PROPOSED CHANGES TO LOBBYING (SUBTITLE 7) PROVISIONS

The Commission also supports and would seek an amendment to the lobbying provisions of the Public Ethics Law (subtitle 7) with regard to two of the reporting requirements in the HB2 legislation of 2001:

- §15-708 should be revised in order to more correctly reflect lobbyist spending for legislative meals and receptions. As the requirement reads now, the process is cumbersome and may inadvertently inflate the actual amount spent on lobbying legislators. The provision causes significant confusion as to what costs should be reported and how the costs should be reported.
- §15-705 currently provides that regulated lobbyists must file a separate report disclosing the name of any State official of the Executive Branch or member of the immediate family of a State official of the Executive Branch who has benefited during the reporting period from gifts of meals or beverages from the regulated lobbyist, whether or not in connection with lobbying activities. The lobbyist must file this report accounting from Dollar One spent on a meal or beverage for an official of the Executive Branch or a member of the official's immediate family. This reporting requirement is difficult to administer and is not in keeping with other gift reporting requirements, which general require such a report only when the amount spent is \$20 or greater or \$100 cumulatively from one donor. This provision should be revised to require a report only when the amount spent is \$20 or greater or \$100 cumulatively from one donor.
- §15-703(e) currently sets a registration fee of \$50 per registration. The registration fee needs to be increased to \$100 per registration so that administration of the lobbying program can become more self-sustaining and less reliant on General Fund appropriations.

PROPOSED CHANGE TO ENFORCEMENT SUBTITLE 4) PROVISIONS

The Commission and staff continually review the Public Ethics Law in order to determine if the administration and enforcement are consistent with the intent of the law and the mission of the Commission.

- The Commission proposes that the Legislature enable it to assess civil penalties in conflict of interest and other violations by State employees and public officials. The Commission may currently request a court of competent jurisdiction to assess fines of \$5,000 per violation, and it seeks the authority, on its own, to assess civil penalties in the amount of \$5,000 per violation. Having this authority would provide a formal alternative to expensive and extended court proceedings. This would give the Commission equal authority in setting sanctions on conflict of interest issues as it presently has with regard to lobbying violations. The Commission currently has the authority to assess civil penalties up to \$5,000 for lobbying violations. All penalties assess by the court or by the Commission to the General Fund.

APPENDIX A

EMPLOYER SPENDING \$50,000.00 OR MORE - ALL REGISTRANTS ALL TYPES OF EXPENSES

November 1, 2005 - October 31, 2006

	TOTAL AMOUNT	EMPLOYER
1	\$648,227.78	Constellation Energy Group, Inc.
2	\$564,946.91	Maryland Retailers Association
3	\$551,844.00	Maryland Hospital Association
4	\$525,881.55	Pepco Holdings, Inc.
5	\$488,228.87	Maryland Association of Realtors, Inc.
6	\$457,880.81	Verizon Maryland, Inc.
7	\$412,560.43	Maryland State Teachers Association
8	\$352,439.15	Mirant Mid-Atlantic, LLC
9	\$349,530.00	Allegany Racing, LLC/Ocean Downs Race Track
10	\$347,752.95	MedChi, The Maryland State Medical Society
11	\$337,333.33	Aetna US Healthcare
12	\$303,661.55	Johns Hopkins Institutions
13	\$294,327.80	CareFirst Blue Cross Blue Shield
14	\$290,760.72	Maryland Bankers Association, Inc.
15	\$289,346.00	Maryland Zoo in Baltimore, The
16	\$261,796.23	MedStar Health
17	\$240,389.00	Alcoa Eastalco Works
18	\$240,381.64	Laurel Racing Association, Inc.
19	\$220,199.43	AES Sparrows Point LNG, LLC
20	\$216,771.03	Association of Maryland Pilots
21	\$195,594.81	AARP Maryland
22	\$193,189.00	Maryland Thoroughbred Horsemen's Assoc.
23	\$184,849.77	American Cancer Society
24	\$180,000.00	Policy Studies, Inc.
25	\$179,111.89	Maryland Jockey Club of Baltimore City, Inc./ Pimlico Race Track
26	\$175,000.00	Egypt Road, LLC

27	\$174,000.00	Comcast Cable Communications
28	\$172,486.20	Maryland Independent College and University Assoc.
29	\$171,650.61	Norfolk Southern Corporation
30	\$166,140.00	League of Life and Health Insurers of MD
31	\$165,026.91	Medical Mutual Liability Insurance Society of Maryland
32	\$161,656.03	Maryland Trial Lawyers Association
33	\$158,883.02	AMERIGROUP Maryland, Inc.
34	\$156,000.00	The Dunphy Group
35	\$155,489.47	Lifebridge Health
36	\$154,450.00	MAMSI/United Healthcare
37	\$152,250.00	Baltimore Chesapeake Bay Outward Bound Center, Inc.
38	\$152,050.00	Prince George's County Government
39	\$149,500.00	Law Office of Peter G. Angelos
40	\$147,150.00	Northrop Grumman Corporation
41	\$140,369.00	Americans for Balanced Energy Choices
42	\$132,016.79	Restaurant Association of Maryland, Inc.
43	\$127,425.76	Maryland Automobile Dealers Association
44	\$127,070.00	ACS State and Local Solutions
45	\$127,000.00	Maryland State Builders Association
46	\$125,751.93	Baltimore Jewish Council
47	\$124,524.68	R. J. Reynolds Tobacco Company
48	\$123,719.00	United Way of Central Maryland
49	\$120,883.00	Multimedia Games, Inc.
50	\$119,934.31	Childrens National Medical Center
51	\$119,738.51	Health Facilities Association of Maryland (HFAM)
52	\$116,048.48	Enterprise Leasing Company of Baltimore
53	\$115,200.89	Wal-Mart Stores, Inc.
54	\$115,000.00	Baltimore County Chamber of Commerce
55	\$112,635.99	Washington Gas
56	\$112,171.30	Mid-Atlantic LifeSpan
57	\$111,016.83	Maryland Catholic Conference
58	\$110,170.05	Lyondell Chemical Company

