MAJOR ISSUES REVIEW
A Review of Legislation 1995 - 1998

Department of Legislative Services
Office of the Executive Director
Maryland General Assembly

Karl S. Aro
Executive Director

June 30, 1998

The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Casper R. Taylor, Jr., Speaker of the House of Delegates
Members of the General Assembly

Ladies and Gentlemen:

I am pleased to present you the 1995 - 1998 **MAJOR ISSUES REVIEW**.

This document summarizes legislative activities over the 4-year term. It includes discussion of all the major issues, significant bills that did not pass, and gubernatorial vetoes of major legislation.

Information about the operating and capital budgets, as well as aid to local governments, is presented in Part A. Also included in Part A are relevant comparative data relating to State expenditures during the 1995 - 1998 term.

Like the **The 90 Day Report** on the 1998 Legislative Session, the 4-year **MAJOR ISSUES REVIEW** is divided into 13 major parts which are listed in the Table of Contents. An alphabetical checklist of major issues considered during the 1995 - 1998 term is also provided.

I hope that you will find the **MAJOR ISSUES REVIEW** as helpful a document as you have found in similar 4-year review documents that were prepared in the past. If you have any questions about the contents of this document, please contact me.

Sincerely,
Karl S. Aro
Executive Director

Major Issues Review

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PART A
BUDGETS AND STATE AID

OPERATING BUDGET

SUMMARY OF THE OPERATING BUDGET (1995 - 1998 SESSIONS)

The change in State spending in the operating budget by major category of expenditure is shown in **Exhibit A.1**. General funds derive primarily from general tax revenues such as income and sales taxes and the State Lottery. From fiscal 1995 to fiscal 1999, expenditures supported by general funds increased 21%, from $7 billion to nearly $8.5 billion. Most of this new spending was for aid to local governments ($615 million increase) and State agencies ($472 million increase). Due to falling caseloads and welfare reform, expenditures for entitlements increased less than 5% over the four year period. Although State support for colleges and universities increased $109 million, the rate of increase was less than that experienced for aid to local governments and State agencies.

Total spending from all sources of funds, including federal, rose $3.1 billion over the four year period, boosting expenditures from $13.5 billion to $16.6 billion. There is less variation in the growth rate among major categories of expenditures when all spending is considered. The rate of increase in spending was highest for state colleges and universities, taking into account tuition and fee and research grant supported expenditures.

Since 1982, the Spending Affordability Committee, composed of legislative and citizen members, recommends to the Governor and the General Assembly a level of spending for the State operating budget that is reflective of the current and prospective condition of the State's economy. The rate of growth in each of the budgets enacted over the four year period was within these recommendations. Thus, during a period of economic growth, increases in State spending were constrained to prevent building in unsupportable levels of spending in future years. The enacted budgets prudently manage accumulated fund balances in light of the comparatively modest growth rates forecast for future State tax revenues due to State tax reductions.

Aid to local governments was clearly a priority over the last four years. Between fiscal 1995 and 1999 aid increased $650 million or 25%. Most of this additional aid was for the public schools. Since fiscal 1995 education aid will have increased $548 million or 28%. This significant increase results from growth in existing education aid programs and enhancements enacted by the General Assembly over the four years. Other legislation enacted during the 1995-1998 term increased funding for community colleges, libraries, health departments, and police protection.

Most of the increase in State agency expenditures is personnel related, including general salary increases granted in fiscal 1996 (2%) and fiscal 1999 ($1,088 per employee) and higher costs for employee and retiree health insurance. About 700 positions were added to keep pace with growing corrections populations. Continuing previous trends, there were reductions in the number of positions in the areas of transportation, human resources, and health and mental hygiene.

An overall increase of less than 5% over the four year period for entitlement expenditures was caused by a precipitous decline in enrollment for temporary cash assistance and medical assistance welfare caseloads. This occurred due to reform efforts and increased employment opportunities realized during a time of general economic improvement.

Upwardly revised revenue estimates made possible pay-as-you-go capital expenditures of $210 million for fiscal 1999, compared to $59 million in fiscal 1995. In addition to $88.5 million allocated for public school construction, $60 million went to statewide and local economic projects, $25.4 million was targeted to environmental projects, and $18 million bolstered housing and community development programs.

Several initiatives were responsible for the $109 million increase in support between fiscal 1995 and fiscal 1999 for State colleges and universities, including enhancing the University of Maryland, College Park as the flagship campus, addressing the needs of historically African-American institutions, and providing funds for the recruitment and retention of nationally renowned faculty.

Sizeable appropriations to the Revenue Stabilization Account, also known as the rainy day fund, were made to retain State revenues for future needs and reduce the need for future tax increases. Since fiscal 1996, the balance in the rainy day fund has exceeded 5% of general fund revenues, a threshold established as a means to demonstrate to the financial markets and bond rating agencies Maryland's prudent financial management. The balance has escalated from $286 million as of June 30, 1995 to an estimated $632 million at the close of fiscal 1999. About $224 million of this balance will be in excess of 5% of general fund revenues projected for the year.

Significant aspects of each of the budgets adopted over the past four years are discussed below.

1995 Session (Fiscal 1996)

The budget adopted in the 1995 session provided $14.4 billion in appropriations for fiscal 1996 and allocated an additional $151.4 million for fiscal 1995. Total spending for fiscal 1996 increased 4.4% over fiscal 1995 appropriations. The budget was within the spending limit recommended by the Spending Affordability Committee.

The budget made sizeable contributions to the State Reserve Fund. Enough was allocated to the State's "Rainy Day" account to meet the statutory funding target of 5% of general fund revenues for the first time. By the end of fiscal 1996, the account was projected to exceed $370 million. The $20 million provided to the "Sunny Day" account to promote economic development exceeded the sum of all prior appropriations to that fund. Finally, $190 million was set aside for future tax reductions and to offset the budgetary impact of changes in federal fiscal policy.

Although programmatic increases were restrained, the budget fully funded mandated aid to units of local government and provided additional targeted assistance to Baltimore City, and Montgomery, Prince George's and Baltimore counties. State employees received a 2% cost-of-living increase effective July 1, 1995 and qualified employees received salary increments or merit increases effective on either November 1 or May 1.

1996 Session (Fiscal 1997)

The budget adopted at the 1996 session provided $14.6 billion in appropriations for fiscal 1997 and $27 million for fiscal 1996. In a limited budget, education programs fared well. General funds for local education and libraries increased 5.2% over fiscal 1996 levels to over $3.2 billion. General funding for public higher education institutions increased 3.3% to $644 million, while aid to private colleges grew 9.4% to $31 million. Community college aid increased 1.8% to $121 million, despite a decline in formula enrollment. Also, in combination with the capital budget, $137 million was provided for public school construction.

State financing for football stadium construction was a major fiscal issue. The budget provided $70.5 million in transportation funds toward road and infrastructure improvements related to construction of a football stadium in Prince George's County for the NFL Redskins. Under the Maryland Stadium Authority, $19 million of $32 million in dedicated instant lottery proceeds was allocated to financing construction of a stadium in Baltimore City adjacent to Camden Yard for the NFL Ravens.

1997 Session (Fiscal 1998)

The budget adopted at the 1997 session provided $15.4 billion in appropriations for fiscal 1998. Total appropriations for fiscal 1998 were $344 million over revised appropriations for fiscal 1997. General fund appropriations for fiscal 1998 were $394 million greater than in fiscal 1997.

In a cost containment budget, education program funding continued to exhibit favorable growth. General funds for local education and libraries increased 7.5% over the prior year, to over $2.4 billion. General funding for public higher education institutions increased 3.6% to $667 million, while aid to private colleges grew 1.3% to $31.5 million. Community college aid increased 4.4% to $125.6 million, despite a continued decline in formula enrollment. Also, in combination with the capital budget, $147 million was provided for public school construction.

As in fiscal 1997, no general cost-of-living increase for State employees was provided for fiscal 1998, but regular employee increments were fully funded. The budget provided for a 10% salary increase for state police, natural

resources police, and park rangers. Legislative action denied merit increases within the Executive Pay Plan and disapproved the increase in judicial salaries recommended by the Judicial Compensation Commission.

Reducing the personal income tax and funding education were major legislative issues. A 10% reduction in the personal income tax to be phased-in over five years was passed, as was a phased modification of the sales tax on manufacturing equipment. The budget also provided $33.5 million related to settlement of litigation over the financing and management of Baltimore City Schools, contingent on enactment of enabling legislation and $34 million in aid to other jurisdictions also contingent on that legislation.

1998 Session (Fiscal 1999)

The budget adopted at the 1998 session provided $16.6 billion in appropriations for fiscal year 1999, an increase of $890 million over fiscal year 1998. General fund appropriations for fiscal year 1999 were $607 million greater than current spending authority.

State agency spending accounted for the largest growth in the general fund portion of the budget. Funding for enhancements and initiatives was provided to establish or expand programs to combat pfiesteria, enhance public safety through development of the community court and Break the Cycle programs, enhance the State's institutions of higher education, improve services to individuals with developmental disabilities, provide additional funding for foster care, and to support economic development through information technology programs.

The first general salary increase in three years added $58.3 million. This fiscal year 1999 increase was a flat $1,275 per position, phased in as a $900 increase on July 1, 1998, and a $375 increase on January 1, 1999. An additional $5 million was provided for faculty recruitment and retention in University System of Maryland institutions as part of a two-year $10 million enhancement. State Police received a 4% salary increase, at a cost of $3.2 million, as the third year of a six-year program to make salaries competitive with the top third of police regionally. An increase of $11,275 for all Maryland judges was approved, consistent with the recommendations of the Judicial Compensation Commission.

Education programs continued to fare well in the fiscal year 1999 budget as general funds for local education spending grew 6.4%, and community college grants increase 3.1%. State college and university funding increased by 8.0%, and aid to private colleges grew 5.4%. The operating budget included $88.5 million for public school construction. In combination with funding in the capital budget, $225.0 million will be available for school construction this year.

Modifications to the State's tax structure were adopted as well during the session, to accelerate the implementation of the income tax reduction (Chapter 4, Acts of 1998), to provide a refundable earned income tax credit to those with dependents who are eligible for the federal credit (Chapter 5, Acts of 1998), and to expand eligibility for low income homeowners to receive property tax credits (Chapter 6, Acts of 1998). Additional funding was placed in the State Reserve Fund specifically for the purpose of providing for anticipated tax relief measures. The aggregate impact of these actions will require a transfer of $185.2 million in fiscal year 1999. Chapter 6 would not affect revenues until fiscal year 2000.

Exhibits A.2 through **A.6** that follow set forth State expenditures during the 1995 -- 1998 term of the General Assembly on the following basis: general funds, special and higher education funds, federal funds, all State funds, and all funds.

Exhibit A.1
Budget Change by Category: Fiscal 1995 to Fiscal 1999

General Funds	**$ in Millions**			
	Actual FY 1995	**Leg Appr FY 1999**	**$ Change**	**% Change**
State Agencies	2,447	2,920	472	19.3%

Aid to Local Governments	2,260	2,875	615	27.2%
Entitlements	1,358	1,421	63	4.6%
Capital	59	210	151	257.1%
State Colleges & Universities	611	720	109	17.8%
Reserve Fund	130	170	40	30.7%
Transfers	0	17	17	n.a.
Debt Service	134	152	18	13.2%
	7,000 #	8,484 #	1,484	21.2%

Total Funds

	Actual FY 1995	Leg Appr FY 1999	$ Change	% Change
State Agencies	4,516	5,437	921	20.4%
Aid to Local Governments	2,953	3,701	748	25.3%
Entitlements	2,583	3,110	527	20.4%
Capital	1,063	1,346	284	26.7%
State Colleges & Universities	1,772	2,278	506	28.6%
Reserve Fund	130	185	55	42.3%
Transfers	25	17	(8)	-31.7%
Debt Service	479	559	80	16.7%
	13,520 #	16,633 #	3,112	23.0%

Detail may not add to total due to rounding. FY 1999 totals do not reflect anticipated reversions.

Exhibit A.2
State Expenditures -- General Funds
($ in Millions)

Category	Actual FY 1995	Actual FY 1996	Actual FY 1997	Work Appr FY 1998	Leg Appr Y 1999	$ Diff. 95 to 99	% Diff. 95 to 99
Debt Service	$134.1	$149.2	$155.9	$172.1	$151.8	$17.8	13.2%
Aid to Local Governments							
General Government	102.2	111.5	115.6	134.0	136.0	33.8	33.1%
Community Colleges	113.5	118.8	119.9	125.6	129.5	16.0	14.1%
Education & Libraries	2,010.7	2,123.7	2,238.1	2,410.6	2,565.7	555.0	27.6%
Health	34.0	38.5	40.7	2.5	43.8	9.8	28.8%
	2,260.4	2,392.5	2,514.3	2,712.7	2,875.0	614.6	27.2%
Entitlements							
Foster Care Payments	97.7	90.6	100.7	107.3	115.9	18.3	18.7%
Assistance Payments	184.2	137.1	116.5	101.9	83.3	(100.9)	-54.8%
Medical Assistance #	1,015.2	1,041.8	1,075.6	1,085.1	1,168.1	153.0	15.1%
							-

Property Tax Credits	60.9	56.0	60.3	53.7	53.3	(7.6)	12.4%
	1,357.9	1,325.5	1,353.1	1,348.1	1,420.7	62.8	4.6%
State Agencies							
Health	746.2	749.0	753.5	762.6	799.9	53.8	7.2%
Human Resources	213.9	220.4	234.9	217.6	232.4	18.5	8.6%
Systems Reform Initiative	0.0	28.5	36.3	52.9	52.8	52.8	n.a.
Juvenile Justice	105.4	106.2	110.6	110.6	122.1	16.7	15.8%
Public Safety & Police	597.6	634.4	672.8	703.1	743.4	145.8	24.4%
State Colleges & Universities	611.5	623.8	643.6	668.5	720.2	108.7	17.8%
Agric./Natl Res./Environ.	88.7	88.3	86.6	90.5	99.2	10.6	11.9%
Other	507.1	521.2	535.9	584.9	629.4	122.3	24.1%
Judicial & Legislative	188.6	201.2	209.9	216.3	240.7	52.0	27.6%
Across-the-Board Cuts	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
	3,059.0	3,173.0	3,284.1	3,406.8	3,640.1	581.1	19.0%
Capital	58.7	97.2	66.8	89.8	209.6	150.9	257.1%
Transfers	0.0	0.0	6.0	23.0	17.1	17.1	n.a.
Subtotal	**6,870.1**	**7,137.4**	**7,380.3**	**7,752.5**	**8,314.3**	**1,444.3**	**21.0%**
Reserve Fund	130.0	250.0	0.0	125.1	170.0	39.9	30.7%
Appropriations	**7,000.1**	**7,387.4**	**7,380.3**	**7,877.6**	**8,484.3**	**1,484.2**	**21.2%**
Reversions	0.0	0.0	0.0	(11.4)	(20.0)	(20.0)	n.a.
Medicaid Overaccrual	0.0	0.0	0.0	(30.0)	0.0	0.0	n.a.
Grand Total	**$7,000.1**	**$7,387.4**	**$7,380.3**	**$7,836.2**	**$8,464.3**	**$1,464.2**	**20.9%**

NOTE: Detail may not add to total due to rounding. FY 1998 includes deficiency appropriations.
Includes Medicaid funds budgeted in the Mental Hygiene Administration beginning in FY 1998.

Exhibit A.3
State Expenditures -- Special and Higher Education Funds **
($ in Millions)

Category	Actual FY 1995	Actual FY 1996	Actual FY 1997	Work Appr FY 1998	Leg Appr Y 1999	$ Diff. 95 to 99	% Diff. 95 to 99
Debt Service	$344.6	$355.5	$367.2	$381.6	$406.8	$62.2	18.0%
Aid to Local Governments							
General Government	382.6	394.6	407.4	408.4	414.9	32.3	8.4%
Community Colleges	(0.4)	0.0	0.2	0.0	0.0	0.4	-100.0%
Education & Libraries	0.1	0.1	0.3	0.3	0.0	(0.1)	-100.0%
Health	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
	382.3	394.8	407.9	408.6	414.9	32.6	8.5%

Entitlements							
Foster Care Payments	0.2	1.6	1.8	0.0	1.8	1.6	1078.2%
Assistance Payments	36.3	43.3	29.1	39.8	22.8	(13.5)	-37.1%
Medical Assistance	14.8	11.2	6.9	16.0	16.3	1.5	10.4%
Property Tax Credits	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
	51.3	56.1	37.8	55.9	40.9	(10.3)	-20.1%
State Agencies							
Health	36.7	32.0	34.5	71.0	77.1	40.4	110.3%
Human Resources	12.7	10.9	19.8	10.4	14.4	1.7	13.8%
Systems Reform Initiative	0.0	0.0	0.0	0.3	0.3	0.3	n.a.
Juvenile Justice	0.1	0.1	0.2	0.2	0.3	0.2	254.0%
Public Safety & Police	90.4	99.0	96.0	109.5	115.3	24.9	27.5%
State Colleges & Universities	1,160.5	1,247.9	1,379.1	1,507.2	1,557.8	397.3	34.2%
Transportation	698.2	757.1	751.2	791.4	806.4	108.2	15.5%
Agric./Natl Res./Environ.	75.0	79.3	87.1	87.1	84.3	9.4	12.5%
Other	194.5	194.6	200.7	203.5	188.3	(6.3)	-3.2%
Judicial & Legislative	3.7	2.7	1.6	5.0	11.1	7.4	199.9%
Across-the-Board Cuts	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
	2,271.8	2,423.7	2,570.3	2,785.6	2,855.3	583.6	25.7%
Capital	569.2	567.9	575.9	718.8	708.4	139.2	24.5%
Transfer to MDTA	25.0	25.0	25.0	0.0	0.0	(25.0)	-100.0%
Local Funds (*)	29.4	28.5	29.8	31.8	33.4	4.0	13.5%
Subtotal	**3,673.6**	**3,851.5**	**4,014.0**	**4,382.4**	**4,459.7**	**786.2**	**21.4%**
Reserve Fund	0.0	0.0	0.0	0.0	15.0	15.0	n.a.
Grand Total	**$3,673.6**	**$3,851.5**	**$4,014.0**	**$4,382.4**	**$4,474.7**	**$801.2**	**21.8%**

NOTE: Detail may not add to total due to rounding. FY 1998 includes deficiency appropriations.
** Includes higher education funds (current unrestricted & current restricted) net of general and special funds.
(*) Consists of local spending for the health formula.

Exhibit A.4
State Expenditures -- Federal Funds
($ in Millions)

Category	Actual FY 1995	Actual FY 1996	Actual FY 1997	Work Appr FY 1998	Leg Appr Y 1999	$ Diff. 95 to 99	% Diff. 95 to 99
Debt Service	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	n.a.
Aid to Local Governments							
General Government	27.7	26.8	38.4	23.9	39.5	11.8	42.5%
Community Colleges	0.0	0.0	0.0	0.0	0.0	0.0	n.a.

Education & Libraries	277.6	306.7	321.9	331.6	366.7	89.1	32.1%
Health	4.5	4.2	4.5	4.5	4.5	0.0	0.3%
	309.8	337.7	364.8	360.0	410.7	100.8	32.5%
Entitlements							
Foster Care Payments	35.3	38.9	48.3	43.7	54.8	19.5	55.3%
Assistance Payments	143.3	128.8	449.4	379.8	425.6	282.3	197.1%
Medical Assistance #	995.5	1,024.6	1,073.5	1,064.5	1,167.7	172.2	17.3%
Property Tax Credits	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
	1,174.1	1,192.2	1,571.2	1,487.9	1,648.1	474.1	40.4%
State Agencies							
Health	221.6	257.0	271.8	286.0	320.0	98.4	44.4%
Human Resources	326.0	309.7	324.1	364.5	438.8	112.8	34.6%
Systems Reform Initiative	0.0	5.5	1.0	18.3	19.3	19.3	n.a.
Juvenile Justice	10.9	12.1	9.4	9.9	10.1	(0.8)	-7.5%
Public Safety & Police	6.5	8.1	9.3	9.0	5.2	(1.3)	-19.7%
State Colleges & Universities	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
Transportation	9.4	17.4	15.8	15.9	15.7	6.3	67.6%
Agric./Natl Res./Environ.	39.1	35.3	40.0	39.6	46.7	7.6	19.5%
Other	312.2	330.9	306.6	331.9	328.9	16.7	5.4%
Judicial & Legislative	2.5	3.1	2.0	1.8	2.0	(0.6)	-22.2%
Across-the-Board Cuts	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
	928.1	979.1	980.0	1,077.0	1,186.6	258.5	27.9%
Capital	434.7	433.6	473.6	574.8	428.2	(6.5)	-1.5%
Subtotal	**2,846.7**	**2,942.6**	**3,389.6**	**3,499.8**	**3,673.6**	**826.9**	**29.0%**
Reserve Fund	0.0	0.0	0.0	4.4	0.0	0.0	n.a.
Grand Total	**$2,846.7**	**$2,942.6**	**$3,389.6**	**$3,504.2**	**$3,673.6**	**$826.9**	**29.0%**

NOTE: Detail may not add to total due to rounding. FY 1998 includes deficiency appropriations.
Includes Medicaid funds budgeted in the Mental Hygiene Administration beginning in FY 1998.

Exhibit A.5
State Expenditures -- All State Funds
($ in Millions)

Category	Actual FY 1995	Actual FY 1996	Actual FY 1997	Work Appr FY 1998	Leg Appr Y 1999	$ Diff. 95 to 99	% Diff. 95 to 99
Debt Service	$478.7	$504.7	$523.1	$553.7	$558.6	$79.9	16.7%
Aid to Local Governments							
General Government	484.8	506.1	523.0	542.3	550.9	66.1	13.6%

Community Colleges	113.1	118.8	120.1	125.6	129.5	16.4	14.5%
Education & Libraries	2,010.8	2,123.8	2,238.5	2,410.9	2,565.7	554.9	27.6%
Health	34.0	38.5	40.7	42.5	43.8	9.8	28.8%
	2,642.7	2,787.3	2,922.3	3,121.3	3,289.9	647.2	24.5%
Entitlements							
Foster Care Payments	97.8	92.2	102.5	107.4	117.7	19.9	20.3%
Assistance Payments	220.5	180.4	145.5	141.8	106.2	(114.3)	-51.9%
Medical Assistance #	1,029.9	1,053.0	1,082.6	1,101.2	1,184.5	154.5	15.0%
Property Tax Credits	60.9	56.0	60.3	53.7	53.3	(7.6)	-12.4%
	1,409.1	1,381.6	1,390.9	1,404.0	1,461.6	52.5	3.7%
State Agencies							
Health	782.8	781.1	788.0	833.6	877.0	94.2	12.0%
Human Resources	226.6	231.3	254.7	228.0	246.8	20.2	8.9%
Systems Reform Initiative	0.0	28.5	36.3	53.2	53.1	53.1	n.a.
Juvenile Justice	105.5	106.2	110.8	110.8	122.4	16.9	16.0%
Public Safety & Police	688.0	733.5	768.9	812.6	858.7	170.7	24.8%
State Colleges & Universities	1,772.0	1,871.8	2,022.6	2,175.7	2,278.0	506.0	28.6%
Transportation	698.2	757.1	751.2	791.4	806.4	108.2	15.5%
Agric./Natl Res./Environ.	163.6	167.6	173.7	177.5	183.6	20.0	12.2%
Other	701.7	715.8	736.7	788.4	817.7	116.0	16.5%
Judicial & Legislative	192.3	203.9	211.5	221.3	251.8	59.4	30.9%
Across-the-Board Cuts	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
	5,330.8	5,596.7	5,854.5	6,192.5	6,495.5	1,164.7	21.8%
Capital	627.9	665.1	642.7	808.5	918.0	290.1	46.2%
Transfer to MDTA	25.0	25.0	25.0	0.0	0.0	(25.0)	-100.0%
Transfers	0.0	0.0	6.0	23.0	17.1	17.1	n.a.
Local Funds (*)	29.4	28.5	29.8	31.8	33.4	4.0	13.5%
Subtotal	**10,543.6**	**10,988.9**	**11,394.3**	**12,134.8**	**12,774.1**	**2,230.5**	**21.2%**
Reserve Fund	130.0	250.0	0.0	125.1	185.0	54.9	42.3%
Appropriations	**10,673.6**	**11,238.9**	**11,394.3**	**12,260.0**	**12,959.1**	**2,285.4**	**21.4%**
Reversions	0.0	0.0	0.0	(11.4)	(20.0)	(20.0)	n.a.
Medicaid Overaccrual	0.0	0.0	0.0	(30.0)	0.0	0.0	n.a.
Grand Total	**$10,673.6**	**$11,238.9**	**$11,394.3**	**$12,218.6**	**$12,939.1**	**$2,265.4**	**21.2%**

NOTE: Detail may not add to total due to rounding. FY 1998 includes deficiency appropriations.
(*) Consists of local spending for the health formula.
Includes Medicaid funds budgeted in the Mental Hygiene Administration beginning in FY 1998.

Exhibit A.6

State Expenditures -- All Funds
($ in Millions)

Category	Actual FY 1995	Actual FY 1996	Actual FY 1997	Work Appr FY 1998	Leg Appr Y 1999	$ Diff. 95 to 99	% Diff. 95 to 99
Debt Service	$478.7	$504.7	$523.1	$553.7	$558.6	$79.9	16.7%
Aid to Local Governments							
General Government	512.5	532.9	561.4	566.3	590.4	77.9	15.2%
Community Colleges	113.1	118.8	120.1	125.6	129.5	16.4	14.5%
Education & Libraries	2,288.5	2,430.5	2,560.3	2,742.5	2,932.4	643.9	28.1%
Health	38.5	42.7	45.2	47.0	48.3	9.8	25.5%
	2,952.5	3,125.0	3,287.0	3,481.3	3,700.6	748.0	25.3%
Entitlements							
Foster Care Payments	133.1	131.1	150.8	151.0	172.5	39.4	29.6%
Assistance Payments	363.7	309.1	594.9	521.5	531.8	168.0	46.2%
Medical Assistance #	2,025.4	2,077.5	2,156.0	2,165.6	2,352.2	326.8	16.1%
Property Tax Credits	60.9	56.0	60.3	53.7	53.3	(7.6)	-12.4%
	2,583.2	2,573.8	2,962.1	2,891.9	3,109.8	526.6	20.4%
State Agencies							
Health	1,004.4	1,038.1	1,059.8	1,119.6	1,197.0	192.6	19.2%
Human Resources	552.6	541.0	578.8	592.5	685.6	133.0	24.1%
Systems Reform Initiative	0.0	34.0	37.4	71.5	72.4	72.4	n.a.
Juvenile Justice	116.4	118.3	120.2	120.7	132.4	16.0	13.8%
Public Safety & Police	694.5	741.6	778.1	821.6	863.9	169.4	24.4%
State Colleges & Universities	1,772.0	1,871.8	2,022.6	2,175.7	2,278.0	506.0	28.6%
Transportation	707.6	774.5	767.0	807.3	822.1	114.5	16.2%
Agric./Natl Res./Environ.	202.7	202.9	213.7	217.2	230.3	27.6	13.6%
Other	1,013.9	1,046.7	1,043.3	1,120.3	1,146.6	132.7	13.1%
Judicial & Legislative	194.8	207.0	213.5	223.1	253.7	58.9	30.2%
Across-the-Board Cuts	0.0	0.0	0.0	0.0	0.0	0.0	n.a.
	6,258.9	6,575.8	6,834.5	7,269.4	7,682.0	1,423.2	22.7%
Capital	1,062.6	1,098.7	1,116.3	1,383.4	1,346.2	283.6	26.7%
Transfer to MDTA	25.0	25.0	25.0	0.0	0.0	(25.0)	-100.0%
Transfers	0.0	0.0	6.0	23.0	17.1	17.1	n.a.
Local Funds (*)	29.4	28.5	29.8	31.8	33.4	4.0	13.5%
Subtotal	**13,390.3**	**13,931.6**	**14,783.9**	**15,634.6**	**16,447.7**	**3,057.4**	**22.8%**
Reserve Fund	130.0	250.0	0.0	129.5	185.0	54.9	42.3%

Appropriations	**13,520.3**	**14,181.6**	**14,783.9**	**15,764.1**	**16,632.7**	**3,112.3**	**23.0%**
Reversions	0.0	0.0	0.0	(11.4)	(20.0)	(20.0)	n.a.
Medicaid Overaccrual	0.0	0.0	0.0	(30.0)	0.0	0.0	n.a.
Grand Total	**$13,520.3**	**$14,181.6**	**$14,783.9**	**$15,722.8**	**$16,612.7**	**$3,092.3**	**22.9%**

NOTE: Detail may not add to total due to rounding. FY 1998 includes deficiency appropriations.
(*) Consists of local spending for the health formula.
Includes Medicaid funds budgeted in the Mental Hygiene Administration beginning in FY 1998.

PART A
BUDGETS AND STATE AID

CAPITAL BUDGET

A total of $7.4 billion was authorized by the General Assembly for the State's capital program during the 1995-1998 term. Total authorizations by major category were:

Transportation	$4,248.4 billion	57.3%
Environment	761.1 billion	10.3%
Education	619.6 billion	8.4%
Higher Education	570.5 billion	7.7%
Economic Development	342.9 billion	4.6%
Health/Social	203.6 billion	2.7%
Housing/Community Development	201.6 billion	2.7%
Public Safety	180.6 billion	2.4%
Local Projects	142.1 billion	1.9%
State Facilities	140.8 billion	1.9%
Total	$7,411.1 billion	99.9%

Transportation projects accounted for over half the capital program, with environment, education, and higher education comprising the other top three capital program categories. **Exhibit A.7** provides greater detail of capital authorizations by session year. **Appendix 1** lists by county the projects authorized by the General Assembly over the past four years.