59	\$109,783.98	Smart & Associates, LLP
60	\$108,502.98	Cloverleaf Enterprises, Inc.
61	\$106,348.45	Apartment & Office Building Association of Metropolitan Washington
62	\$104,136.21	St. Agnes Hospital
63	\$103,600.00	Crisfield Associates, LLC
64	\$103,212.20	American Petroleum Institute
65	\$102,000.00	Scientific Games International
66	\$101,467.00	Greenbelt Metro Park L.L.C.
67	\$100,382.00	Greater Capital Area Association of Realtors
68	\$100,000.00	Oberthur Gaming Technologies, Inc.
69	\$99,600.91	Property Casualty Insurers Assn of America (PCIAA)
70	\$99,018.90	American Heart Association
71	\$98,027.34	State Farm Insurance Companies
72	\$97,500.00	Direct Energy
73	\$97,474.10	Maryland Association of Boards of Education
74	\$96,882.00	Greater Washington Commercial Assoc. of Realtors
75	\$95,923.60	Peterson Companies, The
76	\$95,384.24	Schaller Anderson of Maryland, LLC
77	\$95,127.46	National Federation of Independent Business
78	\$95,000.00	Philip Morris USA, Inc. by its service corporation Altria Corporate Services, Inc.
79	\$94,918.00	Luk Flats, LLC
80	\$94,317.58	GBMC HealthCare, Inc.
81	\$93,567.65	Allegheny Energy
82	\$93,015.81	Maryland Farm Bureau, Inc.
83	\$90,000.00	Chesapeake Utilities Corporation
84	\$90,000.00	IGT
85	\$90,000.00	Petrie Ventures
86	\$88,876.00	Washington Metropolitan Area Transit Authority (WMATA)
87	\$88,140.00	Maryland Chamber of Commerce
88	\$87,500.00	Equality Maryland, Inc.

89	\$86,067.07	Maryland Community Health System, LLP
90	\$84,655.00	Maryland Industrial Technology Alliance
91	\$84,000.00	OSI, Inc. (Outback Steakhouse, Inc.)
92	\$82,900.00	Catholic Charities
93	\$81,298.87	Life Settlement Providers, LLC
94	\$81,000.00	Evercare
95	\$80,000.00	International Steel Group, Inc.
96	\$80,000.00	Lorillard Tobacco Company
97	\$80,000.00	Mid-Atlantic Individual Surety Association
98	\$79,290.34	Rite Aid Corporation
99	\$78,175.88	Washington Area NEW Automobile Dealers Association (WANADA)
100	\$78,000.00	Caremark
101	\$77,535.57	Land Fair Properties, LLC (T/A Reliable Properties)
102	\$77,174.13	Concentra Medical Centers
103	\$76,779.98	Johnson Controls, Inc.
104	\$76,204.96	Maryland Tort Reform Coalition
105	\$75,488.23	Friends of the Family, Inc.
106	\$74,999.00	Maryland Works, Inc.
107	\$73,887.50	Triton Real Estate Partners
108	\$73,084.53	Dominion Resources Services, Inc.
109	\$72,769.75	Suburban Hospital
110	\$72,500.00	Service Employees International Union, Maryland, DC Council (SEIU)
111	\$71,987.60	Discovery Communications, Inc.
112	\$71,090.18	Maryland State Dental Association
113	\$70,971.00	Adventist Health Care, Inc.
114	\$70,830.00	Pfizer, Inc.
115	\$70,429.00	CareFirst BlueCross BlueShield
116	\$70,400.00	Greater Washington Board of Trade, The
117	\$70,372.34	Sunoco, Inc.
118	\$70,156.91	Reliant Energy, Inc.

119	\$70,143.88	MaryPIRG Citizen Lobby
120	\$69,853.00	Maryland State Bar Association, Inc.
121	\$69,589.06	Maryland Insurance Council, The
122	\$69,275.45	American Tort Reform Association
123	\$67,500.00	First Health Services Corporation
124	\$67,000.00	AIMCO
125	\$67,000.00	Maryland Optometric Association
126	\$66,629.21	T-Mobile USA, Inc.
127	\$66,374.00	Cable Telecommunications Association of MD, D E & DC
128	\$66,050.00	Microsoft Corporation
129	\$65,765.55	Delmarva Poultry Industry, Inc.
130	\$65,265.00	Prince George's County Association of Realtors
131	\$65,100.00	Gemcraft Homes
132	\$64,458.21	JP Morgan Chase Bank
133	\$64,191.57	Nextel Communications
134	\$64,191.57	UST Public Affairs, Inc.
135	\$64,156.51	General Motors Corporation
136	\$63,419.07	Kraft Foods North America, Inc. by its service corporation Altria Corporate Services
137	\$63,388.48	Phillip Morris USA, Inc. by its service corporation Altria Corporate Services, Inc.
138	\$62,605.57	Maryland Coalition of Title Insurers
139	\$61,797.00	Motorola, Inc.
140	\$61,718.00	AFSCME Council 92
141	\$61,697.92	Nationwide Insurance Company
142	\$61,664.36	WMDA Service Station & Automotive Repair Assoc.
143	\$60,669.75	Bank of America
144	\$60,298.96	ESP, Inc.
145	\$60,209.01	Maryland Horse Breeders Association
146	\$60,122.37	AFSCME AFL-CIO
147	\$60,088.00	Americans United for Separation of Church and State
148	\$60,030.00	MV Transportation, Inc.

149	\$60,018.68	Pharmaceutical Research & Manufacturers of America
150	\$60,000.00	Maryland Affordable Housing Coalition
151	\$60,000.00	Maryland Association of Chain Drug Stores
152	\$59,759.35	University of Phoenix
153	\$59,533.98	EPIC Pharmacies/Maryland Professional Pharmacies, Inc.
154	\$59,403.74	Correctional Medical Systems
155	\$59,251.37	CGI-AMS
156	\$59,137.08	Diebold Election Systems
157	\$58,419.16	Cingular Wireless
158	\$58,312.10	Accenture
159	\$58,080.00	Insurance Information Coalition
160	\$58,000.00	Maryland Association of Mortgage Brokers
161	\$57,670.00	Motion Picture Association of America
162	\$57,272.47	Maryland State Licensed Beverage Association
163	\$57,145.00	MD/DC/DE Broadcasters Association, Inc.
164	\$57,000.00	Adventist HealthCare, Inc.
165	\$55,926.70	Capital Plaza Associates Limited Partnership
166	\$55,200.00	MD/DC/DE Soft Drink Association
167	\$55,000.00	1199 SEIU
168	\$55,000.00	Baltimore Symphony Orchestra
169	\$55,000.00	Sempra Energy Global Enterprises
170	\$54,915.00	Potomac Electric Power Company
171	\$54,891.15	Maryland Citizens Health Initiative, Inc.
172	\$54,842.91	Erickson Foundation
173	\$54,566.86	FPL Group
174	\$54,422.61	Medco Health Solutions
175	\$54,145.46	HSBC-GR Corp. (formerly Household Financial Group, Ltd)
176	\$53,796.13	Mental Health Association of Maryland
177	\$53,570.00	Lockheed Martin Corporation
178	\$53,548.00	Insurance Agents & Brokers of PA, MD & DE
179	\$53,377.00	Honeywell
180	\$53,049.00	Maryland Citizens Health Initiative Education Fund, Inc.

181	\$53,000.00	Americhoice Health Services, Inc.
182	\$52,507.50	Mid-Atlantic Petroleum Distributors Assoc.
183	\$52,477.22	Maryland Association of Certified Public Accountants
184	\$52,365.00	The Hawthorn Group
185	\$52,127.57	American Insurance Association
186	\$52,050.00	Dimensions Healthcare System
187	\$51,999.99	International Council of Shopping Centers
188	\$51,798.96	Chimes, The
189	\$51,263.97	Bearing Point, Inc.
190	\$51,208.08	Maryland Automobile Insurance Fund
191	\$50,405.18	Maryland Society of Anesthesiologists
192	\$50,264.24	Cellco Partnership, A Delaware Limited Partnership
193	\$50,191.84	Allegis Group
194	\$50,130.74	Maryland Patient Care & Access Coalition
195	\$50,000.00	College of American Pathologists
196	\$50,000.00	DaVita, Inc.
197	\$50,000.00	Giant Food, Inc.

APPENDIX B

LOBBYIST RECEIVING **\$50,000.00** OR MORE IN COMPENSATION ONE OR MORE EMPLOYERS

November 1, 2005 - October 31, 2006

	TOTAL AMOUNT	LOBBYIST
1	\$1,061,570.47	Alexander, Gary R.
2	\$930,952.00	Enten, D. Robert
3	\$902,057.16	Rozner, Joel D.
4	\$875,389.07	Stierhoff, John R.
5	\$762,000.00	Rifkin, Alan M.
6	\$671,146.00	Rasmussen, Dennis F.
7	\$666,452.27	Shaivitz, Robin F
8	\$666,240.16	Pitcher, J. William
9	\$665,082.93	Johansen, Michael V.
10	\$653,612.01	Bereano, Bruce C.
11	\$602,188.33	Popham, Bryson F.
12	\$568,450.00	Manis, Nicholas G.
13	\$560,500.00	Evans, Gerard E.
14	\$556,862.00	Cowen, Lee
15	\$470,832.37	Taylor, Jr., Casper R.
16	\$446,074.04	Schwartz, III, Joseph A.
17	\$444,464.33	Tiburzi, Paul A.
18	\$437,996.00	Proctor, Jr., Gregory S.
19	\$429,300.00	Hoffman, Barbara A.
20	\$421,939.27	Miedusiewski, American Joe
21	\$379,300.00	Lanier, Ivan V.
22	\$370,173.94	Collins, Carville B.
23	\$349,123.24	McCoy, Dennis C.
24	\$337,069.90	Bonnett, Carolyn T.
25	\$328,500.00	Kasemeyer, Pamela M.
26	\$312,500.00	Arrington, Michael
27	\$304,000.00	Cooper, Linda

28	\$301,000.00	Boston, III, Frank D.
29	\$282,957.28	Doherty, Jr., Daniel T.
30	\$273,059.33	Brocato, Barbara M.
31	\$238,103.00	Canning, Michael F.
32	\$238,039.85	Battle, Jr., J. Kenneth
33	\$221,500.00	Manis, George N.
34	\$198,640.00	Rivkin, Deborah R.
35	\$195,500.00	Genn, Gil
36	\$192,359.00	Burner, Gene L.
37	\$181,933.32	Johnson, Robert G.
38	\$181,065.00	Hanna, Tiffany C.
39	\$172,916.65	Sidh, Sushant
40	\$167,810.90	Wilkins, Barbara J.
41	\$167,200.00	Valentino-Benitez, Ellen
42	\$166,583.32	Carroll, Jr., David H.
43	\$163,764.00	Weisel, Meredith R.
44	\$158,900.00	Lucchi, Leonard L.
45	\$155,000.00	Hill, Denise
46	\$154,960.00	Gally, Eric
47	\$152,250.00	Starnes, David Andrew
48	\$150,000.00	Looney, Sean M.
49	\$149,922.00	Andryszak, John A.
50	\$148,199.00	Lamb, Todd
51	\$146,490.00	Powell, Michael C.
52	\$142,750.00	Levitan, Laurence
53	\$136,500.00	Opara, Clay C.
54	\$132,200.00	DiPietro, Christopher V.
55	\$131,500.00	Harris-Jones, Lisa M.
56	\$130,000.00	Kreseski, Steven L.
57	\$126,825.00	Carter, W. Minor
58	\$124,333.32	Ornstein, Chantel O.