CAPITAL DEBT AFFORDABILITY

The Capital Debt Affordability Committee, a part of the Executive Branch of the State government, was created by law in 1985 and charged with reviewing the size and condition of State tax supported debt and recommending to the Governor and the General Assembly prudent levels of general obligation and higher education academic revenue debt that may be issued each year. During the 1995-1998 term, the Committee made recommendations for authorization of general obligation debt ranging from a low of $390 million for fiscal 1996 to a high of $430 million for fiscal 1999. The Committee's recommendations for authorization of academic debt ranged from $30 million for fiscal 1998 and 1999 to $40 million for fiscal 1996 and 1997. The General Assembly adhered to the recommendations each year. During the four-year term, Maryland, as one of only eight other states to do so, maintained its AAA bond rating from the three major bond rating agencies (Moody's, Standard and Poor's, and Fitch Investors Services). The AAA bond rating strongly enhances the marketability of State bonds and enables the State to borrow money at the lowest possible interest rate.

TRANSPORTATION

Transportation projects account for over half of the State's capital program expenditures. More than $4.2 billion was authorized for highways, mass transit improvements, the Baltimore port, and the BWI airport. These projects were primarily funded with current funds ("pay-as-you-go") through the annual operating budgets. However, $634 million in transportation revenue bonds were authorized during the 1995-1998 term.

PUBLIC SCHOOL CONSTRUCTION

Funding for public school construction steadily increased over the 1995-1998 term. Authorization of new funds ranged from $114 million during the 1995 Session to $218 million during the 1998 Session. In addition to new authorizations, funds remaining from completed projects were reallocated each year. For fiscal 1999 an additional $7 million was reallocated bringing the amount available for school construction to $225 million.

HIGHER EDUCATION

The General Assembly continued its high level of support for the higher education system authorizing a total of $570 million over the past four years. The University System of Maryland received the majority of this funding ($373 million). Morgan State University ($60.2 million), community colleges ($99.9 million), and private colleges and universities ($29.7 million) were also major beneficiaries of the State's capital program funding. Major projects at State colleges and universities approved during the four-year period include: University of Maryland College Park Performing Arts Center, University of Maryland Baltimore County Physics Building, University of Maryland, Baltimore School of Nursing, Baltimore City Community College Life Sciences Building, Morgan State University Fine Arts Center, Bowie State University Center for Learning and Technology, and the University of Maryland Eastern Shore Physical Education Center.

FOOTBALL STADIUMS

During the 1996 Session funding relating to two National Football League stadiums was approved. The Maryland Stadium Authority entered into an agreement with the Cleveland Browns to move to Baltimore where the team became the Baltimore Ravens. The agreement included the stipulation that the authority construct a new 70,000 seat stadium at Camden Yards to serve as the home for the team. Funding of the $220 million stadium derived from a combination of Maryland Stadium Authority lease revenue bonds, lottery revenues and revenues of the authority.

Also during the 1996 Session, the Washington Redskins announced plans to build a stadium inside the Washington beltway in Prince George's County. The cost of constructing the stadium, estimated at $180 million, was borne by the team. The team sought and received State assistance on funding road and parking infrastructure. The State agreed to pay $70.5 million for improvements made up of $48 million for roads and $22.5 million for parking lots.

ECONOMIC DEVELOPMENT

Investment in economic development totaled $343 million over the four year period. This included a major increase in funding for the "Sunny Day" Economic Opportunities Development Fund. Over the four year period a total of $94.7 million was authorized for the Sunny Day Fund. Other initiatives include funding of the Montgomery County Conference Center and Silver Spring (Montgomery County) Revitalization effort.

PUBLIC SAFETY

A total of $180.6 million was authorized for public safety projects. This included $48.9 million for local jails and $102.6 million for state correctional facilities. During the four year period, nearly $69 million was authorized for construction of the Western Maryland Correctional Institution.

Exhibit A.7
Capital Program Authorizations: 1995-1998 Sessions
($ in Millions)

Uses of funds:

	1995	1996	1997	1998	Subtotal	Total
State Facilities						$140.8
Facilities Renewal	$5.1	$10.6	$11.8	$14.5	$42.0	
Other	32.1	16.0	28.4	22.3	98.8	
Health/Social						203.6
State Facilities	6.8	8.2	6.7	66.1	87.8	
Private Hospitals	9.0	8.0	7.5	4.1	28.6	
Other	23.9	17.5	22.4	23.4	87.2	
Environment						761.1

Natural Resources	65.9	58.9	59.9	73.6	258.3	
Agriculture	15.8	14.1	15.3	21.4	66.6	
Environment	152.2	86.8	107.2	60.0	406.2	
MD Envir. Services	2.5	7.5	2.6	0.9	13.5	
Other	0.0	0.0	0.7	7.4	8.0	
Public Safety						180.6
State Corrections	54.2	15.3	18.9	14.2	102.6	
Local Jails	3.1	14.7	20.9	10.1	48.9	
State Police	0.5	8.5	0.7	3.0	12.7	
Other	9.8	1.9	4.7	0.0	16.4	
Education						619.6
School Construction	114.0	132.0	144.4	218.0	608.4	
Other	0.5	5.8	2.5	2.4	11.2	
Higher Education						570.5
University System	86.7	96.2	97.6	93.0	373.5	
Morgan State University	16.6	4.1	28.9	10.6	60.2	
St. Mary's College	0.4	4.0	1.4	0.0	5.8	
Community Colleges	35.9	29.9	18.2	16.0	99.9	
Private Colleges/ Univ.	7.7	10.0	6.0	6.0	29.7	
Other	0.0	0.0	0.0	1.4	1.4	
Housing/Community Development						201.6
Housing	39.4	36.0	37.5	48.1	161.1	
Other	10.1	17.1	9.3	4.0	40.5	
Economic Development						342.9
Economic Develop.	52.8	66.0	55.7	55.1	229.6	
Stadia/Convention Centers	35.8	49.8	14.3	13.4	113.4	
Local Projects						142.1
Administration	9.7	7.5	3.7	34.6	55.5	
Legislative	19.9	17.7	21.0	28.0	86.6	
						4,248.4
Other	1,132.2	1,098.7	1,024.4	993.1	4,248.4	
Other						(27.7)
Deauthorization	0.0	(12.1)	(1.1)	(14.5)	(27.7)	
Total	$1,944.6	$1,833.2	$1,773.5	$1,832.1	$7,383.3	$7,383.3

Sources of funds:

Debt					
General Obligation Bonds	$390.0	$400.0	$415.0	$430.0	$1,635.0
Recycled	21.0	0.0	3.7	0.1	24.8
Revenue Bonds	195.2	294.8	202.0	190.0	882.0
Subtotal	$606.2	$694.8	$620.7	$620.1	$2,541.8
Current Revenues					

(Paygo)					
General	93.5	66.8	83.7	209.6	453.6
Special	600.1	533.7	567.8	574.1	2,275.7
Federal	644.5	537.8	501.3	428.2	2,111.8
Subtotal	$1,338.1	$1,138.3	$1,152.8	$1,211.9	$4,841.1
Total	$1,944.3	$1,833.1	$1,773.5	$1,832.0	$7,382.9

Note: Numbers may not sum to total due to rounding.

PART A
BUDGETS AND STATE AID

OVERVIEW OF STATE ASSISTANCE TO LOCAL GOVERNMENTS

IN GENERAL

State assistance to local governments has grown during the 1995-1998 term to account for about 25% of the State's budget, exclusive of federal funds. This assistance includes direct aid to county and municipal governments, school boards, library boards, community colleges, and local health departments. As a result of actions taken during the 1998 Session, $2.8 billion in direct aid will be distributed through more than 45 different programs in fiscal 1999. More than $2.1 billion or 74% of this direct aid is earmarked for the public schools. In addition, the State will pay another $443 million for the employer's share of retirement costs for local teachers, librarians, and community college faculty who are members of either the teachers' retirement or pension systems maintained and operated by the State.

The State assumption of functions or responsibilities performed by local governments is another aspect of State/local fiscal relationships. In the 1990's, the State assumed responsibility for the Baltimore City jail and community college and increased funding for the Washington Metropolitan area transit systems. In the case of the jail and community college, State costs were partially offset by reductions in direct State aid to the city. Beginning with fiscal 1995, the State also assumed responsibility for processing Baltimore City arrests through a State-run central booking facility. In addition, new legislation just enacted will further increase State support for Washington area transit systems by $7.2 million beginning with fiscal 2000.

Overall assistance to local governments, including the recently assumed costs, totals over $3.4 billion in fiscal 1999. This amount is a $681.5 million or 25.0 % increase over fiscal 1995. As **Exhibit A.8** shows, most of this growth was direct aid, a significant portion of which is education aid. Between fiscal 1995 and 1999 direct aid grew over 28%. Teacher's retirement payments only increased 4.6% over this period and have actually decreased the last two years. This moderation in teachers' retirement payments reflects modest growth in the salary base and significant decreases in the employer contribution rate. The decreases in the contribution rate are driven primarily by retirement fund investment earnings. Much of the growth in local costs assumed by the state stems from the opening of the central booking facility in Baltimore City at the end of fiscal 1995.

Exhibit A.8
Summary of State Assistance to Local Governments
FY 1995 - FY 1999
($ in Millions)

Fiscal	State Assistance			Recently Assumed		Percent
Year	Direct Aid	Retirement	Subtotal	Costs	Total	Change
1995	2,217.0	423.1	2,640.1	87.5	2,727.6	
1996	2,327.3	455.6	2,782.9	102.3	2,885.2	5.8
1997	2,441.4	479.7	2,921.2	108.9	3,030.1	5.0
1998	2,646.4	474.9	3,121.3	113.9	3,235.2	6.8
1999	2,847.3	442.6	3,289.9	119.1	3,409.1	5.4
Increase FY 1995 - FY 1999	$630.3	$19.5	$649.8	$31.6	$681.5	

% Increase					
FY 1995 - FY 1999	28.4%	4.6%	24.6%	36.1%	25.0%

Over three quarters of all State aid is for the public schools. In fiscal 1999 education aid represented 76.8% of all aid, up from 74.9% in fiscal 1995. As **Exhibit A.9** shows total aid for the public schools, including State retirement payments made on behalf of the school boards, increased $548 million or 27.7% between fiscal 1995 and 1999. Growth in direct aid to the local school boards over this period was even higher at 33.3%. Direct State aid for public libraries also grew significantly (46.7%) in the last four years, due primarily to aid formula enhancements in fiscal 1996, 1998, and 1999. Growth in aid for county and municipal governments was a more modest 13.5%. A significant increase in disparity grant funding for the eight counties with low per capita piggyback income tax revenues was offset by relatively modest growth in State aid for local transportation purposes.

The $649.8 million increase in State aid primarily results from ongoing growth in existing formula programs and new funding for several education aid programs. The significant State aid increases between fiscal 1995 and 1999 include the following:

- Current expense education aid, distributed inverse to local property and income wealth, is $296.7 million or 24.3% higher in fiscal 1999 than in fiscal 1995.
- Compensatory education aid, based on the number of children from low income households, increased $30.0 million, or 42.1%.
- Consistent with the legislation enacted in 1997 that restructured the management of the Baltimore City school system, the city schools received $30 million in additional funding in fiscal 1998 and will receive $50 million in fiscal 1999.
- The 1997 Baltimore City school legislation also included over $31 million for other school systems distributed through programs focused primarily on children living in poverty.
- The School Accountability for Funding Excellence (SAFE) legislation enacted in 1998 provided $61.5 in additional education aid for children living in poverty, children with limited English proficiency, school libraries and the maintenance of older schools.
- Grants for school bus transportation total $112.3 million in fiscal 1999, an increase of $18.2 million or 19.2% over fiscal 1995.
- Education funding based on the number of children with limited English proficiency is $23.6 million in fiscal 1999 compared to only $4.0 million in fiscal 1995.
- Since fiscal 1995 several new education programs have been established to address special needs. They include $10.4 million for maintenance of older schools, $9.8 million to assist poorly performing schools that have become eligible for possible state reconstitution, $2.8 million for awards for schools showing significant improvement, and $5.4 million for Internet compatible equipment and software.
- Legislation enacted in 1994, 1996, and 1998 increased formula aid for county libraries. As a result the aid in fiscal 1999 is be $7.7 million or 50% higher than in fiscal 1995.
- Legislation enacted in 1995 provides for ongoing increases in funding for local health departments, resulting in an $9.8 million or 28.8% increase by fiscal 1999.
- State grants for fire, rescue and ambulance services increase over 64% from $4.8 million in fiscal 1995 to $7.8 million in fiscal 1999.
- As a result of legislation enacted in 1996 and ongoing growth, income tax disparity grants to eight counties with

relatively low per capita income tax revenues are $21.9 million or 51.8 % higher in fiscal 1999 than in fiscal 1995.

Exhibit A.10 shows State aid and the recently assumed local costs on a county-by-county basis for fiscal 1995 through fiscal 1999. **Exhibit A.11** compares total aid distributed to the local governments in fiscal 1995 and 1999 by program. Following **Exhibit A.11** is a more detailed review of the changes by major aid category.

Exhibit A.9
State Aid
By Governmental Entity
Fiscal 1995 - Fiscal 1999
($ in Millions)

	FY 1995	Estimated FY 1999	Difference	Percent Change
County/Municipal Governments				
Transportation	$352.6	$374.3	$21.7	6.2
Public Safety	67.6	82.7	15.1	22.4
Disparity Grant	42.2	64.1	21.9	51.8
Other	22.9	29.7	6.8	29.6
Total County/Municipal	**485.4**	**550.9**	**65.5**	**13.5**
Public Schools				
Current Expense Formula	1,222.1	1,518.8	296.7	24.3
Other Direct Aid	361.1	592.4	231.2	64.0
Subtotal Direct Aid	**1,583.2**	**2,111.1**	**527.9**	**33.3**
Teachers Retirement	395.4	415.7	20.3	5.1
Total Education Aid	**1,978.6**	**2,526.8**	**548.1**	**27.7**
Community Colleges				
Direct Aid	94.3	112.0	17.7	18.8
Teachers Retirement	18.8	17.5	(1.3)	(6.8)
Total Community College Aid	**113.1**	**129.5**	**16.4**	**14.5**
Libraries				
Direct Aid	20.2	29.6	9.4	46.7
Teachers Retirement	8.9	9.4	0.5	5.5
Total Library Aid	**29.1**	**39.0**	**9.9**	**34.0**
Local Health Departments	34.0	43.8	9.8	28.8
Total State Aid	**$2,640.1**	**$3,289.9**	**$649.8**	**24.6**

NOTE: State paid retirement costs for local teachers and librarians are considered a payment-on-behalf of the local employer. Monies are paid directly into the State administered retirement systems rather than sent to the employer (i.e. school boards, libraries, and community colleges).

Exhibit A.10
Summary of State Assistance to Local Governments
Fiscal 1995 - Fiscal 1999
($ in Thousands)

Counties	FY 1995	FY 1996	FY 1997	Estimated FY 1998	Estimated FY 1999	Difference
Allegany	49,737	51,660	53,472	57,274	59,080	9,344
Anne Arundel	201,080	207,774	215,303	228,875	233,778	32,697
Baltimore City	627,139	661,897	684,871	716,437	763,126	135,987
Baltimore County	281,785	298,940	315,892	343,677	356,055	74,270
Calvert	34,082	35,988	39,826	43,063	45,456	11,374
Caroline	23,336	23,295	25,032	27,704	28,615	5,278
Carroll	78,392	81,413	86,159	92,434	96,538	18,146
Cecil	49,129	50,726	53,243	56,935	59,849	10,719
Charles	67,717	69,637	73,156	77,297	79,587	11,871
Dorchester	22,782	22,215	23,267	25,042	25,426	2,644
Frederick	96,950	101,432	107,868	116,726	120,912	23,962
Garrett	24,944	25,636	26,514	28,236	29,184	4,240
Harford	114,065	120,336	126,149	134,726	139,144	25,080
Howard	92,890	100,856	105,702	114,175	119,222	26,332
Kent	9,645	9,979	10,711	11,221	11,652	2,007
Montgomery	236,326	259,883	279,339	295,138	305,980	69,654
Prince George's	394,560	414,742	436,754	476,950	513,839	119,279
Queen Anne's	18,908	19,911	20,926	22,150	23,151	4,242
St. Mary's	44,593	46,441	50,324	53,489	55,589	10,997
Somerset	17,260	17,551	17,854	18,948	19,907	2,647
Talbot	10,083	10,355	10,970	11,283	11,970	1,886
Washington	70,107	72,791	75,000	79,301	81,182	11,075
Wicomico	49,580	51,294	53,358	57,126	59,832	10,251
Worcester	12,821	13,790	15,121	14,656	16,805	3,983
Unallocated	12,236	14,348	14,350	18,461	34,061	21,825
Statewide	2,640,149	2,782,890	2,921,160	3,121,322	3,289,939	649,790

Local Costs Recently Assumed by the State
FY 1995 - FY 1999
($ in thousands)

	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999
Baltimore City					
Com. College[1]	16,553	16,591	17,162	17,959	19,805
Baltimore City Jail[2]	45,967	58,625	63,744	66,833	69,138
WMATA					
Montgomery	13,751	14,463	14,908	15,466	15,986
Prince George's	11,206	12,593	13,081	13,637	14,183

NOTES:

1. Beginning in FY 1991, the state assumed responsibility for the New Community College of Baltimore and the city no longer received aid under the community college formula or for fringe benefits ($10.8 million in FY 1990). Amounts shown represent total state spending for the community college.

2. Beginning in FY 1992, the state assumed responsibility for the Baltimore City Jail and Baltimore City no longer received aid under the police aid formula ($37.7 million in FY 1991). The amounts also include additional state costs for the state-run Baltimore City central booking facility.

Exhibit A.11
Total State Assistance for Local Governments

Direct State Aid

Program	**Fiscal Year 1995**	**Fiscal Year 1999**	**Difference**
*Current Expense Aid	1,222,090,251	1,518,759,392	296,669,141
*Compensatory Aid	71,560,939	101,683,163	30,122,224
*Transportation Aid	91,355,252	107,458,429	16,103,177
*Transportation Aid - Special Ed.	2,743,000	4,792,500	2,049,500
*Special Education - formula	81,253,345	81,253,347	2
*Special Education - nonpublic	46,891,596	63,125,899	16,234,303
Magnet/Effective Schools	13,000,000	16,100,000	3,100,000
Challenge Grants	7,835,959	5,638,827	(2,197,132)
School Performance Recognition Awards	0	2,750,000	2,750,000
*Targeted Poverty Grants	4,999,899	8,000,000	3,000,101
Additional Poverty Grants	0	18,163,360	18,163,360
Targeted Improvement Grants	0	16,317,455	16,317,455
Teacher Developement Grants	0	10,488,000	10,488,000
Extended Elementary	11,606,739	19,262,500	7,655,761
Gifted and Talented Program	2,102,667	4,934,829	2,832,162
*Limited English Proficiency Grant	4,000,000	23,550,750	19,550,750
Aging Schools	0	10,370,000	10,370,000
Baltimore City Partnership	0	50,000,000	50,000,000
School Reconstitution	0	9,797,400	9,797,400

Education Modernization Initiative	0	5,375,000	5,375,000
Baltimore County Mentoring	0	2,900,000	2,900,000
School Library Media Incentive Program	0	3,000,000	3,000,000
Teacher Certification/Student Services Support Pilot	0	4,000,000	4,000,000
Other Programs	23,778,821	23,400,543	(378,278)
EDUCATION	1,583,218,468	2,111,121,394	527,902,926
*Library Aid	15,328,350	22,990,884	7,662,534
Prince George's County Library Grant	0	1,500,000	1,500,000
State Library Network	4,831,942	5,081,942	250,000
LIBRARIES	20,160,292	29,572,826	9,412,534
*Community College Formula	89,180,931	99,919,633	10,738,702
*TIAA-CREF	4,507,283	5,407,348	900,065
Grants for ESOL Programs	0	1,000,000	1,000,000
Advanced Technology Centers	0	1,815,000	1,815,000
Hold Harmless/Small College Grant	0	2,242,981	2,242,981
Statewide	595,240	1,591,242	996,002
COMMUNITY COLLEGES	94,283,454	111,976,204	17,692,750
*LOCAL HEALTH FORMULA	34,000,000	43,785,576	9,785,576
*State Aid for Police Protection	52,464,432	57,646,722	5,182,290
Fire, Rescue Ambulance Services	4,752,335	7,800,000	3,047,665
911 Grants	1,802,407	3,138,630	1,336,223
Violent Crime Grants	5,000,000	5,000,000	0
Foot Patrol/Drug Enforcement Grants	2,462,500	4,462,500	2,000,000
Community Policing	0	2,000,000	2,000,000
Body Armor for Police	0	100,000	100,000
Vehicle Theft Prevention	1,123,807	2,600,000	1,476,193
PUBLIC SAFETY	67,605,481	82,747,852	15,142,371
*PROGRAM OPEN SPACE	21,554,000	25,674,000	4,120,000
Elderly/Handicapped Transportation	2,340,000	2,403,180	63,180
Paratransit Grants	2,660,765	3,382,051	721,286
*Highway User Grant	347,586,479	368,509,398	20,922,919

TRANSPORTATION	352,587,244	374,294,629	21,707,385
*Horse Racing Impact Aid	1,377,230	1,246,200	(131,030)
Security Interest fees/Other	0	2,798,200	2,798,200
OTHER DIRECT AID	1,377,230	4,044,400	2,667,170
*DISPARITY GRANT	42,237,217	64,116,025	21,878,808
TOTAL DIRECT STATE AID	633,804,918	2,847,332,906	2,213,527,988
Payments-On-Behalf			
*Retirement - Libraries	8,935,612	9,426,570	490,958
*Retirement - Boards of Education	395,405,701	415,664,912	20,259,211
*Retirement - Community Colleges	18,783,805	17,514,318	(1,269,487)
TOTAL PAYMENTS-ON-BEHALF	423,125,118	442,605,800	19,480,682
TOTAL STATE ASSISTANCE	**1,056,930,036**	**3,289,938,706**	**2,233,008,670**
General Fund State Assistance	*673,637,974*	*2,874,767,047*	*2,201,129,073*
Special Fund State Assistance	*383,292,062*	*415,171,659*	*31,879,597*

* Programs mandated by statute.

CHANGES IN STATE AID

Overall fiscal 1999 State aid will be $650 million or 24.6% higher than fiscal 1995 funding. (See **Exhibit A.11**). This reflects statutorily mandated increases in aid as well as enhancements resulting from new legislation. A detailed discussion of these changes follows.

PRIMARY AND SECONDARY EDUCATION

Fiscal 1999 State aid for the public schools is estimated to be over $2.5 billion. This is a $548.2 million or 27.7% increase over fiscal 1995 funding. Aid paid directly to the school boards will have risen $527.9 million or 33.3%, whereas teachers' retirement costs paid by the State on behalf of school boards will be only $20.3 million or 5.1% above fiscal 1995 levels. The additional direct aid results primarily from requirements of existing legislation, new legislation restructuring the management of the Baltimore City school system enacted in 1997 (***Ch. 105***) and the School Accountability for Funding Excellence (SAFE) legislation passed in 1998 (***Ch. 565***). Aid changes and other actions impacting education funding are discussed below.

- *Current Expense Aid*

State law provides for automatic increases in current expense formula aid. In fiscal 1999 the required funding is $296.7 million higher than in fiscal 1995. Current expense formula aid is not restricted for specific purposes and is distributed inversely to local wealth, as measured by net taxable income and assessable base.

- *Compensatory Aid*

The compensatory aid formula distributes aid to local school boards on the basis of the number of students from economically disadvantaged environments (as measured by the student counts used for federal Title I compensatory aid). Increases in compensatory aid are tied to increases in the current expense formula. In fiscal 1999 compensatory aid will be $30.1 million or 42.1% above fiscal 1995. Almost two-thirds of this increase results from a recent revision to the federal Title I student counts. Based on this update, Maryland's student count for purposes of federal Title I compensatory aid increased 22%, from 87,000 to 106,252.

- *School Bus Transportation Grants*

Each county receives a grant for student transportation based on the county's grant in the previous year increased by the change in the Baltimore area consumer price index for private transportation. Increases cannot exceed 8% or be less than 3%. As a result of legislation enacted in 1996 (***Ch. 681***), counties with enrollment increases receive additional funds. The fiscal 1999 budget includes $107.5 million for bus transportation aid -- a $16.1 million increase since fiscal 1995. The State also provides a grant for transporting handicapped students. Each school board receives $500 per special education student in excess of the number transported in fiscal 1981. This aid will be almost 75% higher in fiscal 1999 than in fiscal 1995.

- *Special Education*

State aid for special education recognizes the additional costs associated with providing programs for students with disabilities. Most special education students receive services in the public schools; however, if an appropriate program is not available in the public schools, students may be placed in a private school offering more specialized services. The State and local school systems share the costs of these nonpublic placements. The $16.2 million increase in special education funding between fiscal 1995 and fiscal 1999 is for nonpublic placements.

- *Teachers' Retirement Costs*

The State pays the employers' retirement costs for local teachers who are members of either the teachers' retirement or pension systems maintained and operated by the State. The modest 5.1% growth in these costs since fiscal 1995 results from increases in the first two years being partially offset by decreases in fiscal 1998 and fiscal 1999. The $33.3 million decrease since fiscal 1997 reflects modest annual growth in the salary base of about 3% and decreases in the employer contribution rates. The decreases in the contribution rates were driven primarily by retirement fund investment earnings.

- *Baltimore City Partnership Funding*

Legislation enacted in 1997 (***Ch. 105***) restructured the management of the Baltimore City Public Schools. The legislation included a requirement that the State provide an additional $30 million in the fiscal 1998 State budget and $50 million in subsequent years for the city schools. The fiscal 1999 budget includes the $50 million for the Baltimore City Partnership program, consistent with the 1997 legislation. The legislation also included almost $32 million in additional funding for the other school systems, distributed through several programs beginning with fiscal 1998. These enhancements are discussed under the specific programs.

- *Targeted/Additional Poverty Grants*

The State provides funds to local school systems on the basis of the number of children living in poverty as measured by a student who qualifies for a free or reduced price lunch. Under legislation enacted in 1994, $8 million is distributed to all school systems based on the county's proportionate share of the total number of students living in poverty. As required under the 1997 Baltimore City schools legislation (***Ch. 105***), beginning with fiscal 1998 there is an additional $16.6 million distributed to all school systems, with the exception of Baltimore City, proportionate to the number of students qualifying for free or reduced price lunches. A remaining $1.6 million is targeted to school systems with over

40% of their students eligible for free/reduced lunches.

- *Targeted Improvement Grants*

The 1998 SAFE legislation (***Ch. 565***) establishes this new grant program. The grants are based on 85% of the number of children eligible for free and reduced-price meals multiplied by 2.5% of the per-pupil foundation under the basic current expense formula. Each county's initial allocation is adjusted by a factor relating each county's wealth per full-time equivalent student to the statewide wealth per student. Under the SAFE legislation as introduced, Baltimore City received 50% of its formula allocation. The final version of the legislation eliminated this provision; however, the $4.3 million in additional funding required by this change is not included in the fiscal 1999 budget. The budget includes $16.3 million and the Governor is not required to include the additional $4.3 million funding until fiscal 2000, but could submit a fiscal 1999 deficiency appropriation at the 1999 Legislative Session.

- *Teacher Development Program*

This new program is also established by the 1998 SAFE legislation. It provides funds to enhance teacher development programs in schools with a free or reduced-price meal count of 25% or more of their student population. Each eligible school will receive an $8,000 grant to enhance teacher training in instructing at-risk students. In addition, Baltimore County will receive an additional $5 million to enhance its teacher mentoring program. The legislation also includes $2 million to establish a similar program in Prince George's County; however, the legislation as introduced did not include this grant and funds are not in the fiscal 1999 budget. The budget includes $10.5 million and the Governor is not required to include the additional $2 million until fiscal 2000, but could submit a fiscal 1999 deficiency appropriation at the 1999 Legislative Session.

- *Limited English Proficiency*

The State provides grants to local school systems for programs for students with limited English proficiency. The almost five-fold increase in this program since fiscal 1995 results primarily from the SAFE legislation (***Ch. 565***) passed this year. The legislation increases the grant from $500 to $1,350 per limited English proficient student and repeals the current two-year restriction on students being included in the count. In addition, the 1994 legislation establishing the program provided for an increase in fiscal 1996 and the Baltimore City schools legislation enacted in 1997 (***Ch. 105***) enhanced the funding in fiscal 1997.

- *Extended Elementary*

The extended elementary program supports public school prekindergarten for four- year-old children who may be at risk of failure. The significant increase in funding for this program over the past four years, results entirely from legislation enacted in 1997 (***Ch. 105***) and 1998 (***Ch. 565***). The enactments enhanced funding for the 204.5 existing sites and provided funding for an additional 68.5 sites.

- *Aging School Repair Program*

The aging school program provides funds to local school systems for the improvements, repairs, and deferred maintenance of public school buildings exceeding 15 years of age. Each school system's share of the total funding is generally consistent with the school system's share of school building square footage constructed prior to 1960. The program was initially established under the Baltimore City schools legislation enacted in 1997 and was enhanced by $6.0 million under the 1998 SAFE legislation.