59	\$124,068.68	Goldstein, Franklin
60	\$123,160.00	Neil, John B.
61	\$121,702.00	Kress, William A.
62	\$112,800.00	Muir, Scott
63	\$111,730.00	Binderman, Mindy K.
64	\$111,000.00	Murphy, Don
65	\$109,965.00	Saquella, Thomas S.
66	\$109,500.00	Gisriel, Michael U.
67	\$107,216.00	Lewis, Tom
68	\$106,635.21	Wood, Paul G.
69	\$105,800.00	Miles, William R.
70	\$103,029.78	Doyle, III, James J.
71	\$96,876.64	Zellmer, Jeffrie
72	\$96,000.00	Dunphy, David D.
73	\$95,733.30	Johnson, Deron A.
74	\$94,759.00	Waranch, Nan A.
75	\$92,500.00	Wyatt, Joseph R.
76	\$91,440.00	Ciekot, Ann T.
77	\$89,000.00	Cohen, Harold A.
78	\$88,861.61	Hoover, Lesa N.
79	\$86,453.78	Wise, J. Steven
80	\$85,002.00	Thompson, Melvin R.
81	\$84,000.00	Pica, Jr., John A.
82	\$83,254.00	Harting, Marta D.
83	\$82,500.00	Aery, Shaila R.
84	\$82,000.00	Loughran, Kathleen G.
85	\$80,000.00	Rickman, William
86	\$80,000.00	Townsend, Pegeen
87	\$78,334.13	Murphy, Kathleen M.
88	\$77,622.43	Antoun, Mary A.
89	\$77,010.00	McDonough, John P.

90	\$77,000.00	McHugh, Kathleen L.
91	\$76,649.02	Roddy, Patrick H.
92	\$76,360.00	Brown, Darrin E.
93	\$73,088.75	Burns, Kimberly M.
94	\$73,000.00	Creighton, Nancy
95	\$71,700.00	Sheehan, Lorraine M.
96	\$70,250.00	Woolums, John R.
97	\$70,000.00	Jepson, Robert
98	\$69,000.00	Counihan, Gene W.
99	\$68,674.85	Cobbs, Drew P.
100	\$68,360.03	Richardson, Jr., Lawrence A.
101	\$68,350.00	Hill, James
102	\$67,000.00	Wilson, Megan F.
103	\$65,499.96	Ray, Kelley A.
104	\$63,336.25	Doolan, Devin J.
105	\$61,571.96	Castelli, William A.
106	\$60,667.00	Bjarekull, Tina M.
107	\$60,088.00	Zonderman, Mara
108	\$60,000.00	DeFrancis, Joseph A.
109	\$60,000.00	Hawk, Wynee E.
110	\$60,000.00	Kimbel, Sherri
111	\$60,000.00	Lawrence, Edgar L.
112	\$60,000.00	Matricciani, Denise M.
113	\$60,000.00	Nathanson, Martha D.
114	\$60,000.00	Purnell, I. Vanessa
115	\$60,000.00	Scott, Andrew J.
116	\$57,817.00	Arabia, Steven L.
117	\$56,294.14	Groves, Jason L.
118	\$56,255.96	Bryant, Eric L.
119	\$55,011.97	Mitchell, Susan N.
120	\$54,700.00	Neily, Alice J.

121	\$52,480.38	Mickens, Randal L.
122	\$52,300.00	Horrigan, F. Peter
123	\$52,000.00	Doherty, Frances
124	\$52,000.00	Fedder, Michaeline R.
125	\$52,000.00	Robbins, Jr., Earl H.
126	\$51,583.34	Fowlkes, Lyle
127	\$51,260.00	Massey, William L.
128	\$50,792.88	Rankin, Sr., Robert L.
129	\$50,743.50	Conn, David
130	\$50,622.94	Matricciani, Cheryl F.
131	\$50,542.34	Connelly, Valerie T.
132	\$50,212.00	Schreiber, Bret A.
133	\$50,000.00	Jones, Tim T.
134	\$50,000.00	Scher, Barry F.
135	\$50,000.00	Sokolowski, Paul

APPENDIX C

EXPENDITURES ON SPECIAL EVENTS

November 1, 2005 - October 31, 2006

Group Invited	Number of Times Invited	Total
Anne Arundel County Delegation	11	\$12,217.40
Baltimore City Delegation	9	\$15,133.85
Baltimore County Delegation	15	\$49,545.18
Carroll County Delegation	3	\$4,333.66
General Assembly	111	\$1,041,659.48
Harford County Delegation	2	\$537.00
House Appropriations Committee	11	\$12,536.90
House Economic Matters Committee	17	\$33,342.60
House Environmental Matters Committee	12	\$21,046.49
House Health and Governmental Operations Committee	19	\$39,097.04
House Judiciary Committee	11	\$18,283.81
House of Delegates	0	\$0.00
House Rules and Executive Nominations Committee	0	\$0.00
House Ways and Means Committee	13	\$30,154.97
Howard County Delegation	9	\$67,690.54
Lower Eastern Shore Delegation	3	\$1,176.28
Montgomery County Delegation	19	\$128,306.93
Prince George 's County Delegation	16	\$82,214.60
Senate	0	\$0.00
Senate Budget and Taxation Committee	18	\$32,916.23
Senate Education Business and Administration Committee	0	\$0.00
Senate Education Health and Environmental Affairs Committee	16	\$17,135.72
Senate Executive Nominations Committee	0	\$0.00
Senate Finance Committee	34	\$53,283.20
Senate Judicial Proceedings Committee	13	\$19,171.45

Southern Maryland Delegation	8	\$13,826.33
Upper Eastern Shore Delegation	9	\$8,032.11
Western Maryland Delegation	6	\$7,351.68

TOTAL: \$1,708,993.45

(NOTE: Where more than one committee was invited to the same event for the purposes of this report, there may be a proportionate allocation.)

APPENDIX D

LOBBYING FIRMS EARNING \$1,000,000.00 OR MORE

November 1, 2005 - October 31, 2006

	Name of Firm	Amount of Compensation Reported
1	Alexander & Cleaver, P.A.	\$2,702,311.58
2	Rifkin, Livingston, Levitan & Silver	\$2,336,646.05
3	Funk & Bolton, P.A.	\$2,008,422.53
4	Gordon, Feinblatt, Rothman, Hoffberger &	\$1,077,442.00
5	Manis Canning & Associates	\$1,031,453.00

APPENDIX E

FINDINGS AND RESPONSES STATE ETHICS COMMISSION

FINANCIAL DISCLOSURE STATEMENTS

Finding #1

Processes should be established to ensure that all required filers are identified and submit financial disclosure statements.

RECOMMENDATION #1

We recommend that the Commission institute procedures designed to ensure that all required filers are identified and file financial disclosure statements. We believe that there are several methods that could be used to accomplish this recommendation. For example, the Commission could work with DBM and MDOT to develop specific job classifications that are required to file statements and perform automated matches to ensure that all persons in those classifications have been identified and made aware of the filing requirements. Automated processes could also be developed to identify new and terminated employees in these classifications.

Including footnote: Any recommendation related to information technology will require resources outside of the Commission's current staffing since the Commission does not employ information technology support staff.

RESPONSE

The State Ethics Commission (Commission) agrees with Finding #1 that there are likely State employees having duties requiring financial disclosure who have not been identified as public officials pursuant to the current statutory process that relies on in-put from the employees' agencies. Recommendation #1 would require a change in the Commission's statutory authority and enhancement of its information technology resources.

Current statutory provisions (Public Ethics Law § 15-103) establish the mechanism by which filers are to be identified and the individual responsibilities

attendant to that identification. The process begins at the agency level, where the appointing authority or his designee (generally the HR department), using the Financial Disclosure Filer Identification Manual (attached to this response), issued to each agency and available to all on our web site <http://ethics.gov.state.md.us>, applies the criteria in the manual to each employee's job description. The Manual contains not only the statutory language, but also includes examples and frequently asked questions to assist the agencies in their initial responsibility of identifying those positions that meet the criteria. In addition to the Manual, the Commission conducts yearly training for agency HR people to explain the process and answer any questions. The Manual and our web site emphasize the availability of Commission staff by phone and email to provide any specific assistance that may be necessary. On occasion, a member of the Commission staff may go to an agency and work with the HR staff to assist in the process. In 2005, the Executive Director worked extensively with an administration within MDOT to help it properly apply the statutory criteria to job descriptions.

The recommendation to identify certain job classifications that would necessarily meet the statutory criteria and then develop an automated process by which all persons in those classifications would be notified and made aware of the filing requirements would require significant IT analysis and expenditure. The classifications are not static and are within the domain of DBM, MDOT, and USM personnel systems. DBM's, MDOT's, and USM's technology would need to be conversant with Commission technology. The Commission has neither the funds nor the staffing to develop, administer or maintain such a system.

Finding #2

Follow-up procedures should be enhanced for late filers and all related late fees assessed and collected as prescribed by law.

RECOMMENDATION #2

We recommend that the Commission ensure timely monitoring of late filings and mailing of delinquency notices. The Commission should consider implementing an automated process to track late filings and to send delinquency notices at 30-day intervals. For example, the system could be modified to send email alerts to delinquent filers who have established accounts on the system. To take full advantage of this enhanced capability, consideration should be given to mandating electronic filings. We also recommend that the Commission assess late fees to delinquent filers. The Commission, in conjunction with the Office of the Attorney General, should determine whether assessing late fees requires a formal complaint

and hearing process and, if so, the Commission should consider seeking changes to the Ethics law.

Response

The Commission agrees with Finding #2 in that follow-up procedures could be enhanced by mandatory electronic filing but disagrees that the late fees are not being assessed as proscribed by law. With regard to the first part of the recommendation that the Commission ensure timely monitoring of late filings and mailing of delinquency notices, the Commission agrees. If electronic filing were mandatory, this could certainly be done efficiently and effectively. The Commission has been in touch with its IT contractor, and we have been advised by the contractor that automatic notifications to late filers would not be a difficult enhancement to implement, although it would require an expenditure of funds that currently the Commission does not have. Were the Commission to have the support of the legislature in modifying the Public Ethics Law to require electronic filing, the Commission would strongly support such a bill.

The Commission disagrees with the second part of the recommendation that the Commission assess late fees to delinquent filers. As the Commission explained during the meeting on the Discussion Notes, the assessment of late fees falls within its statutory **enforcement provisions**. Those provisions sequentially follow the complaint, hearing, and disposition process. The specific statutory provision in § 15-405 begins with:

- (a) *Determination **after** hearing.* – **After** the Ethics Commission considers all of the evidence presented at the hearing, it shall make findings of fact and conclusions of law with respect to each alleged violation. (*emphasis added*)

* * *

- (g) *Penalties for late filing.* --

* * *

- (g) (2) If the respondent is an official, for each financial disclosure statement **found to be late**, the respondent shall pay a fee of \$2 for each late day, not to exceed a total of \$250. (*emphasis added*)

Thus, assessment of late fees cannot take place until and unless it has issued a complaint in the matter that either goes to a full hearing before the Commission or there is a stipulated settlement of the complaint. Any alteration to this procedure would require a statutory change and an individual agreement with each filer that he or she would be automatically subject to a late fee based on the calculation of the number of days late multiplied by the statutorily set late fee (currently \$2 per day up to a maximum of \$250 per late report).