- *School Library Media Incentive Program*

This new fiscal 1999 program provides $3.0 million for elementary school libraries. Under the 1998 SAFE legislation establishing the grants, amounts to be received by each school board are based on September 1997 enrollment. The legislation requires the school systems to provide new and equal matching funds for elementary school library programs.

- *Effective Schools, Teacher Certification, Student Support Pilot Program*

Another $6.0 million for various programs is also provided under the SAFE legislation enacted in 1998. Of this amount, $5.5 million is for specific programs in Prince George's County. There is $2 million for effective schools programs, $1 million for a pilot integrated student support services project, and $2.5 million for provisional teacher certification and teacher development initiatives. Another $500,000 is for statewide provisional teacher certification and teacher development initiatives.

- *School Reconstitution Funds*

Under the Maryland School Performance Program, the State may mandate changes in the management of poorly performing schools. Since 1995 the State has identified 90 schools as eligible for reconstitution: 79 in Baltimore City, 9 in Prince George's County, 1 in Anne Arundel County, and 1 in Somerset County. Beginning with fiscal 1996 the State has provided funding for reconstitution eligible schools. The fiscal 1999 budget includes $9.8 million for this purpose.

- *School Performance Recognition Awards*

Legislation enacted in 1996 (***Ch. 3***) established school performance recognition awards for schools that show substantial improvement toward meeting the standards of the Maryland School Performance Program. Beginning with fiscal 1997 the state budget has included $2.8 million for these awards.

- *Gifted and Talented Programs*

State support for programs for gifted and talented students were augmented by $500,000 in fiscal 1998 and 1999. In addition, as required by the 1997 Baltimore City schools legislation (***Ch. 105***), Montgomery County began receiving $2.0 million for gifted and talented programs in fiscal 1998.

- *Education Modernization Initiative*

Initially funded in fiscal 1997 this initiative provides schools access to on-line computer resources and capacity for data, voice, and video equipment. Over the three years over 390 schools will have received funding. In addition, $15.8 million has been provided under the school construction program to upgrade the wiring in schools.

LIBRARIES

State library formula aid is $23.0 million for fiscal 1999, an increase of $7.7 million or 50% over fiscal 1995 due to formula enhancements legislated for fiscal 1996, 1998, and 1999. In addition, beginning with fiscal 1996 the state budget has included a special grant for the Prince George's County library system. In fiscal 1999 this grant is $1.5 million.

The State supports three regional library resource centers that provide coordination and other services to libraries outside the metropolitan areas. The three regional resource centers are in Salisbury (Eastern Shore), Charlotte Hall (Southern Maryland), and Hagerstown (Western Maryland). The fiscal 1999 budget includes $1.2 million for these regional library centers. New 1998 legislation (***Ch. 738***) establishes a minimum funding level for the regional libraries equivalent to $1.70 for each resident in the region. This minimum funding level would require an additional $115,000 in fiscal 1999, but the Governor is not required to include the funding in the budget until fiscal 2000.

COMMUNITY COLLEGES

Total State funding for community colleges increases 14.5% between fiscal 1995 and 1999. Formula grants are $10.7 million higher, reflecting legislation enacted in 1996 (***Ch. 6/Ch. 7***) significantly increasing community college formula funding. New legislation enacted in 1998 (***Ch. 570***) provides additional grants to seven small community colleges. Allegany, Garrett and Hagerstown community colleges each receive $400,000 and Carroll, Cecil, Chesapeake, and Wor-Wic community colleges each receive $200,000.

The fiscal 1999 budget also includes $1.8 million for the third year of funding for advanced technology centers at the community colleges. These centers provide technology information, education, and training resources for companies seeking to implement advanced technologies.

LOCAL HEALTH PROGRAMS

Funding for local health services is $43.8 million in fiscal 1999, $9.8 million higher than in fiscal 1995. Most of this increase resulted from legislation enacted in 1993 which established $39.0 million as the funding level for fiscal 1996. Legislation enacted in 1996 (***Ch. 504***) raised the minimum funding level to $41.0 million for fiscal 1997 and provided that funding would increase by inflation and population growth in subsequent years. The 1996 Act also specified that no county could receive less aid in fiscal 1998 and subsequent years than the county received in fiscal 1997.

GENERAL GOVERNMENT AID

The State provides grants to counties and municipalities for various governmental functions, including public safety, transportation, and recreation. In addition, the disparity grant program targets aid to low income wealth jurisdictions. Overall, general government aid increases $65.5 million or 13.5% between fiscal 1995 and fiscal 1999.

- *Police Aid Grants*

Maryland's counties and municipalities receive grants for police protection through the police aid formula. The police aid formula allocates funds on a per capita basis and jurisdictions with higher population density receive greater per capita grants. Municipalities receive additional grants based on the number of sworn officers. The General Assembly passed legislation in 1996 (***Ch. 587/Ch. 588***) increasing police aid grants by $3.0 million in fiscal 1997. The legislation raised supplemental grants from $2.00 to $2.50 per capita and established a $.50 per capita grant for Baltimore City. (Baltimore City had been excluded from the police aid formula when the State assumed responsibility for the Baltimore City Jail in fiscal 1992.) The 1996 legislation also raised the municipal officer grant from $900 to $1,200 per officer.

In addition to the police aid formula, the State provides targeted grants to Prince George's County and Baltimore City. These grants were enhanced in fiscal 1996. The Baltimore City foot patrol grant and the Prince George's County drug law enforcement grant were each increased by $1.0 million. In addition, Baltimore City began receiving $2.0 million for community policing.

- *Fire, Rescue, and Ambulance Services*

The State provides formula grants to the counties, Baltimore City, and qualifying municipalities for local and volunteer fire, rescue, and ambulance services. The grants are for equipment and renovations, not operating costs. Formula funding has been enhanced every year since fiscal 1995. In addition, the fiscal 1999 budget includes a $300,000 grant to Prince George's County for fire apparatus, equipment, and capital improvements.

- *Program Open Space Grants*

Under the Program Open Space program, the State provides grants to the counties and Baltimore City for land acquisition and the development of park and recreation facilities. State property transfer tax revenues fund Program Open Space and related programs. In fiscal 1995 70% of the state transfer tax was dedicated to open space and related programs. The increase in funding since fiscal 1995 reflects modest growth in transfer tax revenues and the phased-in dedication of 100% of the transfer tax to open space and related programs pursuant to legislation enacted in 1993. Funds available specifically for open space would be even higher except that ***Chapters757 and 758 of 1998*** dedicated 10% of State transfer tax receipts to the new Rural Legacy Program.

- *Transportation*

The State shares receipts from motor fuel taxes, vehicle excise (titling) taxes, registration fees, and corporate income

taxes with local governments, primarily for the construction and maintenance of transportation facilities. Counties, municipalities, and Baltimore City receive 30% of these "highway user" revenues. The $20.9 million increase since fiscal 1995 reflects primarily the growth in titling tax revenues.

Chapter 163 of 1996 altered the allocation of highway user revenues among the counties, municipalities, and Baltimore City beginning with fiscal 1998. Under the prior law the city received 15% of the highway user revenues. The counties and municipalities received the other 15%, distributed on the basis of road mileage and vehicle registrations. Under the Act, Baltimore City receives the greater of 11.5% of total highway user revenues or $157.5 million. The city also receives 11.5% of any increase in the local share. In fiscal 1998 an estimated $26.0 million in highway user funds will be shifted from the city to the counties and municipalities. This loss to the city will be partially offset by the city receiving $2.4 million in security interest filing fees from the Department of Transportation and $410,000 in payment-in-lieu-of property taxes from the Maryland Port Administration. The 1996 legislation was also contingent on other legislation increasing disparity grants.

- *Disparity Grant*

The disparity grant targets aid to those counties whose per capita piggyback income tax revenue is less than 75% of the State average. In fiscal 1999, $64.1 million will be apportioned among eight counties. The eight jurisdictions receiving a disparity grant in fiscal 1999 are Allegany, Caroline, Dorchester, Garrett, Somerset, Washington, and Wicomico counties and Baltimore City.

The significant increase in disparity grants results primarily from legislation enacted by the 1996 General Assembly (***Ch. 173***) effective with fiscal 1998. Prior to fiscal 1998 counties with per capita piggyback income tax revenue less than 70% of the State average received a disparity grant. Moving to the 75% target increases the grant for the six counties that met the 70% target and makes two new counties (Washington and Wicomico) eligible for grants.

APPENDIX I

STATE ASSISTANCE TO LOCAL GOVERNMENTS --

COUNTY LEVEL DETAIL

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

Direct Aid/Shared Revenues, Retirement Payments & Capital Grants

Direct Aid/Shared Revenues. The State distributes aid or shares revenue with the counties, municipalities, and Baltimore City through over 45 different programs.

Retirement Payments. County teachers, librarians, and community college faculty are members of either the teachers' retirement or pension systems maintained and operated by the State. The State pays the employer share of the retirement costs on behalf of the counties for these local employees. Although these funds are not paid to the local governments, it is possible to estimate each county's allocation from salary information collected by the State retirement systems. The figure shown in this report for each county is the four-year cumulative total retirement costs (fiscal 1996 through fiscal 1999).

Selected State Grants for Capital Projects. The State provides capital grants for schools, community colleges, local jails, community health facilities, adult day care centers, water quality projects, waterway improvements, homeless shelters, and other cultural, historical, and economic development projects. Projects are funded from either bond sales or current revenues. Projects at regional community colleges are shown for each county that the college serves.

The projects included are those that were anticipated at the time the capital budget was adopted for each of the four fiscal years covered by this appendix. The actual projects funded or the amount of funding for a specific project could be significantly different from what is reported here.

Each year the Department of Health and Mental Hygiene includes in the capital budget a list of projects at adult day care centers and community mental health facilities. These lists generally exceed the amount of funding requested in a given year because the department does not know which project will be ready. All of the requested projects for those two programs are included in this appendix. However, because of this funding process, it is possible that not all the projects listed here were actually funded.

Estimated State Spending on Selected Health and Social Services

The State funds the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. Estimates of general fund appropriations are divided into three categories: health services, social services, and senior citizen services.

Health Services. The Department of Health and Mental Hygiene, through its various administrations, funds in whole or part community health programs that are provided in the local subdivisions. These programs are described below. This appendix does not include spending at the State mental health hospitals, developmental disability facilities, or chronic disease centers.

- *Alcohol and Drug Abuse.* The Alcohol and Drug Abuse Administration funds community-based programs that include primary and emergency care, intermediate care facilities, halfway houses and long-term care programs, outpatient care, and prevention programs.

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

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

- *Mental Health.* The Mental Hygiene Administration (MHA) oversees a wide range of community mental health services which are developed and monitored at the local level by Core Service Agencies (CSAs). These Core Service Agencies have the clinical, fiscal, and administrative responsibility to develop a coordinated network of services for all public mental health clients of any age within a given jurisdiction. These services include in-patient and out-patient hospital services, in-patient and out-patient mental health services, psychiatric rehabilitation services, targeted case management services, rental assistance, pharmacy services, private practitioners, and other clinic services.

- *Prevention and Disease Control.* As part of a reorganization within the Department of Health and Mental Hygiene, the Office of Epidemiology and Disease Control has been transferred to the newly established Community and Public Health Administration (formerly Local and Family Health). The program is responsible for chronic and hereditary disease prevention (cancer, heart disease, diabetes, etc.). The Office also provides for the promotion of safe and effective immunization practices, the investigation of disease outbreaks, and continuous disease surveillance and monitoring with the support of local health departments and the medical community.

- *Developmental Disabilities.* The Developmental Disabilities Administration's community-based programs include residential services, day programs, transportation services, summer recreation for children, individual and family support services, including respite care, individual family care, behavioral support services, and community supported living arrangements.

- *AIDS.* The AIDS Administration funds counseling, testing, education and risk reduction services through the local health departments.

Social Services. The Department of Human Resources provides funding for various social and community services in the subdivisions. Fiscal 1999 funding for homeless services and the women's services programs was allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 1998 funding.

- *Homeless Services Program.* The Community Services Administration funds the homeless services program (including the housing counselor program) to provide emergency and transitional housing, food, and transportation for homeless families and individuals in the subdivisions.

- *Women's Services Program.* The Community Services Administration provides funding for a variety of community-based programs for women. These include the battered spouse program, rape crisis centers, displaced homemakers program, and crime victim's services.

***Senior Citizens Services*.** The Office on Aging funds a variety of services for senior citizens mostly through local agencies on aging. These programs have been combined into three broad categories: long-term care, consumer services, and community services. The fiscal 1999 funding was allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 1998 funding.

- *Long-Term Care.* Includes the programs for the frail elderly, senior care, and senior guardianship.

- *Consumer Services.* Encompasses the senior health insurance program.
- *Community Services.* Includes the senior information and assistance program and the senior nutrition program.

Capital Projects for State Facilities Located in the County

Capital projects, authorized by the operating and capital budgets, at State facilities and public colleges and universities by the county in which the facility is located are set forth in the third part of this appendix. For facilities that are located in more than one county, such as a State park, the total amount of the capital project is shown for all relevant counties. For each capital project, the total authorized amount is given, regardless of funding source although federally funded projects are generally shown separately. For the universities, projects funded from academic revenue bonds are included. Projects funded from auxiliary revenue bonds are not included in this appendix.

ALLEGANY COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	25,583	26,442	27,454	27,975	9.3
Compensatory Aid	2,652	2,774	2,820	3,081	16.2
Transportation Aid	2,227	2,289	2,411	2,481	11.4
Special Education Aid	1,273	1,304	1,340	1,344	5.6
Limited English Prof. Grants	5	3	2	7	40.0
Target/Additional Poverty Grants	170	162	781	1,303	666.5
Extended Elementary	237	237	272	348	46.8
Other Education Aid	722	740	825	926	28.4
PRIMARY/SECONDARY EDUCATION	32,869	33,953	35,904	37,464	14.0
COUNTY LIBRARIES	417	411	460	533	27.6
COMMUNITY COLLEGES	3,368	3,387	3,489	3,734	10.9
HEALTH FORMULA GRANTS	698	752	785	802	14.9
Public Safety					
State Aid for Police Protection*	794	856	856	846	6.5
Fire, Rescue & Ambulance Service*	117	115	119	170	45.3
Other Public Safety	33	136	0	0	-100.0
PUBLIC SAFETY	943	1,108	974	1,016	7.7
PROGRAM OPEN SPACE	277	280	261	270	-2.9
TRANSPORTATION GRANTS*	4,743	4,719	5,409	5,441	14.7
DISPARITY GRANT	2,033	2,376	3,593	3,886	91.1
TOTAL DIRECT AID	45,348	46,984	50,874	53,145	17.2
Aid Per Capita	621	647	705	741	19.3
Property Tax Equivalent ($)	3.83	4.00	4.34	4.49	17.2

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

Retirement Payments - $25,135,011

Selected State Grants for Capital Projects

Public Schools

Allegany High School - renovations (roof)	194,000
Barton Elementary School - wiring	38,000
Beall Elementary School - wiring	38,000
Beall High School - renovations (roof)	272,000
Braddock Middle School - wiring	67,000
Cresaptown Elementary School - construction	2,236,000
Flintstone School - renovations (roof)	266,000
Fort Hill High School - wiring	129,000
John Humbird Elementary School - pre-kindergarten	98,000
John Humbird Elementary School - wiring	38,000
Mt. Savage School - construction	3,500,000
Oldtown School - renovations (roof)	239,000
Parkside Elementary School - renovations (roof)	152,000
South Penn Elementary School - wiring	44,000
Washington Middle School - construction	473,000
Washington Middle School - relocatable classrooms	50,000
Washington Middle School - wiring	62,000
Westernport Elementary School - wiring	38,000
Westmar High School - construction	4,658,000
	12,592,000

Community College	
College Center & Central Plant - renovations & upgrades	331,000
College Center - renovation/expansion	3,354,116
Continuing Education Building - reroofing	227,000
Physical Education - renovation/expansion	58,906
Science Building - renovation	1,627,798
	5,598,820
Local Jails	
Allegany County Detention Center - new 190-bed center	1,994,000
Shelter & Transitional Housing Facilities	
The Family Crisis Resource Center	228,000
Adult Day Care Centers	
Allegany County Human Resource Development Commission	493,000
Chesapeake Bay Water Quality	
Celanese WWTP - nutrient removal	2,350,000
Cumberland CSO Project	50,000
Cumberland WWTP - nutrient removal	2,050,000
Evitts Creek - stormwater pollution control	70,000
Evitts Creek - stream restoration	154,500
George's Creek WWTP - nutrient removal	240,000
Stoney Run Stream - restoration	50,000
Westernport Restoration Project	125,600
Westernport Stormwater Management Facilities	150,000
	5,240,100
Water Supply Facilities	
Carlos/Shaft	500,000
Oldtown Road	500,000
Vale Summit water system replacement	500,000
	1,500,000
Comprehensive Flood Management	
Braddock Run Watershed	70,000
Evitts Creek Watershed II	75,000
George's Creek Watershed	229,500
Jennings Run Watershed	166,000
Tom's Hollow Watershed	5,750
Town Creek Watershed	33,750
Warrior Run Watershed	17,875
Wills Creek Watershed	125,250
	723,125
Waterway Improvement	
15 Mile Creek - ramp repairs	25,000
Fairgrounds - new ramp	40,000
National Park Service Boat Ramps - facility maintenance	10,000
	75,000
Other Projects	
Allegany County Agricultural Expo & Fairgrounds	400,000
Allegany County Flood Damage Repair	600,000
Canal Place - construct improvements	7,806,000
Circuit Court for Allegany County - courthouse	150,000
Frostburg & Lonaconing libraries - design, constr, equip	600,000
Other Projects	
Lonaconing Library	300,000
Sacred Heart Hospital	500,000
Western Maryland Flood Mitigation	3,252,000

YMCA Cumberland	400,000
	14,008,000

Estimated State Spending on Selected Health and Social Services

	1996	1997	1998	1999
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	1,018	1,425	1,510	1,510
Family Health	179	209	205	111
Geriatric & Children's Services	423	477	523	524
Mental Health	2,767	3,197	3,266	3,277
Developmental Disabilities	1,813	1,882	2,029	2,309
AIDS	40	41	41	41
	6,240	7,231	7,574	7,772
Social Services (DHR)				
Homeless Services Program	60	60	60	63
Women's Services Program	143	142	142	142
	203	202	202	205
Senior Citzen Services (OOA)				
Long Term Care	227	227	227	234
Community Services	81	74	74	83
Consumer Services	0	3	3	3
	308	304	304	320

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Department of Public Safety and Corrections

Western Correctional Inst. - construct furniture shop	218,000
Western Correctional Inst. - maximum security compound	1,600,000
Western Correctional Inst. - med. security housing (FF)	11,700,000
Western Correctional Inst. - medium security facility	55,049,000
Western Correctional Inst. - medium security housing	300,000
	68,867,000

University of Maryland System *

Center for Environ & Estuarine Studies - Appalachian Lab	17,665,000

* includes academic revenue bonds

Department of Natural Resources

Green Ridge State Forest - construct comfort station	212,000
Rocky Gap State Park - construct golf course	2,000,000
Rocky Gap State Park - construct trail bridge	180,000
Rocky Gap State Park - dam rehabilitation	31,000
Rocky Gap State Park - relocate boat ramp/parking lot	90,000
Western State Forests - land acquisition	1,000,000
	3,513,000

Department of Environment

Rocky Gap State Park - improve wastewater facility	248,000

ANNE ARUNDEL COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	102,192	105,401	112,259	115,369	12.9
Compensatory Aid	2,040	2,108	2,215	3,372	65.3
Transportation Aid	9,308	9,573	10,185	10,679	14.7
Special Education Aid	9,971	10,010	10,750	10,874	9.1
Limited English Prof. Grants	169	177	220	660	291.1
Target/Additional Poverty Grants	338	347	1,397	2,027	499.7
Extended Elementary	694	782	1,027	1,295	86.6
Other Education Aid	2,158	2,517	3,007	2,500	15.8
PRIMARY/SECONDARY EDUCATION	126,869	130,915	141,060	146,778	15.7
COUNTY LIBRARIES	1,243	1,231	1,425	1,659	33.5
COMMUNITY COLLEGES	10,371	10,270	11,536	12,997	25.3
HEALTH FORMULA GRANTS	2,940	3,180	3,366	3,478	18.3
Public Safety					
State Aid for Police Protection*	5,064	5,438	5,514	5,561	9.8
Fire, Rescue & Ambulance Service*	211	410	425	610	189.1
Other Public Safety	121	673	110	0	-100.0
PUBLIC SAFETY	5,396	6,521	6,049	6,171	14.4
PROGRAM OPEN SPACE	3,009	3,025	2,818	2,910	-3.3
TRANSPORTATION GRANTS*	16,801	17,585	20,421	20,545	22.3
SHARED TAXES/REVENUES*	414	411	480	385	-7.0
TOTAL DIRECT AID	167,043	173,138	187,156	194,923	16.7
Aid Per Capita	359	367	392	403	12.3
Property Tax Equivalent ($)	1.29	1.30	1.37	1.39	7.8

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

Retirement Payments - $163,469,489

Selected State Grants for Capital Projects

Public Schools

Andover Middle School - construction	813,000
Annapolis Middle School - wiring	57,000
Arundel Middle School - wiring	50,000
Bates Middle School - renovations	252,000
Bates Middle School - wiring	53,000
Belvedere Elementary School - construction	1,000,000
Broadneck High School - construction	3,203,000
Brock Bridge Elementary School - wiring	25,000
Brooklyn Park Middle School - construction	2,858,000
CAT - North - renovations (roof)	540,000
Central Middle School - wiring	50,000
Chesapeake Bay Middle School - wiring	68,000
Corkran Middle School - wiring	46,000
Crofton Elementary School - construction	453,000
Crofton Middle School - construction	513,000
Crofton Middle School - wiring	50,000
Fort Smallwood Elementary School - construction	1,149,000
George Fox Middle School - wiring	54,000
Georgetown East Elementary School - renovations (roof)	246,000

Glen Burnie High School - science facilities	649,000
Glen Burnie Park Elementary School - wiring	25,000
Hillsmere Elementary School - pre-kindergarten	33,000
Hillsmere Elementary School - wiring	25,000
Hilltop Elementary School - pre-kindergarten	61,000
Hilltop Elementary School - renovations (HVAC)	584,000
Jacobsville Elementary School - construction	1,792,000
Jessup Elementary School - construction	61,000
Jones Elementary School - construction	1,099,000
Linthicum Elementary School - renovations (roof)	205,000
Magothy River Middle School - wiring	51,000
Marley Elementary School - wiring	25,000
Marley Glen Special School - renovations (HVAC)	159,000
Meade High School - renovations (chiller)	305,000
Old Mill High School - science facilities	1,116,000
Old Mill North Middle School - wiring	50,000
Old Mill South Middle School - wiring	46,000
Ridgeway Elementary School - construction	1,224,000
Riviera Beach Elementary School - renovations (HVAC)	600,000
Severn River Middle School - wiring	51,000
Severna Park High School - renovations (HVAC)	380,000
Severna Park High School - science facilities	476,000
Severna Park Middle School - renovations	570,000
Severna Park Middle School - wiring	55,000
South River High School - renovations (roof)	785,000
Southern Middle School - wiring	50,000
	21,957,000

Community College

Fine Arts Building - equipment	490,000
Gymnasium - renovations	1,615,000
Loop Road/Parking Lot - construction	662,000
Pool Building - renovations	60,000
Science Building - additions and alterations	1,283,000
Student Services Building - renovate	205,000
	4,315,000

Local Jails

Anne Arundel Detention Center - construction	22,098,000

Community Mental Health Centers

Supported Housing Developers, Inc.	1,125,000

Senior Citizen Activity Centers

Arnold Senior Center	281,000

Chesapeake Bay Water Quality

Annapolis WWTP - nutrient removal	1,775,000
Broadwater WWTP - nutrient removal	117,850
Cox Creek WWTP - nutrient removal	3,014,000
Moreland Parkway Outfall - channel stabilization	75,000
New Jersey Avenue Floodplain - restoration	100,000
Norfolk Floodplain - restoration	57,000
Patuxent WWTP - nutrient removal	250,000
Patuxent WWTP - upgrade	400,000
Rippling Estate - floodplain improvement	186,900
Sawmill & Waugh Road - fish passage	55,000
Sawmill Creek - stream restoration	45,000
Snug Harbor Wetlands	100,000
South Cherry Grove and Moreland - restoration	135,000
South Cherry Grove Avenue - stream restoration	15,000
Spa Creek Quality Retrofit	262,500
Spa Creek Stormwater Management Facility	127,500
Weems Creek - stream stabilization	135,000
Weems Creek Tributary - stream restoration	25,000
	6,875,750

Fish Passages (Federal Funds)

Midway Branch Culvert - culvert modification	125,000

Waterway Improvement

Annapolis - boating facility maintenance/engineering	35,000
Annapolis - facility maintenance	50,000
Annapolis - moorings/dinghy landing	27,500
Cattail Creek - dredging	385,000
Chase Creek - dredging	62,000
Church Creek - dredging	135,000
City of Annapolis - maintenance	25,000
City of Annapolis - promenade, drage study, moorings	57,000
Cockey Creek - dredging	25,000
Fort Smallwood - ramp engineering/construction	50,000
Marley Creek - dredging	300,000
Marley Creek - engineering/dredging	50,000
North County - boat ramp construction	50,000
Old Man Creek - dredging	107,000
Pocohontas Creek entrance - dredging	50,000
Regional dredge material - replacement site	162,000
Ross Cove - dredging	50,000
Susan Campbell Park - structural repairs	75,000
Upper Magothy River - dredging	182,000
Weems Creek - dredging	70,000
Yantz Cove - dredging	82,500
	2,030,000

Other Projects

Annapolis Historic District - City Dock	250,000
Benson-Hammond & William Downs Houses	100,000
Brooklyn Park Community Center	2,200,000
Brooklyn Park Middle School	300,000
Captain Salem Avery's House	25,000
Charles Carroll House of Annapolis, Inc.	200,000
Glen Burnie Town Center	1,000,000
Hancock's Resolution	150,000
Historic Annapolis Fnd - Maynard-Burgess House	150,000
Lloyd Keaser Community Center	100,000
London Town Archaeological Learning Center	750,000
London Town Publik House & Gardens	200,000
Maryland Hall for the Creative Arts	500,000
North Arundel Hospital	800,000
Odenton Health Center	100,000
Stanton Center	150,000
Wiley H. Bates High School	3,000,000
World War II Memorial - construction	2,200,000
	12,175,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	1,985	818	1,307	1,307
Family Health	710	612	430	247
Geriatric & Children's Services	616	755	847	847
Mental Health	6,556	7,713	7,880	7,907
Developmental Disabilities	11,279	11,704	12,622	14,362
AIDS	12	10	10	11
	21,158	21,612	23,096	24,681
Social Services (DHR)				
Homeless Services Program	135	135	135	143
Women's Services Program	310	277	313	314
	445	412	448	457
Senior Citzen Services (OOA)				
Long Term Care	512	484	484	501
Community Services	131	115	115	135
	643	599	599	636

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and

may change.