Finding #3

The Commission should develop detailed guidance for State agencies for implementing State ethics laws, regulations, and policies.

RECOMMENDATION #3

We recommend that the Commission, in cooperation with State agencies, establish guidelines to assist the Commission and agencies in providing more effective oversight, especially with respect to identifying required filers.

Response

The Commission disagrees with Finding #3 and Recommendation #3 as it already has and distributes to each agency a Financial Disclosure Filer Identification Manual. Additionally, pursuant to an agreement with DBM in 2002, all new employees with the State, as part of their orientation packages, receive a summary of the conflict of interest provisions, and the new employees are required to sign the document to demonstrate that they have received it and have read it. Additionally, the Commission maintains an informative and easy to use web site, <http://ethics.gov.state.md.us>, which includes all of the information pertinent to filing forms, conflicts of interest, training dates, forms for registration for training session, and telephone numbers and email addresses for our staff with encouragement to contact us at any time.

Finding #4

The Commission should coordinate its actions with State agencies and develop more comprehensive monitoring.

RECOMMENDATION #4

We recommend that the Commission coordinate with State agencies to develop a model process for the agencies to use to monitor potential conflicts of interest among employees.

Response

The Commission agrees that the Commission and State agencies should work together to develop a model process to monitor potential conflicts of interest among

employees. Although there is always room for improvement and more and better communications to take place, the Commission has taken the initiative on many levels. The Commission has worked closely with most agencies, through the agencies' ethics coordinators, Assistant Secretaries, or Assistant Attorneys General, to address potential conflicts of interest among employees.

On its web site, Commission Form #25 is a generic Request for Secondary Employment. This form requires the employee to describe the proposed secondary employment, a contact name and number for the proposed secondary employer, the signature and concurrence or non-concurrence of the employee's supervisor and unit head, and to attach a copy of his or her job description. The completed form is sent to the Commission where General or Assistant Counsel reviews the content, and if there is precedent in prior Commission opinions and advice to permit the secondary employment, the Commission will write a letter to the employee providing specific guidance with regard to the request. If the staff determines that it is necessary for the Commission itself to consider the matter, it will be placed on the agenda for the next scheduled Commission meeting, and the Commission will make the determination.

In order to have State agencies implement model processes as recommended by the auditors, the Commission would need a statutory mandate similar to the federal Office of Government Ethics discussed in the report.

TRAINING

Finding #5

Required training should be given timely to all new employees subject to the annual filing requirements.

RECOMMENDATION #5

We recommend that the Commission work with personnel agencies to develop an automated process to identify new employees entering positions that require training. Once identified, we recommend that the Commission work with agency personnel to ensure that the Commission at least provides the opportunity for training within the mandated time frame.

Response

The Commission agrees that required training should be given timely to all new employees subject to the annual filing requirements. Although there is always room for

improvement in any process, the Commission currently takes active steps to ensure that timely training is available to all employees subject to the annual filing requirements. All agency HR people are aware of the ethics training requirements. Registration forms for the training sessions are available on the Commission's web site as is a schedule of training dates and places. Due to the limitations of Commission staff available to conduct the training (general ethics training is conducted by the Executive Director and Staff Attorney) and the need to obtain space for the training that is convenient to the majority of State employees and is equipped to handle Power Point presentations, sessions are scheduled approximately once every two months. Additionally, the Executive Director, by request of an agency, will take the training directly to the agency in an attempt to have better attendance, more interchange of ideas, and the ability to address the specific ethics issues that may confront a particular agency.

With some enhancement of the Commission's IT, which depends on the availability of additional funding, it is possible that employees who are newly identified as needing to file could receive a reservation form and schedule of training dates electronically and register for a training session electronically. The Commission has no control over whether the registered employee will actually attend the training session.

REVIEW OF FINANCIAL DISCLOSURE STATEMENTS

Finding #6

All financial disclosure statements should be reviewed as required by State law.

RECOMMENDATION #6

We recommend that the Commission develop a plan for complying with State law which requires the review of annual financial disclosure statements. We also recommend that the Commission work with the electronic filing system vendor to develop automated review processes that can compare multiple filings for an official or employee and that can provide listings of potential omissions and errors.

Response

Section 15-205(5) of the Public Ethics Law states that the Ethics Commission shall review each statement and report filed in accordance with Subtitle 6 of this title and notify officials and employees submitting documents under Subtitle 6 of this title of any omissions or deficiencies. This provision does not include a time frame for the review. During the first

year of its operation, the Commission had five staff members, and approximately 6,000 financial disclosure reports were filed. With limited technology and staff, the Commission strove to review 25% of the filings each year. Due to staff limitations and other pressing responsibilities, 25% was difficult to attain.

The Commission still does not have sufficient staff or resources to properly review each financial disclosure statement. The process has continued to attempt to review as close to 25% of the statements, in a rotating order by agency or commission. In 2004, there were approximately 11,800 financial disclosure statements filed. There are nine Commission staff, each of whom has specifically delineated and separate functions. Only three staff members were regularly available to perform the reviews, which, as the audit report states, is a tedious and labor intensive process. Adding to the complexity of the process is the fact that, on the same date that financial disclosure statements are due, the lobbying period for November 1 through April 30th ends, and training, advice responsibilities, enforcement and other functions of the Commission continue. Additionally, until the 2004 reporting year, there was no electronic filing. For reporting year 2004, approximately 54% of the filers elected to file electronically. Both paper filings and electronic filings were reviewed. Three members of the staff were able to review 2,600 filings by October 1st. For each review, the review protocol was followed and letters or emails were sent to each reviewed filer whose statement required amendment.