Capital Projects for State Facilities Located in the County

General Government

Annapolis District Court	12,174,000
State Government Center - Annapolis	2,300,000
Thurgood Marshall Statue	250,000
	14,724,000

Department of Public Safety and Corrections

Correctional Inst. for Women - kitchen & dining room	290,000
Correctional Inst. for Women - medium security housing	14,719,000
	15,009,000

Department of Natural Resources

Patapsco Valley Greenway - land acquisition	600,000
Patuxent River Greenway - land acquisition	3,132,500
Patuxent River NRMA - land acquisition	1,856,000
Patuxent River State Park - land acquisition	200,000
Sandy Point State Park - const. storage/dist. center	745,000
Sandy Point State Park - rebuild boat ramp pier	10,000
Severn River Greenway - land acquisition	750,000
State Dock - building repairs	50,000
	7,343,500

Department of Environment

Crownsville Hospital Center - improve wastewater system	750,000
Crownsville Hospital Center - improve water system	100,000
Jessup Correctional Complex - improve sewer system	950,000
Jessup Correctional Complex - improve water system	1,400,000
	3,200,000

Military

Annapolis Armory	578,000
Annapolis Armory - construct addition (federal funds)	4,417,000
	4,995,000

Other

WMPT Transmitter - replacement	1,484,000
WMPT Transmitter - replacement (federal funds)	1,016,000
	2,500,000

BALTIMORE CITY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	263,461	262,553	274,872	281,063	6.7
Compensatory Aid	43,820	45,362	48,098	56,936	29.9
Transportation Aid	8,182	8,343	8,905	9,247	13.0
Special Education Aid	39,635	42,749	47,067	47,846	20.7
Limited English Prof. Grants	200	217	228	825	312.5
Target/Additional Poverty Grants	2,573	2,467	2,296	6,598	156.4
Extended Elementary	3,116	3,116	3,221	4,135	32.7
Baltimore City Partnership	0	0	32,971	50,000	.0
Other Education Aid	10,165	18,498	7,229	16,767	64.9
PRIMARY/SECONDARY EDUCATION	371,151	383,304	424,887	473,415	27.6
COUNTY LIBRARIES	4,125	4,052	4,495	5,034	22.0
HEALTH FORMULA GRANTS	7,608	8,125	8,427	8,692	14.2
Public Safety					
State Aid for Police Protection	0	348	345	332	.0
Fire, Rescue & Ambulance Service	549	539	552	779	42.1
Other Public Safety	7,508	9,751	7,997	7,300	-2.8
PUBLIC SAFETY	8,057	10,638	8,894	8,412	4.4
PROGRAM OPEN SPACE	3,176	3,189	3,055	3,432	8.0
TRANSPORTATION GRANTS	176,473	181,830	157,747	157,977	-10.5
SHARED TAXES/REVENUES	588	581	3,398	3,337	467.5
DISPARITY GRANT	37,028	37,608	50,506	51,473	39.0
TOTAL DIRECT AID	608,207	629,327	661,409	711,771	17.0
Aid Per Capita	901	947	1013	1110	23.2
Property Tax Equivalent ($)	7.20	7.52	7.90	8.39	16.5

Retirement Payments - $215,617,707

Selected State Grants for Capital Projects

Public Schools

Arlington Elementary School #234 - wiring	18,000
Baltimore City College #480 - science facilities	484,000
Booker T. Washington Middle School #130 - wiring	142,000
Brown Junior High School #180 - renovations	465,000
Canton Middle School #230 - wiring	66,000
Carver Vo-Tech #454 - science facilities	392,000
Cross Country Elementary School #247 - construction	2,622,000
Curtis Bay Elementary #207 - wiring	53,000
Diggs-Johnson Middle School #162 - renovations (roof)	189,000
Edmonston High School #400 - science facilities	875,000
Fallstaff Middle School #241 - renovation (chiller)	173,000
Fallstaff Middle School #241 - renovations	122,000
Forest Park High School #406 - renovations (roof)	383,000
Forest Park High School #406 - wiring	120,000
Francis Scott Key Elementary/Middle School #76 - wiring	68,000
Frankford Intermediate #216 - renovation (window)	278,000
George McMechen Middle/High Schol #177 - renovations	574,000
Glenmount Elementary/Middle School #235 - construction	6,124,000
Hamilton E./M. #236 - construction	4,158,000
Hamilton Middle School #41 - renovations (roof)	320,000
Hamilton Middle School #41 - wiring	91,000
Hampden Elementary School #55 - renovations (roof)	230,000
Hampstead Hill Elementary School #47 - wiring	37,000

Harbor City Learning Ctr. #413 - construction	2,041,000
Harriet Tubman Elementary School #138 - renovations	166,000
Henderson Elementary School #101 - renovations (boiler)	225,000
Holabird Elementary School #229 - renovations (roof)	229,000
Holabird Elementary School #229 - wiring	45,000
James McHenry Elementary #10 - renovation (chiller)	154,000
James McHenry Elementary #10 - renovation (window)	108,000
John Ruhrah Elementary School #228 - renovations	137,000
Johnson Square #16 - renovation (window)	178,000
Joseph Briscoe High School #451 - renovations (roof)	526,000
L. Paquin Middle/High School #457 - renovations (roof)	191,000
Lake Clifton High School #40 - science facilities	725,000
Lake Clifton-Eastern High School #40 - wiring	150,000
Lois T. Murray Elementary #313 - renovations (roof)	140,000
Madison Square Elementary #26 - renovation (window)	314,000
Mergenthaler High School #410 (Phase I) - construction	1,715,000
Mergenthaler Vo Tech #410 - construction	5,000,000
Moravia Park Primary School #105 - wiring	60,000
Northeast Middle School #49 - renovations	281,000
Northern High School #402 - wiring	150,000
Northwood Elementary School #242 - renovations	168,000
Northwood Elementary School #242 - renovations (boiler)	244,000
Park Heights Elementary School #14 - renovations	141,000
Patterson High School #405 - renovations (roof)	1,262,000
Patterson High School #405 - science facilities	486,000
Polytechnic Institute #403 - science facilities	465,000
Robert Coleman Elementary School - renovations (roof)	179,000
Southern High School #70 - renovations (roof)	510,000
Southern High School #70 - science facilities	604,000
Southern High School #70 - wiring	135,000
Southwestern High School #412 - science facilities	822,000
Templeton Elementary School #125 - renovations	212,000
Tench Tilghman Elementary School #13 - renovations	163,000
Venable High School #115 - renovations	163,000
Venable High School #115 - renovations (roof)	71,000
Violetville Elementary #226 - renovations	118,000
Waverly Elementary School #51 - renovations (roof)	204,000
West Baltimore Middle School #80 - renovations (roof)	765,000
Westport Elementary School #225 - renovations	109,000
Westside Skill Center #420 - wiring	135,000
William Paca Elementary School #83 - renovations	113,000
Winston Middle School #209 - renovations (roof)	446,000
Woodhome Elementary School #205 - wiring	45,000
Woodson Elementary School #160 - renovations	402,000
	38,481,000

Juvenile Justice Bond Program

Good Shepard Center	750,000

Shelter & Transitional Housing Facilities

Cottage Avenue Village	440,835
Druid House	350,000
House of Ruth	600,000
Marian House	1,100,000
Pearle Carrie House, Inc.	110,000
Sandtown-Winchester	355,000
St. Vincent de Paul Society	466,611
	3,422,446

Community Mental Health Centers

Alliance, Inc.	876,000
Community Housing Associates, Inc.	1,436,000
Glenwood Life Counseling Center	572,000
House of Ruth Transitional Housing, Inc.	1,000,000
North Baltimore Center, Inc.	1,575,000
People Encouraging People, Inc.	203,000
St. Elizabeth School and Rehabilitation Center	1,200,000
Woodbourne Center	1,110,000
	7,972,000

Adult Day Care Centers

Johns Hopkins Bayview Medical Center	414,000
Johns Hopkins Hosp. Bayview - PACE	540,000
Morning Glory, Inc.	380,000

Payne Memorial Outreach, Inc.	272,000
United Baptist Missionary Convention of Maryland, Inc.	375,000
	1,981,000

Senior Citizen Activity Centers

Korean Senior Center	300,000

Chesapeake Bay Water Quality

Back River - nutrient removal	2,568,000
Gwynns-Falls Pre-Engineering Study - stormwater mgmt.	150,000
	2,718,000

Waterway Improvement

Fort Armistead Park - breakwater/rehab boat ramp	50,000
Fort McHenry - fire boat	35,000
Lancaster Street - replace bulkhead	250,000
	335,000

Other Projects

African American Museum	2,858,000
American Visionary Art Museum	1,750,000
Balt. City Fraternal Order of Police Memorial	50,000
Baltimore Children's Museum	4,000,000
Baltimore Conservatory in Druid Hill Park	500,000
Baltimore Convention Center - addition & renovation	8,000,000
Baltimore Museum of Art - purchase Lucas art collection	1,700,000
Baltimore Museum of Industry	850,000
Baltimore Neighborhood Recreation Facility	750,000
Baltimore Streetcar Museum	190,000
Baltimore Zoo - construct earth conservation facility	2,500,000
Baltimore Zoo - upgrade facilities	1,550,000
BSO - Joseph Meyerhoff Symphony Hall	3,000,000
Caritas House Assisted Living Facility	500,000
Caroline Center	400,000
Center Stage	250,000
Chase Brexton Health Services, Inc.	100,000
Child First After School Programs	400,000
Clipper Park Arts Center	200,000
Community Human Development Centers	1,150,000
CURE - Heart, Body, and Soul	300,000
Druid Hill Family YMCA Youth Enrichment Center	600,000
East Baltimore Recreational Facilities - improvements	400,000
Epiphany House	150,000
Epsilon Omega Fnd, Inc - Family Support Center	800,000
Eubie Blake Cultural Center	200,000
Eutaw Place Temple	292,000
Fair Chance Center	200,000
Family & Children's Services Center	400,000
Federal Hill/Fells Point MD Maritime Cntr.	600,000
Fort McHenry-Education and Visitors Center	500,000
Grace Outreach Center	700,000
Great Blacks in Wax Museum	300,000
Harbor Hospital Center	1,450,000
Health Care for the Homeless	100,000
Highlandtown Revitalization	1,000,000
Hippodrome Performing Arts Center - renovate & construct	1,700,000
House of Mercy Center	250,000
Human & Community Development Centers	200,000
Inner Harbor Visitors Center	131,000
Jewish Community Center of Greater Baltimore	500,000
Jewish Historical Society of MD Museum	750,000
Johns Hopkins Cancer Research Building	10,000,000
Johns Hopkins Hospital - Oncology Center	9,500,000
Johns Hopkins University - Eisenhower Library	2,200,000
Johns Hopkins University - School of Nursing	2,500,000
Kennedy Krieger Institute	1,000,000
Kennedy-Krieger Children's Hospital	875,000
Kennedy-Krieger Comm. Transition Center	500,000
King Memorial Child Care Family Center	150,000
Lacrosse Hall of Fame Museum	200,000
Liberty Medical Center, Inc.	1,000,000
Loyola College	3,000,000
Lyric Opera House	1,150,000
Madison Avenue Development Corporation	200,000

Maryland Community Resource Center, Inc.	500,000
Maryland General Hospital	1,980,000
Maryland Historical Society	3,050,000
Maryland Maritime Center	500,000
MD Center for Veterans' Education & Training	136,000
Memorial Stadium Demolition	850,000
Mercy Medical Center	850,000
Morgan Christian Center	150,000
Mount Washington Pediatric Hospital	945,000
National Aquarium in Baltimore	2,000,000
National Katyn Memorial	200,000
New Song Urban Ministries - Fulton Avenue Ctr.	400,000
Old Douglass High School	200,000
Park Reist Corridor Coalition, Inc.	350,000
Park West Medical Center	200,000
Payne Memorial Outreach, Inc.	500,000
Peabody Conservatory Art Collection	6,000,000
Pen Lucy Community Center	100,000
Police Athletic League Center	500,000
Pride of Baltimore II	65,000
Project Liberty Ship	350,000
Rehoboth Church of God Day Care Center	150,000
Sandtown-Winchester Senior Center	600,000
Sinai Hospital	900,000
Sojourner-Douglass College	350,000
South Baltimore Parking Garage	1,260,000
St. Ambrose Family Outreach Center	500,000
St. Frances Academy	500,000
St. James Academy Education Center	500,000
The Avenue Market	800,000
The Learning Bank	850,000
U.S.S. Constellation	1,875,000
U.S.S. Sanctuary	750,000
Union Baptist Church - Child Care Center	525,000
Union Memorial Hospital	500,000
Village Learning Place	156,000
Walters Art Gallery	2,050,000
Young Audiences of Maryland	150,000
	106,738,000

Estimated State Spending on Selected Health and Social Services

	1996	1997	1998	1999
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	6,618	7,988	9,163	9,163
Family Health	6,846	6,821	5,075	153
Geriatric & Children's Services	2,390	3,109	4,238	4,239
Mental Health	25,616	26,325	26,897	26,988
Developmental Disabilities	31,322	32,501	35,052	39,883
AIDS	334	261	314	314
	73,126	77,005	80,739	80,740
Social Services (DHR)				
Homeless Services Program	1,604	1,604	1,604	1,695
Housing Counselor Program	47	51	51	52
Women's Services Program	1,341	1,210	1,049	1,053
	2,992	2,865	2,704	2,800
Senior Citzen Services (OOA)				
Long Term Care	1,497	1,497	1,497	1,540
Community Services	844	766	766	867
Consumer Services	0	7	7	7
	2,341	2,270	2,270	2,414

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

General Government	
Baltimore State Office Center - security enhancements	448,000
District Court - Potee Street	14,671,000
Saratoga Center - install heating/air conditioning	353,000
	15,472,000
Department of Juvenile Services	
Baltimore City Juvenile Justice Center - construction	50,837,000
Health and Social Programs	
Carter Center - replace fire alarm/security system	1,969,000
O'Conor Building - upgrade electrical system	155,000
RICA Baltimore - construct dormitory & multipurpose bldg	465,000
	2,589,000
Maryland Department of Education	
State Library Resource Ctr. - const. alteration/addition	3,915,000
Morgan State University *	
Acquire land	82,000
Campuswide Site Improvements	290,000
Engineering Building - construct addition	4,667,000
Fine Arts Center - construct new facility	28,966,000
Hill Field House - construct alterations	12,459,000
Hughes Stadium - renovations	8,527,000
Lillie Carroll Jackson Museum	300,000
McMechen Hall - construct alteration	505,000
Memorial Rectory - convert to new uses	1,827,000
Montebello Ductbank - construction	500,000
Pentridge Apartments	1,165,000
Science Research Building & Greenhouse - planning	449,000
Spencer Hall - conference & seminar room	360,000
	60,097,000

* includes academic revenue bonds

Department of Housing and Community Development	
Baltimore City Public Housing Replacement	9,174,000
Department of Business and Economic Development	
State Welcome Center - Inner Harbor	1,313,000
University of Maryland System *	
Biotechnology Inst. - Medical Biotech. Cntr. - construct	4,500,000
UMD at Baltimore - Health Sciences Library - equip	4,900,000
UMD at Baltimore - Howard Hall - renovation	6,997,000
UMD at Baltimore - Law School - addition & alterations	3,054,000
UMD at Baltimore - Nursing School - construct facility	37,769,000
UMD at Baltimore - property acquisition	2,000,000
UMD at Baltimore - School of Pharmacy	3,000,000
UMD at Baltimore - University Center site improvements	1,400,000
	63,620,000
Baltimore City Community College	
Baltimore City Community College - renovate main bldg.	1,070,000
Liberty Campus - construct Life Sciences Building	17,353,000
	18,423,000
Department of Natural Resources	
Patapsco Valley Greenway - land acquisition	2,047,700
Other	
Baltimore Football Stadium	42,244,227
UMD Medical System - construct tower & improvements	10,000,000

UMD Medical System - diagnostic & treatment facilities	24,000,000
UMD Medical System - provide medical rehab. facilities	5,000,000
	81,244,227

BALTIMORE COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	138,638	148,514	162,075	166,030	19.8
Compensatory Aid	3,711	3,926	4,200	6,089	64.1
Transportation Aid	11,311	11,651	12,711	13,196	16.7
Special Education Aid	10,854	11,546	12,633	12,825	18.2
Limited English Prof. Grants	712	617	666	1,824	156.2
Target/Additional Poverty Grants	786	817	3,315	4,855	517.7
Extended Elementary	905	817	1,027	1,190	31.5
Other Education Aid	3,627	5,189	9,974	16,191	346.4
PRIMARY/SECONDARY EDUCATION	170,543	183,076	206,601	222,199	30.3
COUNTY LIBRARIES	2,315	2,398	2,637	3,074	32.8
COMMUNITY COLLEGES	22,458	21,342	22,425	22,962	2.2
HEALTH FORMULA GRANTS	5,142	5,508	5,714	5,836	13.5
Public Safety					
State Aid for Police Protection	8,679	9,116	9,155	9,188	5.9
Fire, Rescue & Ambulance Service	627	620	639	912	45.3
Other Public Safety	594	550	491	0	-100.0
PUBLIC SAFETY	9,901	10,286	10,285	10,099	2.0
PROGRAM OPEN SPACE	3,392	3,414	3,179	3,291	-3.0
TRANSPORTATION GRANTS	24,846	25,486	29,171	29,352	18.1
SHARED TAXES/REVENUES	50	50	50	50	.0
TOTAL DIRECT AID	238,648	251,559	280,062	296,864	24.4
Aid Per Capita	332	349	387	409	23.2
Property Tax Equivalent ($)	1.44	1.48	1.61	1.67	16.0

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Retirement Payments - $247,431,075

Selected State Grants for Capital Projects

Public Schools

Arbutus Middle School - renovations (boiler)	263,000
Baltimore Highlands Elementary - construction	370,000
Battle Monument Special School - renovations (windows)	200,000
Bear Creek Middle School - renovations (boiler)	175,000
Berkshire Elementary School - renovations (MSR)	200,000
Campfield Center - renovations (roof)	109,000
Carver Center School - renovations (boiler/ATC)	370,000
Carver Center School - renovations (roof)	518,000
Catonsville Elementary School - renovations (windows)	160,000
Catonsville High School - construction	4,308,000
Catonsville High School - wiring	74,000
Catonsville Middle School - construction	141,000
Cedarmere Elementary School - renovations (roof)	247,000
Charlesmont Elementary School - renov. (HVAC/windows)	565,000
Chase Elementary School - renovations (MSR)	250,000
Chase Elementary School - renovations (roof)	214,000
Chesapeake High School - renovations (chiller)	400,000
Chesapeake High School - wiring	93,000
Cockeysville Middle School - renovations (chiller/elec)	200,000
Colgate Elementary School - renovations (mech)	300,000
Colgate Elementary School - renovations (MSR)	350,000
Deep Creek Elementary School - construction	400,000

Deep Creek Middle School - renovations (HVAC)	400,000
Deer Park Elementary - renovations (chiller)	165,000
Deer Park Elementary School - construction	235,000
Deer Park Middle School - construction	1,046,000
Dogwood Elementary School - construction	2,568,000
Dulaney High School - construction	3,222,000
Dulaney High School - renovations (roof)	491,000
Dulaney High School - wiring	75,000
Dundalk High School - renovations (HVAC)	360,000
Dundalk High School - science facilities	950,000
Dundalk High School - wiring	75,000
Dundalk Middle School - renovations (MSR)	315,000
Dundalk Middle School - renovations (roof)	302,000
Dundalk Middle School - wiring	50,000
Eastern Technical High School - renovations (MSR)	563,000
Eastern Technical High School - science facilities	350,000
Eastern Technical High School - wiring	98,000
Edgemere Elementary School - construction	2,296,000
Franklin Elementary School - construction	447,000
Franklin High School - construction	4,952,000
Franklin High School - wiring	71,000
Franklin Middle School - construcion	2,692,000
Franklin Middle School - wiring	58,000
Ft. Garrison Elementary School - renovations (roof)	177,000
Fullerton Elementary School - renovations (roof)	231,000
Gen. Stricker Middle School - renovations (boiler/elec)	250,000
Glenmar Elementary School - renovations (mech)	175,000
Glyndon Elementary School - construction	470,000
Gunpowder Elementary School - construction	370,000
Gunpowder Elementary School - renovations (roof)	216,000
Halethorpe Elementary School - renovations (roof)	201,000
Hampton Elementary School - renovations (roof)	178,000
Harford Hills Elementary School - renovations (roof)	197,000
Hawthorne Elementary School - renovations (mech/elec)	183,000
Hernwood Elementary School - renovations (mech)	535,000
Hillcrest Elementary School - construction	418,000
Johnnycake Elementary School - construction	470,000
Johnnycake Elementary School - renovations (roof)	206,000
Joppa View Elementary School - construction	400,000
Kenwood High School - renovations (boiler)	188,000
Kenwood High School - renovations (MSR)	2,340,000
Kenwood High School - science facilities	666,000
Kenwood High School - wiring	75,000
Lansdowne High School - wiring	75,000
Loch Raven High School - renovations (mech)	500,000
Loch Raven High School - renovations (roof)	242,000
Loch Raven High School - wiring	86,000
Logan Elementary School - renovations (mech)	150,000
Logan Elementary School - renovations (roof)	249,000
Maiden Choice Special School - renovations (boiler)	200,000
Mars Estates Elementary School - renovations (roof)	239,000
Martin Boulevard E. Elementary School - construction	1,557,000
Middle River Middle School - renovations (HVAC)	263,000
Middle River Middle School - renovations (mech/alarm)	300,000
Middle River Middle School - renovations (MSR)	300,000
Middlesex Elementary School - renovations (HVAC)	125,000
Middlesex Elementary School - renovations (roof)	147,000
New Town Elementary School - construction	3,558,000
Oakleigh Elementary School - renovations (MSR)	625,000
Oakleigh Elementary School - renovations (roof)	190,000
Overlea High School - wiring	92,000
Owings Mills Elementary School - construction	346,000
Owings Mills High School - renovations (roof)	449,000
Owings Mills High School -wiring	80,000
Parkville High School - construction	3,865,000
Parkville High School - science facilities	255,000
Parkville High School - wiring	75,000
Patapsco High School - renovations (HVAC)	300,000
Perry Hall High School - construction	2,859,000
Perry Hall Middle School - construction	1,444,000
Pikesville High School - wiring	84,000
Pikesville Middle School - renovations (chiller)	225,000
Pinewood Elementary School - construction	400,000
Pinewood Elementary School - renovations (roof)	247,000
Pleasant Plains Elementary School - renovations (HVAC)	187,000
Randallstown High School - renovations	490,000
Randallstown High School - renovations (chiller)	205,000
Relay Elementary School - construction	400,000
Ridge School - renovations (elev)	75,000
Ridge School - renovations (HVAC)	75,000
Rodgers Forge Elementary School - renovations (roof)	172,000

Southeast Technical High School - renovations (MSR)	415,000
Southeast Technical High School - renovations (roof)	354,000
Southeast Technical High School - wiring	53,000
Southwest Academy - renovations (HVAC/alarm)	1,155,000
Southwest Area Elementary School - construction	1,900,000
Sparks Elementary School - construction	782,000
Sparrows Point High School - renovations (HVAC)	175,000
Sparrows Point High School - wiring	75,000
Stoneleigh Elementary School - renovations (MSR)	653,000
Sudbrook Middle School - renovations	87,000
Summit Park Elementary School - construction	400,000
Sussex Elementary School - renovations (mech)	200,000
Sussex Elementary School - renovations (roof)	279,000
Timonium Elementary School - renovations (roof)	276,000
Towson High School - construction	6,628,000
Victory Villa Elementary School - renovations (roof)	230,000
Western School of Technology - construction	891,000
White Oak School - renovations (roof)	196,000
Winfield Elementary School - construction	433,000
Winfield Elementary School - renovations (roof)	169,000
Woodlawn High School - renovations (win/drs)	700,000
Woodmoor Elementary School - construction	433,000
	77,249,000

Community Colleges

Catonsville - central storage facility	272,500
Catonsville - replace underground storage tanks	400,000
Catonsville - reroof buildings	115,000
Catonsville - Tech Arts Building - Phase II	777,000
Essex - Classroom/Academic Support Center	756,000
Essex - Classroom/Administration Building - renovations	230,000
Systemwide - ADA alterations	300,000
Systemwide - construct telecommunications infrastrucure	1,845,000
	4,695,500

Local Jails

Baltimore Co. Detention Center - renovate & construction	737,000

Shelter & Transitional Housing Facilities

760 Charing Cross	52,150
Elan Vitale	40,000
	92,150

Community Mental Health Centers

Baltimore Association for Retarded Citizens, Inc.	695,000
Interval Residential Services, Inc.	832,000
Penn-Mar	1,011,000
Southwestern Community Mental Health Center	1,036,000
	3,574,000

Senior Citizen Activity Centers

Ateaze Senior Center	100,000
Edgemere Senior Center	100,000
Fleming Senior Center	300,000
	500,000

Chesapeake Bay Water Quality

Back River - nutrient removal	2,568,000
Back River Watershed Retrofit	263,000
Bird River - stream restoration	150,000
Bird River Stormwater Management Facilities	143,750
Bird River Watershed Water Quality Retrofit	300,000
Gunpowder River - stream restoration	100,000
Gunpowder River Watershed Water Quality Retrofit	125,000
Gwynns-Falls Pre-Engineering Study - stormwater mgmt.	150,000
Herring Run - stream restoration	200,000
Middle River - restoration	100,000
Middle River Stormwater Quality Retrofit	175,000
Middle River Watershed Water Quality Retrofit	100,000
North Fork/South Fork - White Marsh Run	250,000

Red House Run - retrofit	150,000
Red House Run - stream restoration	257,600
Stemmers Run - stream restoration	250,000
	5,282,350

Waterway Improvement

Chesterwood - dredging	18,000
Fire Department - equipment replacement	25,000
Greenhill Cove - dredging	20,000
Hart-Miller Island	25,000
Inverness Park - boat ramp extension	35,000
Inverness Park - comfort station	15,000
Invernets - rehab/extend boat pier	30,000
Lynch Point Cove - main channel	24,000
Merritt Point Park - ramp extension	50,000
Middle River - dredging	500,000
Miscellaneous Dredging Projects	500,000
Police Department - replacement boat motors	35,000
Rocky Point Park - ADA site improvements	15,000
Rocky Point Park - boat ramp and pier repairs	30,000
	1,322,000

Other Projects

Active Coalition for Transitional Serv., Inc.	65,000
Benjamin Banneker Historic Park	1,350,000
Bloomsbury Center	1,500,000
Camp Puh'Tok	250,000
Catonsville Revitalization Project	250,000
Chesapeake Village Property Acquisition	1,600,000
Dundee/Saltpeter Creeks Park - development	1,000,000
Eastern Baltimore County Comm. Conserv. Init.	375,000
Eastside Economic Development Initiative	375,000
Fleming Community Center	875,000
Goucher College	3,000,000
Greater Hillendale Community Center	600,000
Hampton National Historic Site	200,000
Hannah More School	1,000,000
Islamic Society of Balt., Inc. - Community Ctr.	200,000
Owings Mills Targeted Growth Area	2,000,000
Riverdale Acquisition and Demolition	1,800,000
Shady Spring PAL/Recreation Center	475,000
St. Vincent's Center for Children	600,000
Villa Julie College	3,500,000
Westchester Community Center	50,000
Woodmoor PAL/Recreation Center	475,000
	21,540,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	1,477	1,626	1,631	1,631
Family Health	386	400	520	1,514
Geriatric & Children's Services	867	1,059	1,341	1,342
Mental Health	10,584	11,516	11,766	11,806
Developmental Disabilities	29,172	30,270	32,646	37,145
AIDS	78	72	16	51
	42,564	44,943	47,920	53,489
Social Services (DHR)				
Homeless Services Program	125	125	125	132
Housing Counselor Program	63	53	51	52
Women's Services Program	678	621	613	615
	866	799	789	799
Senior Citzen Services (OOA)				
Long Term Care	850	851	851	878
Community Services	312	275	275	322
Consumer Services	20	17	17	17

1,182	1,143	1,143	1,217

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

General Government	
Capital Facilities Renewal - Woodstock Center	300,000
Maryland Veterans Commission	
Fort Howard Veterans Home - planning	100,000
Garrison Forest Cemetery - construction	387,000
Garrison Forest Cemetery - construction (federal funds)	387,000
	874,000
Department of Juvenile Services	
Charles H. Hickey Jr. School Phase II-B improvements	1,100,000
Health and Social Programs	
Rosewood Center - renovate Johns, Cook & Mandel Cottages	3,080,000
Rosewood Center - renovate therapeutic program building	3,505,000
	6,585,000
Maryland State Police	
Crime Lab - construct addition and alterations	6,028,000
Department of Business and Economic Development	
UMBC Technology Center	5,000,000
Department of Labor, Licensing & Regulation	
Towson - construct new office	1,600,000
University of Maryland System *	
Baltimore County - Biological Sciences Building	5,658,000
Baltimore County - Central Power Plant	11,076,000
Baltimore County - construct physics building	26,006,000
Baltimore County - Technology Enterprise Center	450,000
Towson State - 7720 York Road renovation	7,755,000
Towson State - 7800 York Road renovation	292,000
Towson State - acquire additional classroom/office space	6,500,000
Towson State - campuswide improvements	1,700,000
Towson State - improve campus utilities	4,659,000
Towson State - maintenance & storage building	1,553,000
	65,649,000

* includes academic revenue bonds

Department of Natural Resources	
Dundee Creek Marina - replace mooring piles	10,000
Gunpowder Falls State Park - construct parking lot	168,000
Gunpowder Falls State Park - land acquisition	2,595,000
Gunpowder Falls State Park - Phase 1A development	135,000
North Point State Park - const. trails, road & parking	1,292,000
North Point State Park - construct day use facilities	300,000
Patapsco State Park - construct greenway trail bridge	485,000
Patapsco Valley Greenway - land acquisition	2,647,700
Police Central Regional Headquarters - construction	44,000
	7,676,700

Department of Environment

Rosewood Center - improve water and wastewater systems	200,000

Military

Camp Fretterd Armory - const. new fac. (federal funds)	88,000
Camp Fretterd Armory - construct new facility	554,000
Camp Fretterd Armory - equipment	1,725,000
Camp Fretterd Armory - equipment (federal funds)	400,000
Camp Fretterd Armory - telecomm. equip.	50,000
Dundalk Armory - construct addition	58,000
Dundalk Armory - construct addition (federal funds)	2,034,000
Gunpowder Military Reservation - new training fac.	267,000
Gunpowder Military Reservation - new training fac. (FF)	4,194,000
	9,370,000

CALVERT COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	20,797	23,129	25,760	27,882	34.1
Compensatory Aid	405	427	447	620	53.1
Transportation Aid	1,603	1,634	1,759	1,895	18.2
Special Education Aid	767	755	800	813	6.1
Limited English Prof. Grants	5	10	10	24	380.0
Target/Additional Poverty Grants	61	60	249	383	526.2
Extended Elementary	287	287	287	454	58.2
Other Education Aid	222	390	401	334	50.5
PRIMARY/SECONDARY EDUCATION	24,147	26,691	29,713	32,405	34.2
COUNTY LIBRARIES	129	146	166	216	67.4
COMMUNITY COLLEGES	555	585	624	671	20.9
HEALTH FORMULA GRANTS	239	260	273	286	19.2
Public Safety					
State Aid for Police Protection*	526	591	613	631	20.0
Fire, Rescue & Ambulance Service*	102	102	105	150	47.1
Other Public Safety	5	302	0	0	-100.0
PUBLIC SAFETY	633	994	718	781	23.4
PROGRAM OPEN SPACE	300	302	282	293	-2.3
TRANSPORTATION GRANTS*	3,116	3,252	3,764	3,787	21.5
TOTAL DIRECT AID	29,119	32,231	35,540	38,438	32.0
Aid Per Capita	436	466	496	519	19.0
Property Tax Equivalent ($)	1.15	1.19	1.26	1.34	16.5