For 2005, approximately 7,000 of the 11,783 filers elected to file electronically. The number of statements reviewed increased to more than 4,000 due to the ability to do so many of the reviews totally electronically. Staff was able to compare electronic filings for 2004 and 2005 without the need to retrieve the paper file, which is a much more time consuming and labor intensive process.

Section 15-405 (4) states that the Ethics Commission shall periodically review the adequacy of the Public Ethics Law. Notwithstanding that § 15-405(5) mandates review of all documents filed with the Commission, it has been the Commission's experience that nothing would be gained by reviewing each filing each year. Filings, for the most part, remain consistent from one year to the next, with the possible exception of sale or acquisition of a new property or stock. The sampling of 25% on a rotating basis offers the Commission sufficient information regarding an employee's financial interests and possible conflicts. Additionally, with the increase in training, development of our web site, and the relative ease of the electronic filing system, the number of mistakes has decreased sharply. The electronic program will not permit the filer to submit the statement if he or she leaves out required information. Fulfillment of the Commission's mission no longer requires the labor intensive and time consuming review of each statement each year. The Commission will continue to monitor the filings for the next few years, and, if appropriate, request a change in the law to remove the requirement of reviewing all statements.

REPORTING REQUIREMENTS – CORPORATE PURCHASING CARDS

Finding #7

Certain corporate purchasing cardholders should be subject to the reporting requirements of the ethics law.

RECOMMENDATION #7

We recommend that the Commission require employees with the authority to make individual purchases of \$10,000 or more with corporate purchasing cards to file financial disclosure statements. We also recommend that the Commission examine the issue of corporate purchasing card users and determine if employees spending more than \$10,000 in a given year should also be subject to the filing requirement. The Commission should work with the Comptroller to identify high dollar corporate purchasing card users to help ensure compliance.

Response

With regard to the first part of the recommendation, employees with the authority to make individual purchases of \$10,000 or more with corporate purchasing cards are required to file financial disclosure statements. This is currently the law and those individuals with authority to commit their agency or the State to a single contract in excess of \$10,000 should be identified by their agencies and included on the list of those who must file annual financial disclosure statements. The process for identification is explained in the Commission's response to Finding and Recommendation #1.

The Commission disagrees with the recommendation that all employees holding State credit cards that permit spending of \$10,000 or more in a calendar year should be identified as being required to file annual financial disclosure statements. As noted in the Audit Report, the law has been interpreted consistently by the Commission as pertaining to those employees who can commit their agency or the State to a single contract in excess of \$10,000. The identification of more than 3,500 additional employees who would need to file annually would do nothing to further the Commission's mission. The concern expressed by the auditors on this issue was that individuals with credit cards could be spending inappropriately or spending with entities that could present a conflict. As the Ethics Commission does not have any access to the spending records on the State credit cards, this would be an ineffective mechanism by which to identify possible conflicts or frauds. I have attached to this response a copy of a letter from General Counsel explaining this issue in detail.

COMPLAINT PROCESS

Finding #8

The Commission should develop comprehensive guidelines for resolving complaints relating to potential ethics law violations.

RECOMMENDATION #8

In order to ensure the timely investigation and resolution of potential violations of ethics law, we recommend that the Commission develop guidelines governing the time frames for investigation and complaint resolution processes. Within these guidelines, we also recommend that the Commission include a structure for assessing fines and penalties uniformly based on the types and severity of violations.

Response

The Commission disagrees with the Audit Report with regard to Finding and Recommendation #8. Sections 15-401 through 15-406 of the Ethics law and the Commission regulations at COMAR 19A.01.03.01 through.09 provide detailed guidance with regard to the investigative and complaint functions and procedures of the Commission. Ideally, the Commission could establish time lines for the various stages of the process, but enforcement of those timelines would not be possible. First of all, the Commission meets only once every six weeks, and the enforcement process requires that the Commission make determinations at each stage as to the direction of the actions it wishes to pursue. Therefore, it is not unreasonable that for 26 matters audited, that 21 resulted in the issuance of complaints within 12 months, and only 5 matters took longer than 12 months.

Due to budgetary constraints, the Commission currently has only one Staff Attorney to handle all of the conflict of interest enforcement matters. The one para-legal provides assistance to Staff Counsel for conflict of interest matters and assistance to Assistant Counsel for lobbying and financial disclosure enforcement matters. The investigation process is time-consuming and labor intensive. Considering the number of conflict of interest enforcement matters and the fact that there is only one attorney responsible for their investigation and prosecution, the length of time it takes to issue complaints and conclude matters is quite reasonable and certainly is consistent with other enforcement agencies.

The enforcement process, which is described in the Audit Report, can be interrupted by numerous circumstances: there may be an active investigation of the employee by another enforcement agency (FBI, State's Attorney, Special Prosecutor, Inspector General, etc), which would require the Commission to hold the matter in abeyance until the other enforcement agency completed its investigation of the matter; collection of documentation during the investigative process and prior to the issuance of a complaint is time-consuming and labor intensive; interviewing of parties and possible witnesses in preparation for hearing is time-consuming and labor intensive; most of the employees are represented by counsel, which also extends the process.

The auditors considered matters that extended 5 to 17 months as being unduly lengthy. Although the lengthiness of the proceedings is not ideal, it is a fact of life in the legal community that enforcement matters do take time if the investigation and preparation are to be comprehensive and fair. Placing time limits in the statute or regulations would not remove the above stated impediments from the process – it would more likely result in the

granting of waivers and extensions. The Commission makes every effort to complete enforcement matters within a 12-month period.

The Commission does everything in its power to move swiftly, but not at the expense of failing to provide a just and reasonable process, and it will continue to strive for more efficient conclusion to matters.

AUTOMATED SYSTEM

Finding #9

Controls over the automated system used to maintain the electronic financial disclosure statement application should be enhanced.