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

Retirement Payments - $29,005,636

Selected State Grants for Capital Projects

Public Schools

Beach Elementary School - renovations (mech)	167,000
Beach Elementary School - renovations (roof)	60,000
Beach Elementary School - wiring	28,000
Calvert Elementary School - renovations (roof)	170,000
Calvert High School - science facilities	285,000
Dowell Elementary School - construction	3,874,000
Mt. Harmony Elementary School - renovations (roof)	140,000
Mt. Harmony Elementary School - renovations (windows)	105,000
Mutual Elementary School - renovations (win/door)	67,000
Northeast Middle School - construction	5,206,000
Northern High School - wiring	70,000
Patuxent High School - construction	2,400,000
Plum Point Elementary School - wiring	28,000
Southern Elementary School - construction	1,800,000
Southern Middle School - construction	1,873,000
Southern Middle School - wiring	53,000
St. Leonard Elementary School - construction	1,259,000
	17,585,000

Charles Community College

Academic Buildings - construction	1,088,000
Higher Education Facility	268,740

	1,356,740
Shelter & Transitional Housing Facilities	
Abused Person's Shelter	159,288
Adult Day Care Centers	
Adult Day Care of Calvert County, Inc.	400,000
Senior Citizen Activity Centers	
Senior Center Master Plan	12,000
Chesapeake Bay Water Quality	
Breezey Point Stormwater Management Facility	165,000
Dares Beach Sewerage System - construction grant	400,000
Hunting Creek - stream restoration	25,000
Patuxent Estuary - habitat enhancement	250,000
	840,000
Water Supply Facilities	
Cavalier County new well and system rehabilitation	354,200
Kenwood Beach distribution system repair or replacement	223,000
	577,200
Waterway Improvement	
Breezy Point Marina - engineering jetties & breakwaters	40,000
Calvert Maritime Museum - decking	15,000
Chesapeake Beach - boat ramp lease	60,000
Chesapeake Beach - boat ramp repairs	100,000
Chesapeake Beach - boat ramp replacement	50,000
Cove Point Light House - seawall repair	50,000
Fire Department - harbor patrol vessel	8,750
Hallowing Point - boat ramp rehab piers	10,000
Lore Oyster House - bulkhead construction (phase II)	50,000
Lore Oyster House - bulkhead repairs	50,000
Solomons Island - breakwater	150,000
	583,750
Other Projects	
Calvert Co. Historical Society - Linden Project	300,000
Calvert Hospice	125,000
Calvert Marine Museum	75,000
Calvert Memorial Hospital	900,000
United Way of Calvert County	100,000
	1,500,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	307	135	135	135
Family Health	122	148	149	147
Geriatric & Children's Services	256	303	281	281
Mental Health	1,682	1,939	1,982	1,988
Developmental Disabilities	3,834	3,978	4,290	4,882
	6,201	6,503	6,837	7,433
Social Services (DHR)				
Homeless Services Program	30	30	30	32
Women's Services Program	96	95	144	145
	126	125	174	177

Long Term Care	102	94	94	97
Senior Citzen Services (OOA)				
Community Services	18	16	16	19
Consumer Services	2	3	3	3
	122	113	113	119

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Department of Housing and Community Development

Jefferson Patterson Park & Museum - archaeological fac.	1,259,000
Jefferson Patterson Park & Museum - educational center	350,000
Jefferson Patterson Park & Museum - road & parking	1,233,000
Jefferson Patterson Park & Museum - shore erosion	891,000
Jefferson Patterson Park & Museum - shore erosion (FF)	152,000
	3,885,000

Department of Natural Resources

Calvert Cliffs State Park - construct comfort station	244,000
Chesapeake Beach - boat ramp lease	60,000
Hallowing Point - boat ramp parking lot	150,000
Hallowing Point - boat ramp rehab piers	15,000
King's Landing NRMA - renovate multi-purpose building	756,000
Parker's Creek - land acquisition	738,000

Department of Natural Resources

Patuxent River Greenway - land acquisition	3,132,500
Patuxent River NRMA - land acquisition	1,856,000
	6,951,500

Other

Southern Maryland Higher Education Center	300,000

CAROLINE COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	12,325	13,188	14,170	14,736	19.6
Compensatory Aid	679	717	754	918	35.2
Transportation Aid	1,115	1,152	1,218	1,265	13.5
Special Education Aid	479	474	485	481	.4
Limited English Prof. Grants	27	28	27	88	225.9
Target/Additional Poverty Grants	66	71	340	607	819.7
Extended Elementary	178	178	283	351	97.2
Other Education Aid	173	728	894	539	211.6
PRIMARY/SECONDARY EDUCATION	15,041	16,536	18,171	18,986	26.2
COUNTY LIBRARIES	144	147	166	195	35.4
COMMUNITY COLLEGES	549	546	573	628	14.6
HEALTH FORMULA GRANTS	432	453	466	473	9.7
Public Safety					
State Aid for Police Protection*	268	293	294	293	9.7
Fire, Rescue & Ambulance Service*	105	102	105	150	42.9
Other Public Safety	98	3	0	0	-100.0
PUBLIC SAFETY	471	398	399	443	-5.9
PROGRAM OPEN SPACE	131	132	123	127	-2.3
TRANSPORTATION GRANTS*	2,924	2,976	3,402	3,423	17.1
DISPARITY GRANT	819	901	1,493	1,626	98.5
TOTAL DIRECT AID	20,509	22,090	24,792	25,901	26.3
Aid Per Capita	702	749	829	858	22.2
Property Tax Equivalent ($)	4.59	4.78	5.13	5.17	12.6

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

Retirement Payments - $11,353,782

Selected State Grants for Capital Projects

Public Schools

Caroline Career and Tech Center - wiring	56,000
Col. Richardson High School - renovations	592,000
Col. Richardson High School - science facilities	560,000
Col. Richardson Middle School - renovations (roof)	539,000
Col. Richardson Middle School - wiring	43,000
Denton Elementary School - wiring	38,000
Federalsburg Elementary School - construction	2,428,000
Federalsburg Elementary School - relocatable classrooms	36,000
Greensboro Elementary School - wiring	38,000
Lockerman Middle School - wiring	73,000
North Caroline High School - science facilities	1,237,000
Ridgely Elementary School - construction	1,290,000
	6,930,000

Chesapeake College

Dorchester and Caroline Centers - renovations	369,000
Handicapped accessibility - Phase II	242,000
Student Services and Administration Building - construct	140,000
Talbot Science Building - reroofing	145,000

	896,000
Community Mental Health Centers	
Caroline County Health Department	1,000,000
Chesapeake Bay Water Quality	
Denton WWTP - nutrient removal	1,060,000
Goldsboro Sewerage Project	1,000,000
Ridgely Infiltration/Inflow Correction	200,000
South Main Street Shoreline - restoration	15,000
	2,275,000
Water Supply Facilities	
Marydel community water supply system construction	500,000
Waterway Improvement	
Choptank Marina - dredging	200,000
Choptank Marina - duel system upgrade	30,000
Choptank Marina - replace bulkhead	50,000
Crouse Memorial Park - boat ramp expansion	50,000
	330,000
Other Projects	
Benedictine School for Exceptional Children	150,000
Choptank Community Health System, Inc.	75,000
Town of Greensboro - Community Center	100,000
	325,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	224	218	227	227
Family Health	184	187	189	102
Geriatric & Children's Services	229	271	277	284
Mental Health	810	921	941	945
Developmental Disabilities	1,506	1,562	1,685	1,917
AIDS	1	0	1	1
	2,954	3,159	3,320	3,476
Social Services (DHR)				
Homeless Services Program	19	19	19	20
Women's Services Program	266	243	243	243
	285	262	262	263
Senior Citzen Services (OOA)				
Long Term Care	131	115	115	118
Community Services	82	74	74	84
	213	189	189	202

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

(2) The grants shown for the women's services and senior citizen services fund programs in several eastern shore counties.

CARROLL COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	46,762	50,298	54,902	58,357	24.8
Compensatory Aid	623	652	660	922	48.2
Transportation Aid	3,615	3,687	3,937	4,165	15.2
Special Education Aid	2,497	2,440	2,613	2,661	6.6
Limited English Prof. Grants	28	33	38	97	250.0
Target/Additional Poverty Grants	76	72	293	480	531.6
Extended Elementary	148	148	148	172	15.5
Other Education Aid	274	427	571	732	166.8
PRIMARY/SECONDARY EDUCATION	54,022	57,756	63,163	67,587	25.1
COUNTY LIBRARIES	457	465	535	661	44.6
COMMUNITY COLLEGES	3,174	3,120	3,199	3,444	8.5
HEALTH FORMULA GRANTS	1,196	1,261	1,300	1,335	11.6
Public Safety					
State Aid for Police Protection*	1,202	1,318	1,350	1,391	15.8
Fire, Rescue & Ambulance Service*	125	126	132	189	51.2
Other Public Safety	0	360	0	0	.0
PUBLIC SAFETY	1,327	1,803	1,482	1,580	19.1
PROGRAM OPEN SPACE	678	683	637	658	-2.9
TRANSPORTATION GRANTS*	7,488	7,755	8,942	8,997	20.2
TOTAL DIRECT AID	68,342	72,843	79,257	84,263	23.3
Aid Per Capita	476	497	529	551	15.8
Property Tax Equivalent ($)	2.14	2.19	2.29	2.35	9.8

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

Retirement Payments - $51,838,792

Selected State Grants for Capital Projects

Public Schools

Carroll Career and Technological School - wiring	33,000
Charles Carroll Elementary School - wiring	20,000
Eldersburg Elementary School - renovations (HVAC)	520,000
Elmer Wolfe Elementary School - construction	3,032,000
Francis Scott Key High School - construction	6,618,000
Friendship Valley Elementary School - wiring	20,000
Hampstead Elementary School - wiring	15,000
Liberty High School - science facilities	138,000
Liberty High School - technology program	38,000
Linton Springs Elementary School - construction	2,136,000
Manchester Elementary School - wiring	23,000
Mt. Airy Elementary School - wiring	23,000
Mt. Airy Middle School - wiring	21,000
North Carroll High School - renovations (roof)	278,000
North Carroll High School - science facilities	65,000
North Carroll High School - wiring	49,000
North Carroll Middle School - wiring	33,000
Oklahoma Road Middle School - construction	5,982,000
Piney Ridge Elementary School - wiring	20,000
Robert Moton Elementary School - renovations	140,000
Sandymount Elementary School - construction	2,091,000
South Carroll High School - renovations (HVAC)	789,000
South Carroll High School - science facilities	238,000
South Carroll High School - wiring	33,000

Southeast Area Elementary School - construction	2,000,000
Westminster East Middle School - wiring	28,000
Westminster High School - science facilities	138,000
Westminster High School - wiring	55,000
Westminster West Middle School - wiring	26,000
William Winchester Elementary School - wiring	16,000
	24,618,000

Community College

Amphitheater	75,000
Classroom Building #3 - planning	478,000
	553,000

Local Jails

Carroll County Detention Center - construction	2,065,000

Community Mental Health Centers

Flying Colors of Success, Inc.	249,000

Adult Day Care Centers

Family and Children's Services of Central Maryland	136,000

Chesapeake Bay Water Quality

Longwell Branch - restoration area #4	10,000
Longwell Branch - stormwater pollution control	100,000
Longwell Branch - stream restoration project 2	62,000
Longwell Branch - stream restoration project 6	37,500
Mt. Airy WWTP - nutrient removal	400,000
Taneytown - stormwater pollution control	100,000
Taneytown WWTP - nutrient removal	915,000
Westminster WWTP - nutrient removal	1,450,000
	3,074,500

Waterway Improvement

Piney Run Park - ADA site improvements	20,000
Piney Run Park - boating pier	30,000
	50,000

Other Projects

Carroll County Agricultural Center	400,000
Carroll County General Hospital	480,000
Union Mills Homestead	100,000
Western Maryland College-Lewis Hall of Science	3,500,000
	4,480,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	943	910	1,114	1,114
Family Health	162	216	210	127
Geriatric & Children's Services	219	257	294	299
Mental Health	2,757	3,043	3,109	3,119
Developmental Disabilities	5,705	5,920	6,384	7,264
	9,786	10,346	11,111	11,923
Social Services (DHR)				
Homeless Services Program	51	51	51	54
Women's Services Program	241	221	284	285
	292	272	335	339

Long Term Care	194	194	194	200
Senior Citzen Services (OOA)				
Community Services	47	42	42	48
Consumer Services	6	0	0	0
	247	236	236	248

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

General Government	
Carroll County District Court	500,000
Health and Social Programs	
Springfield Hospital Center - McKeldin Building a/c	751,000
Department of Public Safety and Corrections	
Central Laundry - construct steam plant	207,000
Law Enforcement Driver Training Facility - construct	9,749,000
Public Safety Training Center - construction	8,941,000
	18,897,000
Maryland State Police	
Westminster - construct new barracks	2,821,000
Department of Natural Resources	
Morgan Run Natural Environmental Area - land acquisition	700,000
Patapsco Valley Greenway - land acquisition	2,647,700
	3,347,700
Department of Environment	
Springfield Hospital Ctr. - improve water/sewer systems	100,000

CECIL COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	28,962	30,742	32,937	34,821	20.2
Compensatory Aid	904	942	983	1,347	49.0
Transportation Aid	2,028	2,087	2,207	2,318	14.3
Special Education Aid	1,519	1,466	1,517	1,518	.0
Limited English Prof. Grants	27	22	14	46	70.4
Target/Additional Poverty Grants	99	101	408	689	597.0
Extended Elementary	430	430	605	810	88.1
Other Education Aid	288	420	514	757	162.8
PRIMARY/SECONDARY EDUCATION	34,258	36,210	39,185	42,307	23.5
COUNTY LIBRARIES	296	291	341	405	36.5
COMMUNITY COLLEGES	2,577	2,422	2,541	2,687	4.3
HEALTH FORMULA GRANTS	710	752	778	797	12.3
Public Safety					
State Aid for Police Protection*	689	750	766	772	12.2
Fire, Rescue & Ambulance Service*	105	104	107	154	46.7
Other Public Safety	0	73	0	0	.0
PUBLIC SAFETY	793	928	873	926	16.6
PROGRAM OPEN SPACE	349	349	326	338	-3.2
TRANSPORTATION GRANTS*	4,295	4,377	5,059	5,090	18.5
TOTAL DIRECT AID	43,278	45,330	49,102	52,550	21.4
Aid Per Capita	544	562	600	634	16.5
Property Tax Equivalent ($)	2.56	2.61	2.73	2.87	12.1

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

Retirement Payments - $30,492,944

Selected State Grants for Capital Projects

Public Schools

Bainbridge Elementary - pre-kindergarten	92,000
Bay View Elementary School - wiring	35,000
Bayview Elementary School - pre-kindergarten	92,000
Bayview Elementary School - renovations (roof)	132,000
Calvert Elementary School - wiring	35,000
Cecil School of Technology - renovation (roof)	302,000
Cecilton Elementary School - construction	1,738,000
Charlestown Elementary School - pre-kindergarten	92,000
Cherry Hill Middle School - renovations (roof)	790,000
Elkton High School - wiring	105,000
Elkton Middle School - construction	3,292,000
Gilpin Manor Elementary School - wiring	35,000
Holly Hall Elementary School - construction	2,972,000
Holly Hall Elementary School - relocatable classrooms	31,000
Kenmore Elementary School - wiring	35,000
Leeds Elementary School - renovations (roof)	257,000
Leeds Elementary School - wiring	35,000
Northeast Elementary - pre-kindergarten	92,000
Northeast High School - wiring	105,000
Perryville Elementary School - wiring	39,000
Perryville High School - wiring	105,000
Rising Sun Middle School - construction	3,988,000
Thomson Estates Elementary School - pre-kindergarten	183,000
Thomson Estates Elementary School - wiring	35,000

	14,617,000
Community College	
Access Road	600,000
Careers Building - construction	5,872,000
Careers Building - equipment	300,000
	6,772,000
Chesapeake Bay Water Quality	
Carpenters Point/Coulters Point Sewers	100,000
Cecil County Infrastructure	250,000
Chesapeake City Infiltration/Inflow Correction	200,000
Northeast WWTP - nutrient removal	900,000
Rising Sun WWTP	275,000
	1,725,000
Water Supply Facilities	
North East new water treatment plant construction	500,000
Hazardous Substance Cleanup	
W.L. Gore Left Bank Site	944,000
Waterway Improvement	
Charlestown - dredging for fire boat pier	15,000
Charlestown - Louisa Lane Pier - pier addition	25,000
Charlestown - transient/emergency pier	50,000
Chesapeake City - engineering boating access pier	8,000
Chesapeake City - Town Park - transient pier	50,000
Elk River - dredging	40,000
North East Park - boating pier	55,000
Perryville - boat ramp construction	85,000
Port Deposit - boating access pier	50,000
Port Deposit - stone revetment	25,000
River Point Landing - boat ramp and bulkhead repair	30,000
River Point Landing - ramp engineering	15,000
Stemmer's Run - comfort station, utilities, paving	200,000
	648,000
Other Projects	
Bell Manor	200,000
Elk River - Dredging	200,000
Town of North East - Community Park	150,000
Union Hospital	1,200,000
	1,750,000

Estimated State Spending on Selected Health and Social Services

	1996	1997	1998	1999
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	550	504	518	518
Family Health	152	238	240	134
Geriatric & Children's Services	269	326	324	325
Mental Health	2,197	2,267	2,317	2,325
Developmental Disabilities	2,857	2,964	3,197	3,637
AIDS	1	1	1	1
	6,026	6,300	6,597	6,940
Social Services (DHR)				
Homeless Services Program	37	37	37	39
Women's Services Program	118	116	116	117
	155	153	153	156

Senior Citzen Services (OOA)				
Long Term Care	110	110	110	113
Community Services	34	30	30	35
	144	140	140	148

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Department of Natural Resources

Elk Neck State Park - land acquisition	3,000,000
Elk Neck State Park - lighting parking lot	10,000
Elk Neck State Park - shore erosion control	628,000
Elk Nook State Park - replace fuel pumps, decking	50,000
Fair Hill NRMA - construct show barn	199,000
	3,887,000

CHARLES COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	39,335	41,454	43,457	45,246	15.0
Compensatory Aid	809	833	863	1,235	52.5
Transportation Aid	3,806	3,930	4,139	4,317	13.4
Special Education Aid	2,484	2,735	2,904	2,922	17.6
Limited English Prof. Grants	38	36	41	108	184.2
Target/Additional Poverty Grants	150	152	607	955	536.7
Extended Elementary	381	381	871	1,070	180.8
Other Education Aid	363	678	891	566	55.6
PRIMARY/SECONDARY EDUCATION	47,367	50,198	53,773	56,418	19.1
COUNTY LIBRARIES	382	378	408	517	35.3
COMMUNITY COLLEGES	3,088	3,119	3,327	3,576	15.8
HEALTH FORMULA GRANTS	915	959	983	996	8.9
Public Safety					
State Aid for Police Protection*	952	1,014	1,030	1,049	10.1
Fire, Rescue & Ambulance Service*	102	102	112	162	58.8
Other Public Safety	116	449	97	0	-100.0
PUBLIC SAFETY	1,171	1,565	1,239	1,211	3.4
PROGRAM OPEN SPACE	613	617	575	594	-3.1
TRANSPORTATION GRANTS*	5,088	5,244	6,033	6,070	19.3
TOTAL DIRECT AID	58,624	62,079	66,338	69,382	18.4
Aid Per Capita	516	538	567	584	13.2
Property Tax Equivalent ($)	2.06	2.07	2.14	2.22	7.8

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

Retirement Payments - $43,254,307

Selected State Grants for Capital Projects

Public Schools

Barnhart Elementary School - relocatable classrooms	31,000
Benjamin Stoddert Middle School - renovations (roof)	585,000
Berry Elementary School - construction	4,272,000
Charles Career and Technological Center - wiring	43,000
Dr. James Craik Elementary School - wiring	33,000
Dr. Mudd Elementary School - relocatable classrooms	16,000
Dr. Mudd Elementary School - renovation (HVAC)	357,000
Eva Turner Elementary School - wiring	33,000
Gale-Bailey Elementary School - wiring	33,000
Gustavus Brown Elementary School - relocatable classroom	31,000
Gustavus Brown Elementary School - wiring	33,000
Indian Head Elementary School - renovations	302,000
J.C. Parks Elementary School - construction	2,867,000
John Hanson Middle School - wiring	65,000
Lackey High School - construction	4,600,000
Lackey High School - relocatable classrooms	494,000
LaPlata High School - wiring	102,000
Malcolm Elementary School - wiring	33,000
Mattawoman Middle School - construction	2,400,000
Mattawoman Middle School - relocatable classrooms	62,000
Matthew Henson Middle School - wiring	65,000
McDonough High School - wiring	98,000
Mt. Hope/Nanjemoy Elementary School - wiring	33,000
Piccowaxen Middle School - renovations (mech)	325,000

Piccowaxen Middle School - renovations (roof)	394,000
Piccowaxen Middle School - wiring	65,000
Smallwood Middle School - wiring	65,000
Stoddert Middle School - wiring	65,000
T.C. Martin Elementary School - wiring	33,000
Thomas Stone High School - construction	7,931,000
Thomas Stone High School - relocatable classrooms	172,000
Walter J. Mitchell Elementary School - wiring	33,000
	25,671,000

Community College

Administrative Building/Cooling Plant - renovations	92,000
Business & Industry Center	602,910
Environmental/Site Work	926,291
Learning Resources Center - equipment	214,000
Learning Resources Center - renovations	3,068,968
PE/Pool Building - replace mechanical systems	180,000
Science/Tech Building - reroofing	216,000
Track/Tennis Courts - replace	150,000
	5,450,169

Community Mental Health Centers

Center for Children, Inc.	1,184,000

Senior Citizen Activity Centers

Greater Waldorf Jaycees Community Center	300,000

Chesapeake Bay Water Quality

Indian Head WWTP - nutrient removal	65,000
Mattawoman WWTP - nutrient removal	150,000
Walter J. Mitchell Elementary School	56,250
	271,250

Water Supply Facilities

Bryans Road Well	500,000
Quiet Acres	180,000
	680,000

Waterway Improvement

Friendship Landing - ramp/parking expansion	50,000
Marshal Hall - boat ramp office, comfort station	200,000
Maxwell Hall - access road and ramp	50,000
Maxwell Hall - boat ramp construction	25,000
Maxwell Hall - engineer boat ramp	25,000
Neal Sound - breakwater	100,000
Neal Sound - jetty construction	253,640
	703,640

Other Projects

Bel Alton High School	300,000
Chapman's Landing	5,000,000
Historic Old Waldorf School	100,000
Indian Head Community Center	750,000
Izaak Walton-Southern MD Outdoor Educ. Cntr	50,000
Lions Camp Merrick	200,000
Mattawoman Creek Art Center-Final Phase	100,000
Thomas Stone National Historic Site	200,000
	6,700,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				

Alcohol & Drug Abuse	621	569	630	630
Family Health	145	179	183	194
Geriatric & Children's Services	238	281	324	325
Mental Health	2,009	2,350	2,402	2,410
Developmental Disabilities	3,139	3,257	3,513	3,997
AIDS	3	1	1	1
	6,155	6,637	7,053	7,557
Social Services (DHR)				
Homeless Services Program	73	73	73	77
Women's Services Program	185	164	154	155
	258	237	227	232
Senior Citzen Services (OOA)				
Long Term Care	131	101	101	104
Community Services	35	31	31	36
Consumer Services	3	3	3	3
	169	135	135	143

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Maryland State Police

Waldorf Barrack & Garage	3,352,000

Department of Natural Resources

Patuxent River NRMA - land acquisition	1,856,000
Potomac/Mattawoman Greenway - land acquisition	1,671,250
Smallwood State Park - parking lot expansion	100,000
Smallwood State Park - redeck walkways	35,000
Smallwood State Park - Sweden Point Marina	230,000
	3,892,250

Other

Southern Maryland Higher Education Center	300,000

DORCHESTER COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	10,534	10,989	11,648	11,627	10.4
Compensatory Aid	751	783	801	991	32.0
Transportation Aid	1,126	1,162	1,221	1,260	11.9
Special Education Aid	478	474	469	460	-3.8
Limited English Prof. Grants	21	16	17	51	147.6
Target/Additional Poverty Grants	76	74	357	562	639.5
Extended Elementary	380	320	320	412	8.4
Other Education Aid	262	532	563	372	42.0
PRIMARY/SECONDARY EDUCATION	13,627	14,350	15,396	15,736	15.5
COUNTY LIBRARIES	139	135	154	171	23.0
COMMUNITY COLLEGES	622	482	505	554	-10.8
HEALTH FORMULA GRANTS	373	397	410	417	12.1
Public Safety					
State Aid for Police Protection*	302	328	330	327	8.3
Fire, Rescue & Ambulance Service*	111	137	119	171	53.2
Other Public Safety	74	93	0	0	-100.0
PUBLIC SAFETY	488	558	449	497	1.8
PROGRAM OPEN SPACE	113	113	106	109	-2.7
TRANSPORTATION GRANTS*	3,348	3,421	3,906	3,930	17.4
DISPARITY GRANT	843	958	1,291	1,357	61.0
TOTAL DIRECT AID	19,551	20,413	22,217	22,772	16.5
Aid Per Capita	652	683	743	764	17.2
Property Tax Equivalent ($)	3.11	3.17	3.35	3.36	8.0

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

Retirement Payments - $10,976,540

Selected State Grants for Capital Projects

Public Schools

Cambridge/South Dorchester High School - renov. (roof)	739,000
Cambridge/South Dorchester High School - wiring	105,000
Hurlock Elementary School - construction	552,000
Maple Elementary School - renovations (roof)	321,000
New Elementary School - construction	2,851,000
North Dorchester High School - renovations (HVAC)	474,000
North Dorchester High School - wiring	105,000
North Dorchester Middle School - renovations (mech.)	421,000
North Dorchester Middle School - renovations (roof)	368,000
North Dorchester Middle School - wiring	47,000
Vienna Elementary School - relocatable classrooms	31,000
Warwick Elementary School - renovations (roof)	187,000
	6,201,000

Chesapeake College

Dorchester and Caroline Centers - renovations	369,000
Economic Development Center	352,500
Handicapped accessibility - Phase II	242,000
Student Services and Administration Building - construct	140,000
Talbot Science Building - reroofing	145,000

	1,248,500
Community Mental Health Centers	
Delmarva Community Services, Inc.	269,000
Dorchester Developmental Unit, Inc.	100,000
	369,000
Adult Day Care Centers	
Dorchester County Commission on Aging	725,000
Senior Citizen Activity Centers	
Cambridge Community Center	300,000
North Dochester Community Center	68,000
	368,000
Chesapeake Bay Water Quality	
Cambridge Sewers	100,000
Cambridge WWTP - nutrient removal	2,440,000
Greens Point/Secretary Sewage Treatment Plant	75,000
Hurlock WWTP - nutrient removal	700,000
Vienna WWTP & Sewers	180,000
Warwick River Stream - restoration	37,500
	3,532,500
Waterway Improvement	
Cambridge - Long Wharf - bulkhead replacement	70,000
City of Cambridge - dredging Great Marsh ramp	15,000
County Office Building - transient repair	50,000
Hoopersville - expand parking lot	20,000
Madison - boat ramp	25,000
Ragged Point Ramp - parking lot overlay	30,000
Secretary - Town Ramp - ramp repairs	6,636
Secretary - Warwick River dredging	100,000
Shorter's Wharf Boat Ramp - relocate & improve ramp	50,000
Taylor's Island Boat Ramp - expand parking lot	10,000
Tedious Creek - corps of engineers breakwater study	180,000
Tedious Creek - dredging	100,000
Tyler Cove - bulkhead	40,000
Vienna - boat ramp	25,000
Wallace Creek - dredging	75,000
	796,636
Other Projects	
Cambridge - Liberty Village Empowerment Center	200,000
Dorchester County Family YMCA	500,000
Stanley Inst. - Rock School House Restoration	50,000
	750,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	310	315	315	315
Family Health	234	225	224	121
Geriatric & Children's Services	314	401	353	354
Mental Health	810	921	941	945
Developmental Disabilities	1,212	1,257	1,356	1,543
AIDS	126	118	126	133
	3,006	3,237	3,315	3,411
Social Services (DHR)				
Homeless Services Program	36	36	36	38
Women's Services Program	266	243	243	243

	302	279	279	281
Senior Citzen Services (OOA)				
Long Term Care	266	169	169	173
Community Services	230	213	213	235
Consumer Services	9	9	9	9
	505	391	391	417

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

(2) The grants shown for the women's services and senior citizen services fund programs in several eastern shore counties.

Capital Projects for State Facilities Located in the County

Health and Social Programs

Eastern Shore Hospital Center - renovate Carey Building	329,000
Eastern Shore Hospital Center - replacement facility	22,830,000
	23,159,000

FREDERICK COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	59,061	63,269	68,893	72,257	22.3
Compensatory Aid	1,013	1,066	1,122	1,564	54.4
Transportation Aid	3,498	3,590	3,846	4,093	17.0
Special Education Aid	2,769	3,099	3,352	3,400	22.8
Limited English Prof. Grants	56	66	65	197	251.8
Target/Additional Poverty Grants	153	149	602	966	530.7
Extended Elementary	415	415	590	812	95.7
Other Education Aid	323	450	594	592	83.3
PRIMARY/SECONDARY EDUCATION	67,288	72,104	79,064	83,880	24.7
COUNTY LIBRARIES	483	528	639	728	50.5
COMMUNITY COLLEGES	3,429	3,383	3,546	3,752	9.4
HEALTH FORMULA GRANTS	1,423	1,492	1,527	1,564	9.9
Public Safety					
State Aid for Police Protection*	1,524	1,721	1,777	1,806	18.4
Fire, Rescue & Ambulance Service*	163	164	173	251	54.0
Other Public Safety	23	13	0	0	-100.0
PUBLIC SAFETY	1,711	1,899	1,949	2,057	20.2
PROGRAM OPEN SPACE	714	714	667	691	-3.1
TRANSPORTATION GRANTS*	9,940	10,358	12,115	12,187	22.6
TOTAL DIRECT AID	84,988	90,477	99,508	104,860	23.4
Aid Per Capita	474	491	527	541	14.1
Property Tax Equivalent ($)	2.04	2.08	2.20	2.29	12.3

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

Retirement Payments - $67,105,910

Selected State Grants for Capital Projects

Public Schools

Ballenger Creek Elementary School - wiring	37,000
Ballenger Creek Middle School - wiring	65,000
Brunswick Elementary School - wiring	35,000
Brunswick Middle School - wiring	65,000
Deer Crossing Elementary School - construction	4,094,000
Governor Thomas Johnson High School - wiring	98,000
Liberty Elementary School - wiring	33,000
Linganore High School - science facilities	396,000
Linganore High School - wiring	113,000
Middletown Elementary School - wiring	33,000
Middletown High School - construction	1,600,000
Middletown High School - science facilities	412,000
New Market Middle School - wiring	67,000
Orchard Grove Elementary School - construction	3,797,000
Thomas Johnson Middle School - construction	2,000,000
Urbana High School - construction	4,000,000
Walkersville Elementary School - renovations (roof)	139,000
Walkersville High School - construction	1,400,000
Walkersville High School - science facilities	422,000
Walkersville Middle School - construction	2,788,000
Waverly Elementary School - wiring	33,000
Whittier Elementary School - construction	4,239,000
Wolfsville Elementary School - renovations (roof)	133,000

	25,999,000
Community College	
Athletic Fields and Field House - renovate	112,000
Building A Alterations	195,000
Business & Tech Center/Lecture Hall - renovation	206,000
Business and Technology Center - construction	3,140,000
Heating/Air Conditioning - Phase II	904,590
Infrastructure Upgrade - Phase I	26,503
Science/Tech Halls - renovate	40,000
	4,624,093
Local Jails	
Frederick Detention Center	892,000
Chesapeake Bay Water Quality	
Emmitsburg Infiltration/Inflow	100,000
Frederick City Infiltration/Inflow removal	100,000
Frederick City WWTP - nutrient removal	2,600,000
Middletown WWTP	100,000
Mt. Airy Infiltration/Inflow Correction	250,000
Mt. Airy WWTP - nutrient removal	100,000
Myersville WWTP	300,000
Rock Creek and Carroll Creek - stream restoration	25,000
	3,575,000
Water Supply Facilities	
Braddock Heights	1,500,000
Waterway Improvement	
Brunswick - ramp and parking repairs	25,000
National Park Service Boat Ramps - facility maintenance	10,000
Point of Rocks - repair boat ramp	25,000
	60,000
Other Projects	
Delaplaine Visual Arts Center	200,000
Federated Charities Corporation of Frederick	300,000
Frederick Arts Council	75,000
Frederick County Family YMCA	300,000
Frederick County Federated Charities, Inc.	300,000
Lamar Sanitarium - Historic Museum	100,000
Middletown - Community Facility	250,000
Sheppard/Pratt Treatment Center & School	1,150,000
	2,675,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	646	662	703	703
Family Health	249	244	258	163
Geriatric & Children's Services	218	330	355	356
Mental Health	3,355	3,720	3,801	3,814
Developmental Disabilities	8,478	8,798	9,488	10,796
AIDS	21	27	21	28
	12,967	13,781	14,626	15,860
Social Services (DHR)				
Homeless Services Program	95	95	95	100
Women's Services Program	122	119	119	120
	217	214	214	220
Senior Citzen Services (OOA)				

Long Term Care	147	147	147	152
Community Services	59	52	52	61
	206	199	199	213

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Maryland State Police

Frederick - new multi-agency law enf. facility	136,000

Department of Natural Resources

Cunningham Falls State Park - construct pier & boathouse	50,000
Cunningham Falls State Park - land acquisition	1,650,000
Cunningham Falls State Park - retaining wall	22,652
Frank Bentz Pond - dam rehabilitation	46,000
South Mountain Natural Envir. Area - const. shower bldg.	312,000
South Mountain State Park - land acquisition	300,000
	2,380,652

Department of Environment

Cunningham Falls State Park - water & wastewater fac.	678,000

GARRETT COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	11,213	11,637	11,984	12,003	7.1
Compensatory Aid	866	883	895	1,013	17.0
Transportation Aid	1,456	1,487	1,555	1,609	10.5
Special Education Aid	659	550	546	542	-17.8
Target/Additional Poverty Grants	74	72	346	533	620.3
Extended Elementary	224	224	259	311	39.3
Other Education Aid	208	246	242	408	96.2
PRIMARY/SECONDARY EDUCATION	14,700	15,100	15,826	16,420	11.7
COUNTY LIBRARIES	123	113	134	162	31.7
COMMUNITY COLLEGES	1,884	1,970	1,984	2,296	21.9
HEALTH FORMULA GRANTS	340	357	367	373	9.7
Public Safety					
State Aid for Police Protection*	224	244	246	242	8.0
Fire, Rescue & Ambulance Service*	102	102	105	150	47.1
Other Public Safety	47	104	0	0	-100.0
PUBLIC SAFETY	373	449	351	392	5.1
PROGRAM OPEN SPACE	139	140	130	135	-2.9
TRANSPORTATION GRANTS*	3,746	3,832	4,355	4,382	17.0
DISPARITY GRANT	1,428	1,459	2,029	2,178	52.5
TOTAL DIRECT AID	22,732	23,419	25,175	26,337	15.9
Aid Per Capita	773	794	851	887	14.7
Property Tax Equivalent ($)	3.24	3.18	3.32	3.35	3.4

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

Retirement Payments - $11,906,423

Selected State Grants for Capital Projects

Public Schools

Broad Ford Elementary School - renovations (roof)	151,000
Grantsville Elementary School - renovations (roof)	112,000
Northern High School - wiring	105,000
Northern Middle School - renovations (roof)	264,000
Northern Middle School - wiring	43,000
Southern Area Elementary School - construction	2,887,000
Southern Garrett High School - wiring	108,000
Southern Middle School - renovations (roof)	258,000
Southern Middle School - wiring	70,000
	3,998,000

Community College

ADA/HVAC Improvements	45,000
Campus Accessibility and Improvements	200,000
Campus PBX - replacement	111,000
Technology Center - reroofing	100,000
	456,000

Local Jails

Garrett County Jail	27,000
Community Mental Health Centers	
Appalachian Parent Association, Inc.	725,000
Garrett County Health Department	75,000
Garrett County Lighthouse, Inc.	65,000
	865,000
Chesapeake Bay Water Quality	
Deep Creek Septage	200,000
Elklick Run Acid Mine III - drainage restoration	50,000
Grantsville Stormwater Management Facilities	165,000
Jennings Sewerage Project	749,739
Mt. Lake Park Infiltration/Inflow	75,000
	1,239,739
Water Supply Facilities	
Kitzmiller water treatment system rehabilitation	170,909
Comprehensive Flood Management	
North Branch Potomac Watershed	59,500
Waterway Improvement	
Broadford Lake Boat Ramp - ADA site improvements	16,680
Little Youghiogheny River - boat ramp construction	15,000
Oakland - Broadford Lake facility maintenance	25,000
	56,680
Other Projects	
Garrett County Memorial Hospital	736,000
Garrett Information Enterprise Center	250,000
Glendale Bridge	400,000
Oakland Railroad Restoration	226,000
Tourist Information Center	350,000
Western Maryland Flood Warning System	33,000
	1,995,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	238	259	412	412
Family Health	168	259	262	135
Geriatric & Children's Services	269	350	331	333
Mental Health	829	939	959	962
Developmental Disabilities	1,331	1,381	1,489	1,694
AIDS	1	1	1	1
	2,836	3,189	3,454	3,537
Social Services (DHR)				
Homeless Services Program	17	17	17	18
Women's Services Program	29	24	32	32
	46	41	49	50
Senior Citzen Services (OOA)				
Long Term Care	123	100	100	103
Community Services	53	51	51	54
Consumer Services	0	3	3	3
	176	154	154	160

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and

may change.

Capital Projects for State Facilities Located in the County

Department of Natural Resources

Big Run State Park - paving parking lot, relocate trees	30,000
Deep Creek Lake State Park - amphitheater & nature cntr.	637,000
Deep Creek Lake State Park - pave parking lot	160,000
Deep Creek Lake State Park - pier replacement	28,000
Swallow Falls State Park - construct road improvements	381,000
Swallow Falls State Park - construct shower building	344,000
Western State Forests - land acquisition	1,000,000
	2,580,000

Department of Environment

Deep Creek Lake State Park - improve water system	550,000

HARFORD COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	71,050	74,307	79,780	83,141	17.0
Compensatory Aid	1,610	1,650	1,728	2,229	38.4
Transportation Aid	4,727	4,836	5,122	5,386	13.9
Special Education Aid	3,820	4,150	4,465	4,527	18.5
Limited English Prof. Grants	45	46	58	197	340.0
Target/Additional Poverty Grants	211	205	820	1,327	528.9
Extended Elementary	356	356	636	850	139.0
Other Education Aid	455	796	877	1,137	149.9
PRIMARY/SECONDARY EDUCATION	82,274	86,345	93,485	98,795	20.1
COUNTY LIBRARIES	792	761	896	1,042	31.6
COMMUNITY COLLEGES	4,829	4,661	4,882	5,048	4.6
HEALTH FORMULA GRANTS	1,908	1,989	2,034	2,055	7.7
Public Safety					
State Aid for Police Protection*	1,820	1,973	2,011	2,025	11.3
Fire, Rescue & Ambulance Service*	173	174	181	263	52.0
Other Public Safety	90	97	64	0	-100.0
PUBLIC SAFETY	2,083	2,244	2,256	2,288	9.8
PROGRAM OPEN SPACE	1,002	1,007	939	977	-2.5
TRANSPORTATION GRANTS*	8,695	9,126	10,427	10,491	20.7
TOTAL DIRECT AID	101,583	106,132	114,920	120,697	18.8
Aid Per Capita	486	499	531	548	12.8
Property Tax Equivalent ($)	2.36	2.33	2.42	2.45	3.8

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

Retirement Payments - $77,024,299

Selected State Grants for Capital Projects

Public Schools

Aberdeen Middle School - wiring	115,000
Abingdon Elementary School - pre-kindergarten	85,000
Abingdon Elementary School - relocatable classrooms	60,000
Bakerfield Elementary School - construction	1,000,000
Bel Air Elementary School - pre-kindergarten	95,000
Bel Air Elementary School - wiring	33,000
Bel Air High School - science facilities	503,000
Bel Air Middle School - wiring	96,000
C. Milton Wright High School - science facilities	395,000
Church Creek Elementary School - pre-kindergarten	91,000
Church Creek Elementary School - relocatable classrooms	16,000
Churchville Elementary School - construction	1,750,000
Deerfield Elementary School - pre-kindergarten	85,000
Deerfield Elementary School - wiring	33,000
Dublin Elementary School - wiring	33,000
Edgewood Elementary School - construction	1,200,000
Edgewood Middle School - wiring	65,000
Fallston High School - science facilities	390,000
Fallston High School - wiring	98,000
Fallston Middle School - relocatable classrooms	15,000
Forest Hill Elementary School - construction	1,800,000
Forest Hill Elementary School - relocatable classrooms	14,000
Forest Lake Elementary - construction	3,511,000
Hall's Cross Roads - construction	1,324,000

Harford Technological High School - construction	2,500,000
Harford Vocational Technical School - renovations (HVAC)	1,199,000
Harford Vocational Technical School - renovations (roof)	335,000
Havre de Grace High School - science facilities	254,000
Havre de Grace High School - wiring	85,000
Havre de Grace Middle School - renovations (HVAC)	799,000
Hickory Elementary School - construction	2,872,000
Hillsdale Elementary School - renovations (HVAC)	535,000
Jarrettsville Elementary School - wiring	33,000
John Archer School - wiring	37,000
Joppatowne Elementary School - wiring	33,000
Magnolia Elementary - pre-kindergarten	85,000
Meadowvale Elementary School - pre-kindergarten	91,000
Meadowvale Elementary School - wiring	36,000
North Harford Elementary School - pre-kindergarten	91,000
North Harford High School - science facilities	371,000
North Harford High School - wiring	106,000
North Harford Middle School - wiring	102,000
Prospect Mill Elementary School - pre-kindergarten	95,000
Prospect Mill Elementary School - relocatable classrooms	14,000
Prospect Mill Elementary School - renovations (HVAC)	575,000
Prospect Mill Elementary School - wiring	33,000
Riverside Elementary School - wiring	33,000
Southampton Middle School - relocatable classrooms	58,000
William Paca/Old Post Road Elem. School - renov. (HVAC)	158,000
	23,337,000

Community College

Auditorium	200,000
Boiler Replacement	138,247
Classroom Building - constuction/equipment	384,000
Convert Library to Student Services Center	202,000
HEAT Center	1,000,000
Joint HS/College Theater - construct	1,200,000
Learning Resource Center - planning	256,000
New Classroom Building	1,690,643
New Library - construction	3,882,000
New Regional Research Library - equip	500,000
	9,452,890

Local Jails

Harford County Detention Center	300,000

Juvenile Justice Bond Program

Harford Boys and Girls Club - youth development center	430,000

Shelter & Transitional Housing Facilities

Harford Transitional Housing	141,150

Community Mental Health Centers

Alliance, Inc.	900,000

Senior Citizen Activity Centers

Bel Air Senior Center	104,000

Chesapeake Bay Water Quality

Aberdeen WWTP - nutrient removal	925,000
Bel Air (Hall St.) pump station upgrade	50,000
Havre de Grace WWTP - nutrient removal	500,000
Lee Way Outfall - repair and restoration	37,500
Lilly Run - restoration	25,000
Linwood Outfall - repair	25,000
Route 7/Joppa Magnolia Sewers	100,000
Sod Run WWTP - nutrient removal	800,000
Swan Creek	438,750
	2,901,250

Fish Passages (Federal Funds)

Wilson Mill Dam - installation of fish ladder	190,000

Waterway Improvement

Flying Point Park - ramp extension	105,000
Foster Branch - dredging	50,000
Gunpowder River - dredging	325,000
Havre de Grace - DMP site repairs	10,000
Havre de Grace - Marina Comfort Station	45,000
Havre de Grace - Tydings Park - replace bulkhead	100,000
Havre de Grace - Yacht Basin - bulkhead replacement	21,000
Havre de Grace - Yacht Basin - maintenance dredging	10,000
Havre de Grace - Yacht Basin - multi-use building	25,000
Havre de Grace - Yacht Basin - pier and utilities	28,000
Havre de Grace - Yacht Basin - repair slips, piers	25,000
Havre de Grace - Yacht Basin - replace boat ramp	25,000
Havre de Grace - Yacht Basin - sediment control study	30,000
Mariner Point Boat Ramp - ramp construction	15,000
Mariner Point Park - DMP site restoration	50,000
Mariner Point Park - restroom facility	75,000
Rumsey Island - maintenance dredging	15,000
	954,000

Other Projects

Aberdeen Baseball Museum, Inc.	400,000
Bel Air Youth Center	100,000
Greater Havre de Grace Museum Alliance	75,000
Havre de Grace - water distribution system improvements	500,000
Havre de Grace Community Center	75,000
Highland Commons	175,000
Historical Society of Harford County	150,000
Ladew Topiary Gardens	450,000
Sen. William Amoss Agricultural Education Project	100,000
Sexual Assault Spousal Abuse Residential Center	450,000
The Ripken Stadium	200,000
	2,675,000

Estimated State Spending on Selected Health and Social Services

	1996	1997	1998	1999
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	578	603	585	585
Family Health	178	247	247	187
Geriatric & Children's Services	314	388	439	439
Mental Health	2,621	2,889	2,952	2,962
Developmental Disabilities	3,108	3,225	3,478	3,958
AIDS	46	47	46	46
	6,845	7,399	7,747	8,177
Social Services (DHR)				
Homeless Services Program	37	37	37	39
Women's Services Program	143	128	192	193
	180	165	229	232
Senior Citzen Services (OOA)				
Long Term Care	300	300	300	310
Community Services	65	57	57	67
Consumer Services	6	0	0	0
	371	357	357	377

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Maryland State Police

Bel Air - construct new barracks	355,000

Department of Natural Resources

Gunpowder Falls State Park - land acquisition	2,595,000
Gunpowder Falls State Park - Phase 1A development	135,000
Rocks/Susquehanna State Parks - land acquisition	1,327,000
	4,057,000

HOWARD COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	48,434	51,115	56,667	60,812	25.6
Compensatory Aid	571	593	642	882	54.5
Transportation Aid	4,276	4,375	4,636	4,994	16.8
Special Education Aid	3,667	3,718	3,977	4,005	9.2
Limited English Prof. Grants	251	303	382	1,213	383.3
Target/Additional Poverty Grants	99	109	450	662	568.7
Extended Elementary	0	30	170	255	.0
Other Education Aid	321	461	598	732	128.0
PRIMARY/SECONDARY EDUCATION	57,619	60,705	67,521	73,555	27.7
COUNTY LIBRARIES	370	363	430	495	33.8
COMMUNITY COLLEGES	4,900	4,942	5,107	5,506	12.4
HEALTH FORMULA GRANTS	1,325	1,379	1,403	1,424	7.5
Public Safety					
State Aid for Police Protection	2,249	2,422	2,484	2,650	17.8
Fire, Rescue & Ambulance Service	167	180	190	275	64.7
Other Public Safety	157	154	149	0	-100.0
PUBLIC SAFETY	2,574	2,757	2,822	2,925	13.6
PROGRAM OPEN SPACE	1,779	1,789	1,663	1,724	-3.1
TRANSPORTATION GRANTS	8,279	8,703	10,426	10,488	26.7
SHARED TAXES/REVENUES	104	103	104	96	-6.7
TOTAL DIRECT AID	76,950	80,741	89,476	96,215	25.0
Aid Per Capita	343	350	379	397	15.7
Property Tax Equivalent ($)	1.11	1.14	1.21	1.27	14.4

Retirement Payments - $96,572,055

Selected State Grants for Capital Projects

Public Schools

Atholton Elementary School - renovation (roof)	53,000
Atholton High School - science facilities	162,000
Bushy Park Elementary School - wiring	25,000
Centennial High School - science facilities	395,000
Dunloggin Middle School - construction	1,591,000
Eastern High School - construction	2,684,000
Elkridge Elementary School - relocatable classrooms	23,000
Fulton Elementary School - construction	1,356,000
Glenelg High School - construction	2,546,000
Gorman Crossing Elementary School - construction	1,806,000
Hammond Elementary School - construction	326,000
Hammond High School - construction	1,349,000
Hammond High School - renovation (roof)	188,000
Hammond High School - science facilities	440,000
Hollifield Station Elementary School - construction	1,887,000
Howard High School - renovations (roof)	183,000
Howard High School - science facilities	279,000
Jeffers Hill Elementary School - construction	965,000
Longfellow Elementary School - construction	530,000
Mount Hebron High School - renovations (roof)	266,000
Mount Hebron High School - wiring	73,000
Northeastern Elementary School #2 - construction	2,595,000
Oakland Mills High School - wiring	71,000
Oakland Mills Middle School - construction	1,135,000

Runningbrook Elementary School - wiring	25,000
School of Technology - construction	1,772,000
Southeastern Middle School - construction	2,935,000
Steven Forest Elementary School - wiring	25,000
Swansfield Elementary School - construction	906,000
Waterloo Elementary School - construction	1,929,000
Western Elementary School #2 - construction	800,000
Wilde Lake High School - construction	5,026,000
Wilde Lake Middle School - construction	1,571,000
	35,917,000

Community College

Library Building - reroofing	235,000
Renovate HVAC	700,000
Smith Theater & Nursing Building - reroof	215,000
	1,150,000

Community Mental Health Centers

Developmental Services Group	155,000
Howard County ARC	954,000
Linwood	240,000
	1,349,000

Senior Citizen Activity Centers

Ellicott City Senior Center	261,000

Chesapeake Bay Water Quality

Deep Run Watershed - restoration	135,000
Hammond Branch - stream stabilization	15,000
Little Patuxent WWTP - nutrient removal	1,000,000
Tiber-Hudson Watershed - restoration	50,000
	1,200,000

Fish Passages (Federal Funds)

Dorsey Run Dam - dam removal and restoration of stream	102,000

Waterway Improvement

Centennial Lake - decking replacement	10,000
Centennial Lake - install pier decking	10,000
	20,000

Other Projects

Guilford Community Foundation, Inc.	300,000
Howard County General Hospital	750,000
Smith Farm Acquisition	1,000,000
	2,050,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	571	538	544	544
Family Health	159	104	104	218
Geriatric & Children's Services	160	229	270	271
Mental Health	2,585	2,901	2,964	2,974
Developmental Disabilities	8,252	8,563	9,235	10,508
AIDS	42	41	42	42
	11,769	12,376	13,159	14,557
Social Services (DHR)				
Homeless Services Program	75	75	75	79

Women's Services Program	162	157	157	158
	237	232	232	237
Senior Citzen Services (OOA)				
Long Term Care	329	291	291	300
Community Services	43	38	38	45
Consumer Services	3	0	0	0
	375	329	329	345

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Health and Social Programs

Perkins Hospital - equip maximum security unit	183,000

Department of Public Safety and Corrections

Baltimore/Jessup Central Kitchen & Jessup Maint. Facil.	2,825,000
Patuxent Inst. - renovate kitchen & dining hall	563,000
Patuxent Inst. - upgrade Defective Delinquent Building	850,000
Patuxent Inst. - visitor center & perimeter security	424,000
	4,662,000

Department of Natural Resources

Patapsco State Park - construct greenway trail bridge	485,000
Patapsco Valley Greenway - land acquisition	2,647,700
	3,132,700

KENT COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	3,905	4,182	4,447	4,582	17.3
Compensatory Aid	179	189	196	240	34.1
Transportation Aid	746	768	810	836	12.1
Special Education Aid	356	357	355	352	-1.1
Limited English Prof. Grants	16	20	21	48	206.3
Target/Additional Poverty Grants	33	32	129	190	478.8
Extended Elementary	174	174	209	280	60.3
Other Education Aid	152	180	183	275	80.9
PRIMARY/SECONDARY EDUCATION	5,560	5,902	6,351	6,803	22.4
COUNTY LIBRARIES	54	58	65	71	31.5
COMMUNITY COLLEGES	345	354	371	407	18.0
HEALTH FORMULA GRANTS	288	301	312	310	8.0
Public Safety					
State Aid for Police Protection*	169	185	190	188	10.7
Fire, Rescue & Ambulance Service*	106	106	109	156	47.2
Other Public Safety	30	203	0	0	-100.0
PUBLIC SAFETY	306	494	300	344	12.4
PROGRAM OPEN SPACE	84	85	80	82	-2.4
TRANSPORTATION GRANTS*	1,716	1,742	1,986	1,998	16.5
TOTAL DIRECT AID	8,353	8,937	9,465	10,016	19.9
Aid Per Capita	442	470	496	519	17.4
Property Tax Equivalent ($)	1.66	1.73	1.79	1.86	12.0

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

Retirement Payments - $6,793,157

Selected State Grants for Capital Projects

Public Schools

Chestertown Middle School - renovations (HVAC)	225,000
Chestertown Middle School - wiring	35,000
Galena Middle School - renovations (HVAC)	216,000
Galena Middle School - wiring	25,000
Garnett Elementary School - renovations	200,000
Garnett Elementary School - wiring	25,000
Kent County High School - construction	50,000
Kent County High School - renovations (roof)	375,000
Kent County High School - wiring	75,000
Rock Hall Middle School - renovations (roof)	252,000
Rock Hall Middle School - wiring	25,000
Wolton Elementary School - renovation (HVAC)	148,000
	1,651,000

Chesapeake College

Dorchester and Caroline Centers - renovations	369,000
Economic Development Center	352,500
Handicapped accessibility - Phase II	242,000
Student Services and Administration Building - construct	140,000
Talbot Science Building - reroofing	145,000
	1,248,500

Chesapeake Bay Water Quality

Chestertown WWTP - nutrient removal	200,000
Kent County Sludge Handling	300,000
	500,000

Fish Passages (Federal Funds)

Cypress Mill Pond Dam - installation of fish ladder	250,000
Herring Branch Dam - installation of fish ladder	250,000
Urieville/Morgan Run - install culvert and dam	306,000
	806,000

Water Supply Facilities

Still Pond community water supply system construction	500,000

Waterway Improvement

Betterton Pier - replace damaged pier	25,000
Chestertown - High Street - landing improvements	46,000
Chestertown - Wilmer Park bulkhead	43,900
Long Cove - extend boat ramp	20,000
Morgnec Creek - new ramp	25,000
Spring Cove - dredging	87,000
Turners Creek - boating pier	50,000
	296,900

Other Projects

Echo Hill Outdoor School	80,000
Kent County Governmental Offices	250,000
Town of Chestertown Promenade and Boardwalk	100,000
Town of Chestertown Visitors' Center	150,000
Washington College	3,000,000
	3,580,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	910	908	920	920
Family Health	117	126	127	84
Geriatric & Children's Services	221	267	248	250
Mental Health	810	921	941	945
Developmental Disabilities	517	536	578	658
AIDS	1	1	1	1
	2,576	2,759	2,815	2,858
Social Services (DHR)				
Homeless Services Program	2	2	2	2
Women's Services Program	266	243	243	243
	268	245	245	245
Senior Citzen Services (OOA)				
Long Term Care	128	113	113	116
Community Services	82	74	74	84
	210	187	187	200

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

(2) The grants shown for the women's services and senior citizen services fund programs in several eastern shore counties.