RECOMMENDATION #9

We recommend that the Commission work with information technology staff of the Governor's Office and DBM to enhance the controls and security over its electronic financial disclosure statement database and server, including the development of a disaster recovery plan.

Response

The Commission agrees with Finding and Recommendation #9. The Commission does not have its own IT staff. All of its computer programs and filing systems are housed on servers within the Governor's IT office. The Commission has been working with the Governor's IT director and staff with the following results:

1. The audit logs have been changed to meet the recommendations of the IT auditors, and there are now regular daily reviews of the server logs.
2. The Administrator accounts were renamed.
3. The separation of the application and database components of the electronic filing system cannot be separated until such time as ongoing infrastructure upgrades for the Governor's IT system are completed, a new DMZ created and additional hardware and software procured to support the separation.
4. Sample databases were removed in accordance with the IT audit recommendation.
5. No Ethics Commission employees log into the Windows 2000 system. All Ethics Commission employee access is controlled through the application layer. All Ethics Commission employees are authenticated through the

network via Active Directory prior to the ability to be authenticated at the FDS application layer.

6. Daily reviews of the logs are being performed and the reviews are retained and documented.
7. Once infrastructure upgrades are completed within the Governor's IT office, a Disaster Recovery Plan will be developed. The Commission has no control over this process.

COMPARISON OF ETHICS LAWS, PROCESSES, AND SYSTEMS

Finding #10

Maryland's State Ethics Commission operates in a manner similar to that of many other states but potential for enhanced efficiencies exists.

RECOMMENDATION #10

We recommend that the Commission conduct an evaluation of its responsibilities and resources to determine what actions should be proposed (such as legislative or budgetary) to increase operational efficiencies and to improve oversight and monitoring of Maryland's Public Ethics Law. The Commission should consider the following actions:

- a. **Requesting additional staff to assist the Commission in carrying out its mandated duties and responsibilities;**
- b. **Modifying the reporting requirements to decrease the number of required filers (in lieu of or in addition to increasing Commission staff);**
- c. **Mandating electronic filing for all employees and officials;**
- d. **Providing for public online access to annual electronic financial disclosure statements of public officials;**
- e. **Developing specific criminal penalties for willful or knowingly violating the ethics law.**

Response

The Commission agrees with Finding #10 and several of the recommendations. The Commission truly needs three additional staff positions: a legal assistant whose duties would be exclusively directed to assisting General Counsel with regard to local jurisdiction issues; an additional staff attorney to assist Staff Counsel with enforcement in conflict of interest matters; and an additional general office administrative assistant who would serve as back-up for each of the non-professional staff positions. The Commission also requires additional funding for enhancements to its electronic filing programs, including, but not limited to: automatic notifications at regular intervals to filers of the upcoming filing deadline; automatic notification at regular intervals to late filers of the possible penalties for late filing; and refinements to the system to increase its ease of use.

Any decrease to the number of required filers would require statutory change to §§ 15-103 and 15-208. Additionally, as the Commission charged with oversight of Public Ethics, the advisability of such a change needs close scrutiny to make sure that there continue to be sufficient safeguards to protect governmental integrity.

As noted in its response to Finding #7, above, the Commission will strongly support the legislature's initiative to make electronic filing mandatory. Currently, the law provides only that the Commission develops electronic filing that would not result in a cost to the filer.

In order to permit electronic public access to financial disclosure statements, the current law, in § 15-606, provides that the Commission makes statement available to the public for examination and copying during normal office hours and that it maintains a record of the name and home address of each individual who examines or copies a statement filed pursuant to the Public Ethics Law, the name of the individual whose statement was examined or copied, and, on the request of the individual whose statement was examined or copied, forwards a copy of that record to that individual. Since its establishment, the Commission consistently has requested identification and signature with home address in a public register before access to any financial disclosure statement is provided. Any change in this procedure would need to be detailed in its regulations, or, more likely a statutory change. Enabling public electronic access will also require significant and costly enhancement to the electronic system.

Developing specific criminal penalties for knowing and willful violations would also require statutory changes. The Commission has, however, in its last several annual reports to the Governor included a section of suggested statutory changes including:

- The Commission proposes that the Legislature enable it to assess civil penalties in conflict of interest and other violations by State employees and public officials. The Commission may currently request a court of competent jurisdiction to assess fines of \$5,000 per violation, and it seeks the authority, on its own, to assess civil penalties in the amount of \$5,000 per violation.

- In the 1999 Session of the General Assembly, the Harford County Liquor Board and its employees were placed under the authority of the State Ethics Commission. However, the employees of the Board, regardless of salary or duties, were excluded from financial disclosure requirements. This general exclusion should be withdrawn to make the disclosure requirements for these employees the same as other employees subject to the State Ethics Law.

Finding #11

Maryland's financial disclosure form is more comprehensive than those of most other states' and the federal government's.

We recommend that the Commission review the financial statement disclosures required under the current law and regulation and determine if the current reporting process should be modified or simplified while still complying with the intent of the law.

Response

The Commission agrees with Finding #11 and Recommendation #11, and in prior annual reports to the Governor, the Commission has included the following recommendations for legislative changes to the financial disclosure reporting requirements:

- Disclosure of interests in all State deferred compensation plans should be added to the exemption now provided for those who have interests in 401 and 501 plans (§ 15-102(t)(2)(iv)). The exemption is warranted as the State provides a discreet list of investments into which employees may invest, and there is no latitude for the employee to select investments other than those provided by the State.
- Consideration should be given to eliminating the need for reporting of investment in any mutual fund publicly traded on a national scale. The basis for the request is that the employee has no control over the trading of the individual holdings of the mutual fund, and, therefore, it is improbable that an employee could effectuate any change in value of the mutual fund by his or her official act as a State employee.