MONTGOMERY COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	73,502	84,837	90,435	94,839	29.0
Compensatory Aid	2,176	2,341	2,416	3,332	53.1
Transportation Aid	11,054	11,568	12,234	13,211	19.5
Special Education Aid	13,865	13,701	14,929	15,156	9.3
Limited English Prof. Grants	3,522	3,679	3,818	10,942	210.7
Target/Additional Poverty Grants	814	825	3,328	4,398	440.3
Extended Elementary	676	676	886	1,266	87.3
Other Education Aid	3,458	3,380	5,736	5,549	60.4
PRIMARY/SECONDARY EDUCATION	109,069	121,007	133,782	148,693	36.3
COUNTY LIBRARIES	1,342	1,341	1,515	1,773	32.1
COMMUNITY COLLEGES	16,579	16,825	17,559	18,569	12.0
HEALTH FORMULA GRANTS	2,825	3,183	3,358	3,660	29.6
Public Safety					
State Aid for Police Protection*	12,668	13,097	13,205	13,319	5.1
Fire, Rescue & Ambulance Service*	659	656	682	979	48.4
Other Public Safety	359	477	424	0	-100.0
PUBLIC SAFETY	13,686	14,231	14,310	14,297	4.5
PROGRAM OPEN SPACE	4,535	4,549	4,224	4,367	-3.7
TRANSPORTATION GRANTS*	26,655	27,583	30,557	30,740	15.3
TOTAL DIRECT AID	174,692	188,719	205,305	222,100	27.1
Aid Per Capita	214	229	247	264	23.4
Property Tax Equivalent ($)	0.60	0.62	0.66	0.70	16.7

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

Retirement Payments - $349,523,761

Selected State Grants for Capital Projects

Public Schools

Albert Einstein High School - construction	5,209,000
Argyle Middle School - wiring	50,000
Bannockburn Elementary School - construction	845,000
Beall Elementary School - construction	1,255,000
Bel Pre Elementary School - construction	237,000
Benjamin Banneker Middle School - wiring	50,000
Bethesda Elementary School - construction	1,126,000
Briggs Chaney Middle School - wiring	52,000
Broad Acres Elementary School - construction	924,000
Broad Acres Elementary School - renovations (chiller)	115,000
Brookhaven Elementary School - construction	870,000
Burning Tree Elementary School - construction	997,000
Burnt Mills Elementary School - construction	1,800,000
Cabin John Middle School - renovation (roof)	210,000
Cabin John Middle School - wiring	54,000
Carderock Springs Elementary School - renovations (roof)	108,000
Carl Sandburg Elementary School - renovations (roof)	71,000
Cashell Elementary School - renovations (roof)	113,000
Cedar Grove Elementary School - construction	525,000
Clarksburg Elementary School - construction	1,000,000
Cloverly Elementary School - construction	1,221,000
Col. Zadok Magruder High School - relocatable classrooms	48,000
Cresthaven Elementary School - construction	264,000
Diamond Elementary School - renovations (roof)	195,000

East Silver Spring Elementary School - construction	1,122,000
East Silver Spring Elementary School - renovations	75,000
Eastern Middle School - renovations (boiler)	112,000
Eastern Middle School - renovations (roof)	212,000
Flower Valley Elementary School - construction	1,119,000
Francis Scott Key Middle School - construction	656,000
Francis Scott Key Middle School - renovations (boiler)	120,000
Francis Scott Key Middle School - wiring	50,000
Gaithersburg High School - renovations (boiler)	185,000
Gaithersburg High School - renovations (roof)	95,000
Gaithersburg Middle School - construction	2,634,000
Gaithersburg Middle School - wiring	50,000
Galway Elementary School construction	652,000
Garrett Park Elementary School - renovations (roof)	84,000
Georgian Forest Elementary School - construction	1,166,000
Harmony Hills Elementary School - construction	1,842,000
Herbert Hoover Middle School - relocatable classrooms	24,000
Herbert Hoover Middle School - wiring	62,000
Highland Elementary School - construction	1,404,000
Highland Elementary School - renovations (roof)	144,000
Jackson Road Elementary School - construction	1,258,000
James H. Blake High School - construction	8,301,000
John F. Kennedy High School - construction	4,375,000
John T. Baker Middle School - wiring	50,000
Kemp Mill Elementary School - construction	1,838,000
Laytonsville Elementary School - construction	1,538,000
Lucy Barnsley Elementary School - construction	904,000
Luxmanor Elementary School - construction	667,000
Mark Twain School - renovations (HVAC)	100,000
Monocacy Elementary School - construction	686,000
Montgomery Blair High School - construction	15,900,000
Montgomery Blair High School - relocatable classrooms	44,000
Montgomery Knolls Elementary School - construction	1,405,000
Montgomery Village Middle School - wiring	50,000
Neelsville Middle School - renovations (boiler)	125,000
Neelsville Middle School - renovations (roof)	249,000
Neelsville Middle School - wiring	50,000
New Hampshire Estates Elementary School - construction	1,672,000
North Chevy Chase Elementary School - construction	663,000
North Lake Center School - renovations (roof)	125,000
Northwest Area High School - construction	8,171,000
Northwest Area Middle School - construction	4,394,000
Oakland Terrace Elementary School - construction	1,000,000
Olney Elementary School - construction	1,796,000
Paint Branch High School - construction	2,744,000
Paint Branch High School - renovations (boiler)	98,000
Parkland Middle School - renovations (boiler)	85,000
Parkland Middle School - wiring	50,000
Poolesville High School - renovations (roof)	350,000
Poolesville Middle School - construction	2,778,000
Potomac Elementary School - renovations (roof)	158,000
Quince Orchard High School - relocatable classrooms	22,000
Radnor Elementary School - relocatable classrooms	48,000
Radnor Elementary School - renovations (roof)	114,000
Redland Middle School - renovations (chiller)	93,000
Redland Middle School - wiring	50,000
Ridgeview Middle School - wiring	61,000
Ritchie Park Elementary School - construction	1,200,000
Robert Frost Middle School - wiring	53,000
Rock Creek Forest Elementary School - construction	776,000
Rock View Elementary School - construction	1,970,000
Rockville High School - renovations (boiler)	125,000
Rockville High School - renovations (roof)	326,000
Rolling Terrace Elementary School - construction	3,001,000
Rosemary Hills Elementary School - construction	943,000
Rosemont Elementary School - construction	1,072,000
Seneca Valley High School - relocatable classrooms	88,000
Seneca Valley High School - renovations (chiller)	255,000
Seneca Valley Middle School #2 - construction	4,070,000
Sherwood Elementary School - renovations (roof)	133,000
Sherwood High School - construction	5,440,000
Sligo Middle School - construction	3,759,000
Sligo Middle School - wiring	66,000
South Lake Elementary School - renovations (chiller)	100,000
Stedwick Elementary School - construction	837,000
Strathmore Elementary School - construction	541,000
Takoma Park Elementary/Middle School - construction	5,000,000
Takoma Park Middle School - construction	4,500,000
Takoma Park Middle School - relocatable classrooms	103,000
Tilden Middle School - renovations (roof)	225,000
Tilden Middle School - wiring	68,000

Tilden/Woodward Middle School - renovations (boiler)	100,000
Twinbrook Elementary School - construction	874,000
Viers Mill Elementary School - construction	1,000,000
Walt Whitman High School - construction	5,345,000
Walter Johnson High School - relocatable classrooms	48,000
Walter Johnson Middle School - construction	3,000,000
Westland Middle School - construction	3,630,000
Westover Elementary School - construction	1,054,000
Wheaton High School - renovations	225,000
Wheaton High School - renovations (roof)	241,000
Wheaton/Edison Center - renovations (roof)	155,000
William Farquhar Middle School - wiring	52,000
Winston Churchill High School - relocatable classrooms	48,000
Woodlin Elementary School - construction	618,000
Wootton High School - renovations (boiler)	150,000
Wootton High School - renovations (chiller)	130,000
Wyngate Elementary School - construction	1,571,000
	144,051,000

Montgomery College

Germantown - Science Building - reroofing	223,000
Germantown - Stormwater Management Facility - construct	205,000
Germantown - Technology and Science Center - construct	100,000
Rockville - Art Building - alterations	1,115,500
Rockville - Humanities Building - renovations	2,340,000
Rockville - Music Building - alterations	94,000
Rockville - PE, Music, and Tech Centers - reroofing	258,000
Takoma Park - Central Heating & Cooling Plant	837,000
Takoma Park - Falcon Hall - reroofing	63,000
Takoma Park - Resource & Communications Arts Ctr(reroof)	148,500
	5,384,000

Local Jails

Montgomery County Detention Center	10,618,000

Juvenile Justice Bond Program

Baptist Home for Children and Families	562,000

Shelter & Transitional Housing Facilities

1007 University Boulevard	95,000

Community Mental Health Centers

Jewish Foundation for Group Homes	225,000
Montgomery County Community Crisis Center	164,000
	389,000

Chesapeake Bay Water Quality

Anacostia Tributary	230,500
Blue Plains WWTP - nutrient removal	5,346,000
Damascus WWTP - nutrient removal	200,000
Hungerford Swim Center Stormwater Management Facility	250,000
Little Falls - stream restoration	155,000
North Farm Stream - restoration	14,000
Rabbit Road Water Quality Retrofit	112,500
Rock Creek - retrofit feasability	140,000
Seneca WWTP - nutrient removal	250,000
Streams (5 locations) - restoration	55,000
Upper Paint Branch - stream restoration	62,500
Upper Paint Branch I Stormwater Management Facilities	487,500
Victory Farms Water Quality Retrofit	183,000
	7,486,000

Waterway Improvement

Back Hill Park - ramp modifications	25,000
Seneca Creek - pave parking area	25,000
Seneca/Black Hill - comfort station	50,000
	100,000

Other Projects

Bethesda Academy for the Performing Arts	75,000
Brooke Grove Foundation, Inc.	50,000
Brookeville Academy	125,000
Byron House	100,000
Center for Children and Families	1,000,000
Center on Domestic Violence	2,300,000
Chelsea School	1,150,000
Chesapeake Wildlife Sanctuary Education Facility	100,000
City of Gaithersburg Concert Pavilion	100,000
F Scott Fitzgerald Theatre/Rockville Civic Ctr.	300,000
Flower Avenue/Long Branch Revitalization	200,000
Gaithersburg Center for the Cultural Arts	350,000
Gaithersburg Town Center	2,000,000
Germantown Cultural Arts Center	700,000
Hadley's Outdoor Children's Center	350,000
Jewish Community Center of Greater Washington	600,000
Johns Hopkins Univ. - Montgomery County Campus	3,000,000
Joseph White House	200,000
Kentlands Cultural Arts Center	50,000
Maryland College of Art and Design	350,000
Mental Health Association of Montgomery County	100,000
Montgomery County Adventist Health Care	600,000
Montgomery County Agricultural Center	400,000
Montgomery County Conference Center - construction	17,304,000
Montgomery General Hospital	500,000
National Capital Trolley Museum	175,000
Olney Theatre	2,225,000
Raising Achievement, Inc.	200,000
Rockville Arts Place, Inc.	150,000
Rockville Science/Cultural/Business Ctr. - const.	200,000
Rockville Town Center	2,000,000
Silver Spring Redevelopment	15,000,000
Strathmore Hall Arts Center	2,750,000
Suburban Hospital	700,000
Takoma Junction	500,000
Takoma Park	875,000
Takoma Park - Old Town	50,000
Takoma Park-Silver Spring Community Center	100,000
The Writer's Center	150,000
Urban Search & Rescue Task Force	400,000
Waters Property Historical Site	100,000
	57,579,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	1,836	2,044	2,145	2,145
Family Health	529	619	650	96
Geriatric & Children's Services	633	843	1,131	1,131
Mental Health	10,436	11,975	12,235	12,277
Developmental Disabilities	11,090	11,508	12,411	14,122
AIDS	220	257	197	205
	24,744	27,246	28,769	29,976
Social Services (DHR)				
Homeless Services Program	244	244	244	258
Housing Counselor Program	30	25	24	25
Women's Services Program	475	419	353	354
	749	688	621	637
Senior Citzen Services (OOA)				
Long Term Care	655	659	659	681
Community Services	184	158	158	192
Consumer Services	10	10	10	10
	849	827	827	883

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and

may change.

Capital Projects for State Facilities Located in the County

Department of Business and Economic Development

Maryland Technology Center	4,485,000

University of Maryland System *

Biotechnology Inst. - advanced research center addition	9,731,000
Shady Grove Educational Facility - construct	1,205,000
	10,936,000

* includes academic revenue bonds

Department of Natural Resources

Patuxent River Greenway - land acquisition	3,132,500
Seneca Creek Boat Center - replace dock/new roof	30,000
Seneca Creek State Park - dam rehabilitation	28,000
Seneca Creek State Park - land acquisition	987,500
Seneca Creek State Park - pier replacement	20,000
Seneca Creek State Park - road, parking lot & trail	115,000
	4,313,000

PRINCE GEORGE'S COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	213,392	231,203	253,169	274,356	28.6
Compensatory Aid	5,168	5,553	5,977	9,281	79.6
Transportation Aid	15,514	16,216	17,135	18,207	17.4
Special Education Aid	24,679	24,904	27,180	27,599	11.8
Limited English Prof. Grants	1,642	1,611	1,926	6,470	294.0
Target/Additional Poverty Grants	1,567	1,617	7,740	11,703	646.8
Extended Elementary	1,304	1,304	1,304	1,732	32.8
Magnet Schools	15,000	13,000	14,100	16,100	7.3
Other Education Aid	4,103	4,480	7,293	10,903	165.7
PRIMARY/SECONDARY EDUCATION	282,370	299,887	335,823	376,351	33.3
COUNTY LIBRARIES	5,033	5,056	5,486	5,639	12.1
COMMUNITY COLLEGES	11,483	10,911	11,522	12,384	7.8
HEALTH FORMULA GRANTS	6,190	6,445	6,658	6,776	9.5
Public Safety					
State Aid for Police Protection*	12,074	12,658	12,776	12,753	5.6
Fire, Rescue & Ambulance Service*	553	576	1,150	1,147	107.4
Other Public Safety	4,610	4,529	4,458	4,163	-9.7
PUBLIC SAFETY	17,237	17,763	18,384	18,062	4.8
PROGRAM OPEN SPACE	3,834	3,872	3,594	3,712	-3.2
TRANSPORTATION GRANTS*	22,263	22,933	26,323	26,483	19.0
SHARED TAXES/REVENUES*	180	180	180	176	-2.2
TOTAL DIRECT AID	348,590	367,047	407,972	449,583	29.0
Aid Per Capita	450	471	520	570	26.7
Property Tax Equivalent ($)	2.10	2.17	2.39	2.60	23.8

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

Retirement Payments - $269,092,673

Selected State Grants for Capital Projects

Public Schools

Adelphi Elementary School - renovations	145,000
Allenwood Elementary School - construction	500,000
Andrew Jackson Middle School - wiring	79,000
Apple Grove Elementary School - construction	380,000
Ardmore Elementary School - construction	333,000
Ardmore High School - construction	12,531,000
Avalon Elementary School - wiring	36,000
Barnaby Manor Elementary School - construction	665,000
Beacon Heights Elementary School - renovations (roof)	175,000
Benjamin Tasker Middle School - wiring	60,000
Bowie High School - relocatable classrooms	83,000
Buck Lodge Middle School - wiring	80,000
Carmody Hills Elementary School - construction	240,000
Cheverly-Tuxedo School - renovations (boiler)	159,000
Columbia Park Elementary School - renovations (roof)	201,000
Croom Vocational High School - construction	4,941,000
Crossland High School - renovations (roof)	1,461,000
D.D. Eisenhower Middle School - wiring	60,000
Deerfield Run Elementary School - renovations (roof)	559,000
Dodge Park Elementary School #2 - construction	3,818,000
DuVal High School - renovations (roof)	1,645,000

DuVal High School - science facilities	496,000
East Burroughs Middle School - renovations	450,000
East Reig Special Education School - renovation (roof)	94,000
Francis Scott Key Elementary School - construction	3,385,000
Friendly High School - science facilities	330,000
Glenridge Elementary School - renovations (roof)	167,000
Greenbelt Middle School - wiring	60,000
H. Furguson Elementary School -renovation (roof)	183,000
H.W. Wheatley School - renovations (chiller)	92,000
High Bridge Elementary School - renovations (roof)	395,000
High Point High School - science facilities	741,000
Highland Park Elementary School - construction	2,894,000
Hil Mar Elementary School - construction	3,125,000
Hillcrest Heights Elementary School - construction	3,377,000
Howard B. Owens Center - science facilities	269,000
Hyattsville Middle School - renovations (structural)	183,000
Hyattsville Middle School - wiring	60,000
J. Frank Dent Elementary School - construction	240,000
J. Frank Dent Elementary School - renovation (roof)	135,000
J.R. Randall Elementary School - renovations (roof)	265,000
James McHenry Elementary School - construction	360,000
James McHenry Elementary School - renovations (roof)	350,000
Kenilworth Elementary School - wiring	35,000
Kettering Elementary School - construction	380,000
Largo High School - science facilities	180,000
Laurel High School - science facilities	262,000
Lewisdale Elementary School - construction	240,000
Lewisdale Elementary School - renovations (roof)	269,000
Melwood Elementary School - renovations	462,000
Morningside Elementary School - renovations (boiler)	145,000
Mt. Rainier Elementary School - wiring	35,000
Neighborhood Schools - planning	3,400,000
North Forestville Elementary School - renovations	145,000
Northwestern High School - construction	11,000,000
Oaklands Elementary School - renovations	159,000
Oaklands Elementary School - wiring	29,000
Overlook Elementary School - construction	480,000
Owens Road Elementary School - renovations (roof)	208,000
Oxon Hill High School - science facilities	450,000
Parksdale High School - science facilities	360,000
Phyllis E. Williams Elementary School - wiring	30,000
Pointer Ridge Elementary School - construction	380,000
Princeton Elementary School - construction	360,000
Ridgecrest Elementary School - renovations	145,000
Robert Goddard Middle School - renovations (roof)	532,000
Rogers Heights Elementary School - construction	240,000
Samuel Ogle Middle School - renovations (roof)	773,000
School (DY) - construction	150,000
Seabrook Elementary School - renovations (roof)	294,000
Springhill Lake Elementary School - construction	380,000
Stephen Decatur Middle School - wiring	60,000
Suitland High School - renovations	189,000
Suitland High School - science facilities	681,000
Surrattsville High School - science facilities	496,000
Templeton Elementary School - construction	253,000
Templeton Elementary School - renovations (roof)	215,000
Templeton Elementary School - wiring	30,000
University Park Elementary School - wiring	30,000
Waldon Woods Elementary School - wiring	30,000
Walker Mill Middle School - renovations (roof)	664,000
Walker Mill Middle School - wiring	80,000
William Paca Elementary School - construction	500,000
William Wirt Middle School - renovations (roof)	384,000
William Wirt Middle School - wiring	60,000
Wm. Schmidt Environmental Ctr. - renovations (roof)	131,000
Woodbridge Elementary School - renovations (roof)	159,000
Woodmore Elementary School - wiring	30,000
	71,317,000

Community College

Bladen & Lanham Halls - alterations	1,394,045
Campus Roads & Parking Lot - improvements	403,460
Elevator - replace	297,022
Heating/Air Conditioning - Phase II replacement	230,000
Largo Student Center - replace roof	182,997
Largo Student Center - upgrade HVAC	319,000
New Science Building	6,740,800
Queen Anne & Lanham Halls - roof replacements	303,000

Queen Anne, Bladen & Field House - systems replacement	172,000
Replace HVAC	536,000
Underground storage tank replacement	113,000
	10,691,324

Local Jails

County Detention Center - construct 192-bed expansion	7,135,000

Shelter & Transitional Housing Facilities

1007 University Boulevard	95,000
Parkview Manor Apartments	240,417
	335,417

Community Mental Health Centers

ARC of Prince George's County	960,000
VESTA, Inc.	600,000
	1,560,000

Adult Day Care Centers

ARC of Prince George's County	1,270,000
Mt. Ephriam Adult Day Center	1,200,000
	2,470,000

Chesapeake Bay Water Quality

Anacostia Tributary	250,000
Beaverdam Creek 19 Stormwater Management Facility	112,500
Blue Plains WWTP - nutrient removal	5,346,000
Cabin Branch Site 24 Stormwater Management Facility	150,000
Careybrook Lane - stream bank stabilization	50,000
Greenleaf Road Water Quality Retrofit	195,000
Indian Creek No. 5 Stormwater Management Facility	86,250

Chesapeake Bay Water Quality

Indian Creek Watershed Stormwater Management Facility	155,000
Newport Town	75,000
Oxon Run Stormwater Management Facility #4	67,500
Oxon Run Stormwater Management Facility #8	225,000
Oxwell Lane - stream bank stabilization	35,500
Paint Branch Watershed Stormwater Management Facility	125,000
Piscataway WWTP - nutrient removal	2,530,000
Quincy Manor and Tributary Six - restoration	125,000
Walker Mill	112,500
Western Branch Watershed - stream stabilization	188,900
	9,829,150

Fish Passages (Federal Funds)

Croom Station Road Culvert - culvert modification	132,000

Waterway Improvement

Bladensburg Marina - improvements	125,000
Council of Governments - Potomac River aquatic plant	50,000
Environmental Center - small boat ramp	20,000
Magruder's Ferry - boat ramp replacement	50,000
Mount Calvert - pier renovation	25,000
	270,000

Other Projects

Accokeek Foundation	200,000
Aman Memorial Trust - Bostwick House	350,000
Belt Woods Home Farm	500,000
Bowie Civic Facility for the Performing Arts	300,000
Bowie State University - Goodloe Property	175,000
Fairmount Heights - Sheriff Rd Revitalization	100,000
Fort Washington Hospital	700,000
Greenbelt Center School	400,000

Greenbelt Community Center	325,000
Historic Bladensburg Waterfront	1,350,000
Hospice of Prince George's County	1,000,000
Kettering Community Center	200,000
Laurel - Dept. of Public Works Bldg. - site improvements	300,000
Marietta Mansion	100,000
Melwood-Horticultural Training Center	400,000
Mission of Love Center	150,000
MNCCPC - Snow Hill Manor	250,000
MNCPPC - Golf Course for Disabled Therapy Fac.	150,000
MNCPPC - Showplace Arena/Equestrian Center	250,000
MNCPPC - Tucker Road Ice Rink	750,000
Mt. Rainier Police Station	850,000
NAFEO Community Center	350,000
North Brentwood Town Hall & Museum	175,000
Oxon Hill Manor	350,000
Patuxent 4-H Foundation	100,000
Prince George's Hospital Center	675,000
Prince George's Hospital Center - helipad	793,000
Regional Sports Complex at Wilson Farm site	4,968,000
Southern Maryland Youth Camp	400,000
Southern MD & Bethel House Homeless Aid Prg.	100,000
Surratt House Museum - Rowland Property	50,000
Transitional Housing - Hillcrest Heights	432,000
Walker Mill Gardens Comm. Outreach Ctr.	100,000
	17,293,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
		(thousands of dollars)		
Health Services (DHMH)				
Alcohol & Drug Abuse	3,230	2,447	2,891	2,891
Family Health	1,082	1,176	680	103
Geriatric & Children's Services	1,098	1,382	1,719	1,720
Mental Health	12,666	14,319	14,630	14,680
Developmental Disabilities	25,739	26,708	28,804	32,774
AIDS	381	424	327	344
	44,196	46,456	49,051	52,512
Social Services (DHR)				
Homeless Services Program	337	337	337	356
Women's Services Program	615	540	521	523
	952	877	858	879
Senior Citzen Services (OOA)				
Long Term Care	522	522	522	539
Community Services	190	167	167	197
Consumer Services	13	13	13	13
	725	702	702	749

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Department of Juvenile Services

Cheltenham Staff Dorm - renovation	1,305,000
Cheltenham Youth Facility - new detention center	60,000
Cheltenham Youth Facility - new detention center (FF)	605,500
	1,970,500

Department of Business and Economic Development

Technology Advancement Program Facility at UMCP	5,927,000

University of Maryland System *

Bowie State - Center for Learning & Technology	19,038,000
Bowie State - electrical improvements	640,000
Bowie State - new academic building	330,000
Bowie State - Thurgood Marshall Library - alterations	254,000
College Park - Basketball Arena	5,700,000
College Park - Chemistry Building	847,000
College Park - Club House	200,000
College Park - Engineering & Applied Sciences Bldg.	1,207,000
College Park - Lucille Maurer Leadership Library	225,000
College Park - Performing Arts Center	87,262,000
College Park - Plant Sciences Building	4,500,000
College Park - Research Greenhouse Complex	7,508,000
College Park - steam plant & line improvements	12,659,000
College Park - Symons Hall - renovate	3,265,000
College Park - Technology Advancement Program Facility	745,000
	144,380,000

* includes academic revenue bonds

Department of Natural Resources

Patuxent River Greenway - land acquisition	3,132,500
Patuxent River NRMA - land acquisition	1,856,000
	4,988,500

QUEEN ANNE'S COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	9,227	9,953	10,360	11,029	19.5
Compensatory Aid	256	272	279	339	32.4
Transportation Aid	1,234	1,269	1,341	1,412	14.4
Special Education Aid	498	525	565	573	15.1
Limited English Prof. Grants	12	18	12	29	141.7
Target/Additional Poverty Grants	41	39	155	224	446.3
Extended Elementary	203	203	273	351	72.9
Other Education Aid	162	185	204	277	71.0
PRIMARY/SECONDARY EDUCATION	11,633	12,464	13,189	14,235	22.4
COUNTY LIBRARIES	91	83	93	116	27.5
COMMUNITY COLLEGES	705	719	754	827	17.4
HEALTH FORMULA GRANTS	349	371	387	395	13.5
Public Safety					
State Aid for Police Protection*	281	302	303	316	12.5
Fire, Rescue & Ambulance Service*	102	102	105	150	47.1
Other Public Safety	186	2	0	0	-100.0
PUBLIC SAFETY	570	406	408	466	-18.2
PROGRAM OPEN SPACE	182	183	172	177	-2.7
TRANSPORTATION GRANTS*	3,125	3,223	3,704	3,726	19.2
TOTAL DIRECT AID	16,654	17,448	18,707	19,943	19.7
Aid Per Capita	438	452	477	500	14.2
Property Tax Equivalent ($)	1.61	1.62	1.67	1.75	8.7

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

Retirement Payments - $13,386,790

Selected State Grants for Capital Projects

Public Schools

Bayside Elementary School - wiring	28,000
Centreville Middle School - renovations (doors)	145,000
Church Hill Elementary - construction	1,234,000
Kennard Annex - relocatable classrooms	49,000
Kent Island High School - construction	5,885,000
Queen Anne's County High School - relocatable classrooms	48,000
Suddlersville Elementary School - relocatable classrooms	13,000
Sudlersville Elementary School - construction	1,674,000
	9,076,000

Chesapeake College

Dorchester and Caroline Centers - renovations	369,000
Economic Development Center	352,500
Handicapped accessibility - Phase II	242,000
Student Services and Administration Building - construct	140,000
Talbot Science Building - reroofing	145,000
	1,248,500

Community Mental Health Centers

Nielsen Building	317,000

Adult Day Care Centers	
Queen Anne's County Adult Day Care Center	397,500
Senior Citizen Activity Centers	
Kent Island Senior Center	300,000
Chesapeake Bay Water Quality	
Centreville Pumping Station	80,000
Kent Island WWTP - nutrient removal	1,000,000
Queenstown Stormwater	30,000
	1,110,000
Waterway Improvement	
Centreville - replace bulkhead	25,000
Corisca River - dredging/engineering/environ. study	50,000
Corsica River - dredging	250,000
Dominion - bulkhead and slip repair	28,000
Grove Creek - dredging	75,000
Kent Narrows - moorings	5,000
Queenstown Landing - pave parking lot	10,000
Southeast Creek - engineering	30,000
Wells Cove - bulkhead	115,000
Wells Cove - dredging	150,000
	738,000
Other Projects	
Chesapeake Exploration Center	250,000
Hospice of Queen Anne's County	130,000
	380,000

Estimated State Spending on Selected Health and Social Services

	1996	1997	1998	1999
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	349	345	354	354
Family Health	100	184	193	428
Geriatric & Children's Services	318	369	354	361
Mental Health	810	921	941	945
Developmental Disabilities	670	695	749	853
AIDS	1	0	1	1
	2,248	2,514	2,592	2,942
Social Services (DHR)				
Homeless Services Program	13	13	13	14
Women's Services Program	266	243	243	243
	279	256	256	257
Senior Citzen Services (OOA)				
Long Term Care	108	100	100	103
Community Services	26	23	23	27
Consumer Services	0	3	3	3
	134	126	126	133

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

(2) The grants shown for women's services fund programs in several eastern shore counties.

Capital Projects for State Facilities Located in the County

University of Maryland System *

Fire and Rescue Inst. - regional training center	3,710,000

* includes academic revenue bonds

ST. MARY'S COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	25,893	28,146	30,422	31,824	22.9
Compensatory Aid	1,045	1,111	1,157	1,439	37.6
Transportation Aid	2,496	2,576	2,717	2,847	14.1
Special Education Aid	2,071	1,985	2,060	2,075	.2
Limited English Prof. Grants	33	40	28	84	154.5
Target/Additional Poverty Grants	116	121	475	755	550.9
Extended Elementary	426	426	566	873	104.9
Other Education Aid	267	781	621	520	94.8
PRIMARY/SECONDARY EDUCATION	32,348	35,185	38,046	40,418	24.9
COUNTY LIBRARIES	338	323	366	430	27.2
COMMUNITY COLLEGES	695	743	793	852	22.6
HEALTH FORMULA GRANTS	841	879	898	912	8.4
Public Safety					
State Aid for Police Protection*	706	736	744	751	6.4
Fire, Rescue & Ambulance Service*	102	102	105	150	47.1
Other Public Safety	74	310	0	0	-100.0
PUBLIC SAFETY	881	1,148	849	901	2.3
PROGRAM OPEN SPACE	338	341	319	331	-2.1
TRANSPORTATION GRANTS*	4,069	4,182	4,767	4,796	17.9
TOTAL DIRECT AID	39,509	42,800	46,037	48,639	23.1
Aid Per Capita	478	514	548	574	20.1
Property Tax Equivalent ($)	2.33	2.44	2.49	2.56	9.9

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

Retirement Payments - $28,856,662

Selected State Grants for Capital Projects

Public Schools

Banneker/Loveville Elementary School - pre-kindergarten	92,000
Carver Elementary School - pre-kindergarten	92,000
Carver Elementary School - renovations (HVAC)	450,000
Carver Elementary School - wiring	5,000
Chopticon High School - construction	6,100,000
Chopticon High School - relocatable classrooms	191,000
Chopticon High School - science facilities	189,000
Esperanza Middle School - construction	2,500,000
Esperanza Middle School - relocatable classrooms	217,000
Great Mills High School - construction	8,241,000
Great Mills High School - relocatable classrooms	123,000
Green Holly Elementary School - renovations (roof)	282,000
Greenview Knolls Elementary - pre-kindergarten	92,000
Leonardtown Elementary School - pre-kindergarten	91,000
Leonardtown Elementary School - wiring	9,000
Leonardtown High School - relocatable classrooms	64,000
Leonardtown High School - science facilities	104,000
Leonardtown Middle School - wiring	25,000
Lexington Park Elementary - pre-kindergarten	92,000
Margaret Brent Middle School - relocatable classrooms	16,000
Oakville Elementary School - pre-kindergarten	92,000
Oakville Elementary School - wiring	8,000
Piney Point Elementary School - construction	2,175,000
Piney Point Elementary School - relocatable classrooms	123,000

Ridge Elementary School - pre-kindergarten	92,000
Ridge Elementary School - renovations (roof)	155,000
Spring Ridge Middle School - wiring	25,000
Town Creek Elementary School - renovations (HVAC)	535,000
	22,180,000

Charles Community College

Academic Complex	631,420
St. Mary's - Academic Building	4,895,000
	5,526,420

Local Jails

St. Mary's County Detention Center	872,000

Juvenile Justice Bond Program

Tri-County Youth Services Bureau	72,000

Chesapeake Bay Water Quality

Green Holly - erosion control and retrofit	20,000
Leonardtown WWTP - nutrient removal	1,223,000
Pine Hill Run WWTP - nutrient removal	1,220,000
	2,463,000

Hazardous Substance Cleanup

Southern Maryland Wood Treating Site	3,300,000

Waterway Improvement

Bushwood - repair bulkhead/ramp	81,000
Chaptico Wharf - ramp/bulkhead repair	100,000
Church Creek - dredging/engineering	25,000
Forest Landing - bulkhead and ramp replacement	35,000
Little Kingston Creek - dredging/engineering	65,000
Piney Point Light House - pier extension	23,500
	329,500

Other Projects

St. Clements Island - Potomac River Museum	75,000
The Sotterley Plantation	400,000
Tudor Hall	65,000
	540,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	515	298	525	525
Family Health	95	101	101	137
Geriatric & Children's Services	311	317	341	341
Mental Health	2,045	2,504	2,558	2,567
Developmental Disabilities	814	845	911	1,037
	3,780	4,065	4,436	4,607
Social Services (DHR)				
Homeless Services Program	58	58	58	61
Women's Services Program	135	134	169	170
	193	192	227	231
Long Term Care	98	98	98	101
Senior Citzen Services (OOA)				
Community Services	59	56	56	60
Consumer Services	3	3	3	3

160	157	157	164

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

Charlotte Hall Veterans Home

Construct Phase IV Residential Wing	4,139,000
Construct Phase IV Residential Wing (federal funds)	7,030,000
	11,169,000

Department of Housing and Community Development

St. Mary's City - construct erosion control measures	133,000
St. Mary's City - construct exhibit & landscape	175,000
St. Mary's City - erosion control (federal funds)	133,000
	441,000

Department of Natural Resources

Greenwell State Park - construct park projects	1,150,000
Greenwell State Park - shore erosion control	733,000
Patuxent River Greenway - land acquisition	3,132,500
Patuxent River NRMA - land acquisition	1,856,000
Point Lookout State Park - land acquisition	450,000
Point Lookout State Park - shore erosion control	900,000
Potomac/Mattawoman Greenway - land acquisition	1,671,250
St. Clements Island - shore erosion control	137,000
	10,029,750

Department of Environment

Charlotte Hall Vet. Home - improve wastewater fac.	91,000
Charlotte Hall Vet. Home - improve wastewater fac. (FF)	149,000
	240,000

Other

Southern Maryland Higher Education Center	300,000

SOMERSET COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	7,717	7,740	7,686	7,780	.8
Compensatory Aid	616	621	610	825	33.9
Transportation Aid	869	894	944	982	13.1
Special Education Aid	425	404	413	413	-2.8
Limited English Prof. Grants	8	12	16	46	475.0
Target/Additional Poverty Grants	60	56	270	453	655.0
Extended Elementary	220	220	255	310	40.5
Other Education Aid	369	531	531	638	72.9
PRIMARY/SECONDARY EDUCATION	10,283	10,477	10,724	11,446	11.3
COUNTY LIBRARIES	145	140	158	189	30.3
COMMUNITY COLLEGES	277	290	313	350	26.0
HEALTH FORMULA GRANTS	420	439	448	455	8.3
Public Safety					
State Aid for Police Protection*	196	209	216	218	11.2
Fire, Rescue & Ambulance Service*	109	102	105	150	37.6
Other Public Safety	133	5	0	0	-100.0
PUBLIC SAFETY	438	316	321	368	-16.0
PROGRAM OPEN SPACE	80	81	75	78	-2.5
TRANSPORTATION GRANTS*	2,005	2,073	2,367	2,381	18.8
DISPARITY GRANT	2,097	2,212	2,734	2,955	40.9
TOTAL DIRECT AID	15,745	16,028	17,140	18,221	15.7
Aid Per Capita	648	654	694	732	13.0
Property Tax Equivalent ($)	5.50	5.33	5.61	5.85	6.4

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

Retirement Payments - $7,125,628

Selected State Grants for Capital Projects

Public Schools	
Crisfield High School - construction	2,792,000
Crisfield High School - wiring	32,000
Crisfield Primary School - relocatable classrooms	18,000
Deal Island School - wiring	40,000
Ewell School - wiring	40,000
J.M. Tawes Technological School - wiring	40,000
Marion Sarah Peyton Elementary School - reloc. class	35,000
Marion Sarah Peyton Elementary School - renov. (mech)	480,000
Marion Sarah Peyton Elementary School - renovations	192,000
Princess Anne Primary School - wiring	40,000
Westover Elementary School - wiring	40,000
Whittington Primary School - wiring	40,000
	3,789,000
Wor-Wic Tech Community College	
Allied Health and Science Building	248,000
Community Mental Health Centers	
Somerset County Development Center	343,000

Adult Day Care Centers	
Shore Up! Inc.	288,000
Chesapeake Bay Water Quality	
Crisfield WWTP - nutrient removal	900,000
Crisfield WWTP - upgrade	500,000
Princess Anne II - WWTP	219,000
Princess Anne WWTP - nutrient removal	100,000
Smith Island - environmental restoration	100,000
Smith Island Sewers	240,000
	2,059,000
Waterway Improvement	
Annemessix River - breakwater	100,000
Crisfield - breakwater/federal study	50,000
Crisfield Terminal Facility - improvements	80,000
Deal Island Harbor - federal breakwater study	25,000
Ewell Smith Island - boat ramp	25,000
Lower Wicomico - federal project dump site acquisition	50,000
Mt. Vernon Volunteer Fire Co. - rescue vessel	2,500
Rumbley - boat ramp	50,000
Smith Island - erosion protection	292,000
Somers Cove Marina - 8th Street entrance development	50,000
Somers Cove Marina - rehab boat ramp, piers	10,000
St. Peter's Creek - additional boat slip	5,000
St. Peter's Creek - dredging/material placement site	20,000
Websters Cove - bulkhead replacement	50,000
	809,500
Other Projects	
J. Millard Tawes Library	100,000
McCready Memorial Hospital	115,000
Smith Island Conference Center	25,000
Smith Island Envrionmental Restoration & Protection	200,000
Teackle Mansion	100,000
Ward Brothers Homeplace	50,000
	590,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	310	509	314	314
Family Health	158	206	222	101
Geriatric & Children's Services	245	370	332	335
Mental Health	383	429	438	439
Developmental Disabilities	1,093	1,134	1,223	1,391
AIDS	22	5	5	5
	2,211	2,653	2,534	2,585
Social Services (DHR)				
Homeless Services Program	7	7	7	7
Women's Services Program	273	247	275	276
	280	254	282	283
Senior Citzen Services (OOA)				
Long Term Care	189	148	148	152
Community Services	230	213	213	235
Consumer Services	9	9	9	9
	428	370	370	396

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

(2) The grants shown for the women's services and senior citizen services fund programs in several eastern shore counties.

Capital Projects for State Facilities Located in the County

Department of Public Safety and Corrections

Eastern Correctional Inst. - central kitchen improv.	3,156,000

University of Maryland System *

Eastern Shore - physical & health education center	17,707,000
Lower Eastern Shore Regional Training Cntr - construct	94,000
	17,801,000

* includes academic revenue bonds

Department of Natural Resources

Deal Island - South Lot - replace ramps/pkng/bulkhead	40,000
Janes Island State Park - construct day use expansion	209,000
Janes Island State Park - redeck walkways & piers	35,000
Somers Cove Marina - 7th St. entrance & misc. repairs	50,000
Somers Cove Marina - decking, A/C units	80,000
Somers Cove Marina - power pedestal replacements	156,400
	570,400

Department of Environment

Eastern Correctional Inst. - sludge treat & water tower	1,425,000

TALBOT COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	2,517	2,821	2,443	2,821	12.1
Compensatory Aid	168	176	179	234	39.3
Transportation Aid	709	730	771	805	13.5
Special Education Aid	265	268	269	270	2.3
Limited English Prof. Grants	7	11	18	39	471.4
Target/Additional Poverty Grants	35	37	148	192	445.7
Extended Elementary	174	174	279	315	80.5
Other Education Aid	163	178	250	380	133.1
PRIMARY/SECONDARY EDUCATION	4,038	4,395	4,357	5,056	25.2
COUNTY LIBRARIES	53	53	60	70	32.1
COMMUNITY COLLEGES	549	511	536	588	7.1
HEALTH FORMULA GRANTS	213	234	243	256	20.2
Public Safety					
State Aid for Police Protection*	311	346	352	350	12.2
Fire, Rescue & Ambulance Service*	116	130	118	168	45.7
Other Public Safety	1	29	0	0	-100.0
PUBLIC SAFETY	428	504	470	518	21.0
PROGRAM OPEN SPACE	190	193	180	188	-1.1
TRANSPORTATION GRANTS*	2,602	2,669	3,051	3,070	18.0
TOTAL DIRECT AID	8,072	8,560	8,898	9,747	20.7
Aid Per Capita	249	263	271	295	18.5
Property Tax Equivalent ($)	0.67	0.69	0.70	0.74	10.4

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

Retirement Payments - $9,301,725

Selected State Grants for Capital Projects

Public Schools

Easton High School - construction	3,822,000
Easton Middle School - renovations (roof)	135,000
St. Michaels Elementary School - renovations (roof)	205,000
St. Michaels High School - renovations (roof)	263,000
White Marsh Elementary School - construction	1,157,000
	5,582,000

Chesapeake College

Dorchester and Caroline Centers - renovations	369,000
Economic Development Center	352,500
Handicapped accessibility - Phase II	242,000
Student Services and Administration Building - construct	140,000
Talbot Science Building - reroofing	145,000
	1,248,500

Local Jails

Talbot County Detention Center	19,000

Adult Day Care Centers

Chesapeake Center, Inc.	19,500
Chesapeake Bay Water Quality	
Trappe WWTP - upgrade	300,000
Waterway Improvement	
Bellevue - boat ramp	25,000
Bellevue Harbor - dredging	75,000
Bolingbroke Creek - dredging/engineering	25,000
Neavitt - boat ramp	25,000
St. Michael's - rescue vessel/equipment	35,000
St. Michael's - West Harbor Road Boat Ramp - replacement	30,000
Trappe Boat Ramp - ramp replacement	50,000
Wye Landing - repair boat ramp	40,000
	305,000
Other Projects	
YMCA Therapeutic Pool	450,000

Estimated State Spending on Selected Health and Social Services

	1996	1997	1998	1999
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	328	264	293	293
Family Health	155	214	221	87
Geriatric & Children's Services	185	235	211	214
Mental Health	810	921	941	945
Developmental Disabilities	1,382	1,434	1,546	1,759
AIDS	22	35	37	37
	2,882	3,103	3,249	3,335
Social Services (DHR)				
Homeless Services Program	33	33	33	35
Women's Services Program	266	243	243	243
	299	276	276	278
Senior Citzen Services (OOA)				
Long Term Care	300	285	285	294
Community Services	82	74	74	84
	382	359	359	378

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

(2) The grants shown for the women's services and senior citizen services fund programs in several eastern shore counties.

WASHINGTON COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	40,022	41,530	43,122	44,153	10.3
Compensatory Aid	1,805	1,850	1,860	2,178	20.7
Transportation Aid	2,854	2,913	3,060	3,198	12.1
Special Education Aid	2,388	2,313	2,410	2,405	.7
Limited English Prof. Grants	80	107	90	243	205.0
Target/Additional Poverty Grants	194	191	757	1,210	523.2
Extended Elementary	324	324	464	599	84.9
Other Education Aid	361	448	800	761	110.5
PRIMARY/SECONDARY EDUCATION	48,028	49,674	52,563	54,747	14.0
COUNTY LIBRARIES	592	583	653	737	24.7
COMMUNITY COLLEGES	3,444	3,409	3,576	3,835	11.4
HEALTH FORMULA GRANTS	1,237	1,310	1,359	1,391	12.4
Public Safety					
State Aid for Police Protection*	1,169	1,264	1,277	1,273	8.9
Fire, Rescue & Ambulance Service*	115	110	119	170	47.0
Other Public Safety	133	1	0	0	-100.0
PUBLIC SAFETY	1,416	1,375	1,396	1,442	1.8
PROGRAM OPEN SPACE	527	531	495	513	-2.7
TRANSPORTATION GRANTS*	6,972	7,099	8,134	8,182	17.4
DISPARITY GRANT	0	0	229	196	.0
TOTAL DIRECT AID	62,216	63,982	68,405	71,044	14.2
Aid Per Capita	489	501	533	552	12.9
Property Tax Equivalent ($)	2.69	2.65	2.68	2.69	0.0

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

Retirement Payments - $42,626,573

Selected State Grants for Capital Projects

Public Schools

Boonsboro High School - renovations (boiler)	129,000
Boonsboro High School - science facilities	433,000
Boonsboro Middle School - renovations (roof)	198,000
Boonsboro Middle School - wiring	65,000
Career Studies Center - science facilities	115,000
Clear Spring High School - renovations	264,000
Clear Spring High School - science facilities	256,000
Clear Spring Middle School - wiring	65,000
E. Russell Hicks Middle School - renovations (chiller)	35,000
E. Russell Hicks Middle School - wiring	60,000
Lincolnshire Elementary School - construction	2,173,000
Old Forge Elementary School - renovations	93,000
R. Hicks Middle School - renovations (chiller)	101,000
Sharpsburg Elementary School - relocatable classrooms	14,000
Smithsburg Elementary School - construction	2,234,000
Smithsburg High School - construction	1,336,000
Smithsburg Middle School - renovations (roof)	283,000
Smithsburg Middle School - wiring	64,000
South Hagerstown High School - construction	4,075,000
Springfield Middle School - wiring	65,000
Western Heights Elementary School - renovations (roof)	300,000
Western Heights Middle School - wiring	74,000

Williamsport High School - renovations (chiller)	146,000
	12,578,000

Hagerstown College

Alumni Amphitheater	261,800
Convert Library to Student Services Building	53,471
Learning Resources Center	5,218,360
New Library - equip	470,525
Physical Education Building Addition	726,614
Reroofing	252,000
Stormwater Management	337,000
Upgrade HVAC	805,447
	8,125,217

Shelter & Transitional Housing Facilities

Mulberry House - CASA	98,769

Community Mental Health Centers

Anita Lynne Home, Inc.	321,000
ARC of Washington County	855,000
	1,176,000

Chesapeake Bay Water Quality

Beaver Creek - stream restoration	80,000
Cavetown Sewers Phase II	200,000
Clear Spring Sewer Collection	250,261
Funkstown Infiltration Inflow Correction	100,000
Funkstown WWTP	100,000
Hagerstown WWTP - nutrient removal	4,000,000
Hancock Sewer Rehabilitation	100,000
Kemp Mills II Sewers	175,000
Nicodemus WWTP - nutrient removal	1,250,000
Pangborn Sewers	200,000
	6,455,261

Water Supply Facilities

Boonsboro - water system	500,000
Boonsboro/Keedysville	1,000,000
Mt. Aetna water system rehabilitation and new well	251,891
	1,751,891

Comprehensive Flood Management

Funkstown - acquisitions	77,000
Williamsport - acquisitions	109,375
	186,375

Waterway Improvement

National Park Service Boat Ramps - facility maintenance	10,000
Taylors Landing - ramp repair and parking	25,000
Williamsport - boat ramp repairs	25,000
	60,000

Other Projects

Girls Inc. of Washington County - Gymnasium	250,000
Memorial Recreation Center	275,000
Mentally Impaired or Handicapped Indiv., Inc.	35,000
Rohrersville Band	25,000
San Mar Children's Home, Inc.	350,000
Town of Hancock - Community Center	75,000
Washington County Agricultural Center	350,000
	1,360,000

Estimated State Spending on Selected Health and Social Services

	1996	1997	1998	1999
		(thousands of dollars)		
Health Services (DHMH)				
Alcohol & Drug Abuse	1,073	1,440	1,418	1,418
Family Health	273	270	264	166
Geriatric & Children's Services	599	553	600	662
Mental Health	3,453	4,515	4,613	4,629
Developmental Disabilities	10,971	11,384	12,278	13,970
AIDS	46	46	46	54
	16,415	18,208	19,219	20,899
Social Services (DHR)				
Homeless Services Program	121	121	121	128
Housing Counselor Program	31	26	25	26
Women's Services Program	207	166	145	146
	359	313	291	300
Senior Citzen Services (OOA)				
Long Term Care	349	349	349	361
Community Services	92	83	83	94
	441	432	432	455

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

Capital Projects for State Facilities Located in the County

General Government	
New District Court - Hagerstown	5,996,000
Health and Social Programs	
Western Maryland Center - convert to nursing home	232,000
Department of Public Safety and Corrections	
Corr. Inst. Hagerstown - addition to upholstery shop	982,000
Corr. Inst. Hagerstown - cell door/fire safety	7,022,000
MD Correctional Training Center - perimeter security	290,000
	8,294,000
Department of Natural Resources	
Fort Frederick State Park - comfort station/utilities	75,000
Fort Frederick State Park - construct railroad trail	575,000
Fort Frederick State Park - reconstruct structures	231,000
Greenbrier State Park - dam rehabilitation	45,000
Greenbrier State Park - land acquisition	95,000
Indian Springs WMA - const. comfort station/parking lot	151,000
Sideling Hill NRMA - land acquisition	500,000
South Mountain State Park - land acquisition	300,000
	1,972,000
Department of Environment	
Greenbrier State Park - improve wastewater facility	170,000
Other	
WWPB Transmitter - purchase emergency generators	295,000

WICOMICO COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	29,293	30,593	32,021	32,993	12.6
Compensatory Aid	1,628	1,710	1,762	2,233	37.2
Transportation Aid	2,122	2,203	2,326	2,407	13.4
Special Education Aid	1,146	1,071	1,085	1,061	-7.4
Limited English Prof. Grants	61	64	89	248	306.6
Target/Additional Poverty Grants	131	148	596	1,025	681.7
Extended Elementary	207	237	727	790	281.6
Other Education Aid	217	257	384	736	239.2
PRIMARY/SECONDARY EDUCATION	34,804	36,283	38,990	41,493	19.2
COUNTY LIBRARIES	363	369	418	484	33.6
COMMUNITY COLLEGES	1,648	1,626	1,756	1,960	19.0
HEALTH FORMULA GRANTS	769	821	856	918	19.4
Public Safety					
State Aid for Police Protection*	759	838	842	832	9.6
Fire, Rescue & Ambulance Service*	117	113	115	164	40.2
Other Public Safety	134	2	0	0	-100.0
PUBLIC SAFETY	1,010	952	957	996	-1.4
PROGRAM OPEN SPACE	353	355	335	343	-2.8
TRANSPORTATION GRANTS*	5,194	5,303	6,089	6,127	17.9
DISPARITY GRANT	0	0	150	446	.0
TOTAL DIRECT AID	44,141	45,709	49,551	52,767	19.5
Aid Per Capita	557	572	616	651	16.9
Property Tax Equivalent ($)	3.01	2.96	3.06	3.18	5.6

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

Retirement Payments - $29,442,500

Selected State Grants for Capital Projects

Public Schools

Beaver Run Elementary School - renovations	94,000
Beaver Run Elementary School - renovations (HVAC)	222,000
Beaver Run Elementary School - wiring	35,000
Fruitland Primary School - renovations (HVAC)	258,000
Glen Avenue Elementary School - wiring	35,000
J.M. Bennett High School - science facilities	784,000
Mardela High School - renovations (HVAC)	215,000
Mardela High School - renovations (roof)	122,000
Mardela Middle/High School - renovations (mechanical)	114,000
Mardela Middle/High School - renovations (roof)	126,000
Mardela Middle/High School - wiring	88,000
Northwestern Elementary School - renovations (roof)	131,000
Northwestern Elementary School - wiring	35,000
Parkside High School - construction	6,541,000
Parkside High School - renovations (roof)	490,000
Pinehurst Elementary School - renovations (roof)	80,000
Pinehurst Elementary School - wiring	39,000
Pittsville Elementary/Middle School - renovations (roof)	288,000
Pittsville Elementary/Middle School - wiring	53,000
Salisbury Middle School - construction	6,200,000
Westside Intermediate School - construction	2,000,000
Wicomico High School - renovations (roof)	89,000

Wicomico Middle School - wiring	69,000
	18,108,000

Wor-Wic Tech Community College

Allied Health and Sciences Building	4,170,000

Local Jails

Wicomico Detention Center	813,000

Community Mental Health Centers

Friends of Hudson Center	96,000
Wicomico Teen-Adult Center	1,600,000
	1,696,000

Adult Day Care Centers

Shore Up! Inc.	810,000

Chesapeake Bay Water Quality

Delmar WWTP - nutrient removal	500,000
Fruitland WWTP - nutrient removal	557,000
Pittsville WWTP - nutrient removal	500,000
Salisbury WWTP - nutrient removal	5,300,000
Woods Creek - stream restoration	50,000
	6,907,000

Fish Passages (Federal Funds)

Johnson Pond Dam - installation of fish ladder	300,000

Water Supply Facilities

Delmar WTP	820,000

Waterway Improvement

Cedar Hill Park - replace bulkhead	12,500
Nanticoke Harbor - boat ramp	25,000
Nanticoke Harbor - bulkhead replacement	142,000
Nanticoke Harbor - dredging	90,000
	269,500

Other Projects

Dry Hydrant System	100,000
Eastern Shore Baseball Foundation	100,000
Salisbury Zoological Park	75,000
Whitehaven Hotel	100,000
Wicomico County Baseball Stadium	1,117,000
Wicomico Drill Academy for Youth - residential facility	725,000
	2,217,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	666	718	802	802
Family Health	263	332	341	115
Geriatric & Children's Services	439	477	543	544
Mental Health	2,569	2,068	2,113	2,121
Developmental Disabilities	3,621	3,758	4,053	4,611
AIDS	26	29	47	52
	7,584	7,382	7,899	8,245

Social Services (DHR)

Homeless Services Program	30	30	30	32
Housing Counselor Program	31	21	25	26
Women's Services Program	273	247	275	276
	334	298	330	334
Senior Citzen Services (OOA)				
Long Term Care	247	206	206	211
Community Services	230	213	213	235
Consumer Services	9	9	9	9
	486	428	428	455

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

(2) The grants shown for the women's services and senior citizen services fund programs in several eastern shore counties.

Capital Projects for State Facilities Located in the County

Department of Juvenile Services	
Eastern Shore Detention Center	373,000
Health and Social Programs	
Holly Center - modify cottage 300	641,000
University of Maryland System *	
Salisbury State - acquire property	1,250,000
Salisbury State - new academic building	700,000
Salisbury State - plan Devilbiss Hall replacement	1,395,000
Salisbury State - renovate Holloway Hall	269,000
	3,614,000

* includes academic revenue bonds

Department of Natural Resources	
Nanticoke River Greenway - land acquisition	955,000

WORCESTER COUNTY
DIRECT AID, RETIREMENT PAYMENTS & CAPITAL PROJECTS
FISCAL 1996 - 1999

Direct Aid/Shared Revenues

	1996	1997	1998	1999	4-Year % Diff.
	(thousands of dollars)				
Public Schools					
Current Expense Aid	1,940	2,662	1,306	3,044	56.9
Compensatory Aid	229	250	247	383	67.2
Transportation Aid	1,274	1,318	1,394	1,439	13.0
Special Education Aid	250	255	252	256	2.8
Limited English Prof. Grants	17	23	22	63	270.6
Target/Additional Poverty Grants	74	76	304	385	420.3
Extended Elementary	146	146	216	282	93.2
Other Education Aid	187	244	266	331	77.0
PRIMARY/SECONDARY EDUCATION	4,116	4,974	4,007	6,183	50.2
COUNTY LIBRARIES	63	66	75	91	42.9
COMMUNITY COLLEGES	763	780	843	941	23.3
HEALTH FORMULA GRANTS	127	151	168	183	44.1
Public Safety					
State Aid for Police Protection*	431	503	516	536	24.6
Fire, Rescue & Ambulance Service*	122	121	125	180	47.5
Other Public Safety	173	48	0	0	-100.0
PUBLIC SAFETY	726	672	641	716	-1.4
PROGRAM OPEN SPACE	339	340	321	333	-1.5
TRANSPORTATION GRANTS*	3,923	4,103	4,604	4,632	18.1
TOTAL DIRECT AID	10,056	11,085	10,659	13,078	30.1
Aid Per Capita	244	263	248	298	22.1
Property Tax Equivalent ($)	0.44	0.47	0.44	0.53	20.5

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

Retirement Payments - $15,492,809

Selected State Grants for Capital Projects

Public Schools	
Berlin Intermediate School - renovations (HVAC)	111,000
Berlin Intermediate School - wiring	45,000
Buckingham Elementary School - renovations (HVAC)	125,000
Buckingham Elementary School - renovations (roof)	174,000
Buckingham Elementary School - wiring	25,000
Cedar Chapel School - wiring	15,000
Ocean City Elementary School - wiring	25,000
Pocomoke Middle School - renovations	321,000
Pocomoke Middle School - wiring	50,000
Showell Elementary School - construction	580,000
Snow Hill Middle School - wiring	41,000
Stephen Decatur High School - construction	3,000,000
Worcester Career Tech Center - renovations (roof)	188,000
	4,700,000
Wor-Wic Tech Community College	
Allied Health and Sciences Building	4,170,000
Local Jails	
County Detention Center - construct 60-bed expansion	1,342,000

Community Mental Health Centers

Worcester County Health Department	600,000

Chesapeake Bay Water Quality

Ocean City WWTP Upgrade	200,000
Pocomoke City WWTP - nutrient removal	821,150
Snow Hill WWTP - nutrient removal	400,000
	1,421,150

Waterway Improvement

Cedar Hill - boat ramp improvements	58,364
Ocean City - Back Bay study	342,500
Town of Snow Hill - Byrd Park ramp & parking lot improv.	50,000
West Ocean City Harbor - repairs to rental slips	26,000
West Ocean City Harbor - rest room construction	25,000
	501,864

Other Projects

Furnace Town/Nature Conservation Visitors Cntr.	100,000
Pocomoke City - demolition of derelict building	33,000
St. Martin's Church Foundation	50,000
	183,000

Estimated State Spending on Selected Health and Social Services

	1996	**1997**	**1998**	**1999**
	(thousands of dollars)			
Health Services (DHMH)				
Alcohol & Drug Abuse	475	521	748	748
Family Health	189	222	231	204
Geriatric & Children's Services	295	399	372	373
Mental Health	603	681	696	698
Developmental Disabilities	1,037	1,076	1,160	1,320
AIDS	1	7	7	1
	2,600	2,906	3,214	3,344
Social Services (DHR)				
Homeless Services Program	30	30	30	32
Women's Services Program	273	247	275	276
	303	277	305	308
Senior Citzen Services (OOA)				
Long Term Care	203	162	162	166
Community Services	230	213	213	235
Consumer Services	9	9	9	9
	442	384	384	410

(1) The FY 1999 county allocation of grants under these programs is based on each county's share of prior year funding and may change.

(2) The grants shown for the women's services and senior citizen services fund programs in several eastern shore counties.

Capital Projects for State Facilities Located in the County

Department of Business and Economic Development

Ocean City Convention Center	14,700,000

Department of Natural Resources

Assateague State Park - construct Camp Loop H	329,000
Assateague State Park - replenish beach	25,000
Eastern Coastal Bays - land acquisition	750,000
Isle of Wight WMA - construct phase 1 development	264,000

Ocean City - beach replenishment	8,000,000
Ocean Shore - land acquisition	200,000
Pocomoke River State Park - redeck walkways & pier	30,000
Pocomoke River State Park - renovate bathhouse/pool	568,000
Shad Landing Area - floating pier replacement	30,000
West Ocean City Boat House - boat house improvements	75,000
	10,271,000

PART B
TAXES

PROPERTY TAX

CLOSING COSTS REDUCTION - SEMIANNUAL PAYMENT OF TAXES

One of the top priorities of the General Assembly early in the four-year term was to reduce the amount of closing costs that must be paid when a home is purchased in Maryland. Closing costs in Maryland are among the highest in the country. High closing costs have been considered to be detrimental to the State's economic development climate, because one factor considered by businesses considering relocating to Maryland is the cost of moving its employees to the State. A number of proposals were introduced during the 1995 Session to reduce closing costs. ***Chapter 123 of 1995*** consolidated some of these proposals, addressing the closing cost issue on several fronts.

One of the largest items required to be paid as part of closing costs when property is purchased is property tax. In Maryland, property tax is due at the beginning of the taxable year. If the seller has paid the tax for the year, the buyer has to reimburse the seller for the property tax that applies for the part of the taxable year after the purchase. In addition, lenders usually require property taxes to be paid into an escrow account for each month of the taxable year, plus an additional month or two for security. In order to reduce the impact at closing of requiring prepayment of a full year of property taxes, numerous proposals over the years had attempted to provide for payment of property taxes on a semiannual basis to reduce the amount that has to be reimbursed to the seller or otherwise paid at closing. Chapter 408 of the Acts of 1993 authorized, but did not require, the counties and municipal corporations to allow the semiannual payment of property taxes.

Chapter 123 of 1995 required the counties and municipal corporations to provide an optional semiannual payment schedule that allows owners of owner-occupied residential property to elect to pay property tax on a semiannual basis. Under the Act, the semiannual payment schedule was made applicable to taxable years beginning after June 30, 1996, with over $2,700,000 being provided in the State Budget for Fiscal Year 1996 to the counties and municipalities to reimburse for costs incurred to modify computerized property tax billing and collecting systems to accommodate the semiannual payment schedule.

The mandatory semiannual payment program under ***Chapter 123*** replaced the optional program that only Baltimore City and Harford County had implemented. For purchases on or after July 1, 1995, the Act allowed the purchaser to elect a semiannual payment schedule for the following taxable year. Under ***Chapter 123,*** the taxing authority is authorized to charge a service charge for lost interest and administrative expenses. The Act also required that the property tax bill under a semiannual schedule include two payment coupons that may be submitted separately with the semiannual payment or together with a single annual payment. That allows the taxpayer who has elected the semiannual payment to elect to pay the full year's taxes and avoid the service charge.

See the Subpart "Miscellaneous Taxes" under this Part for a discussion of *recordation and transfer tax* changes made under ***Chapter 123*** to provide closing costs relief for first- time Maryland home buyers.

In 1996, the General Assembly continued to look for ways to reduce closing costs paid on the purchase of homes. ***Chapter 97 of 1996*** made changes to the preceding year's enactment in order to clarify how the semiannual payment schedules were to be implemented. The Act clarified that if a buyer elects a semiannual payment schedule at the time of purchase, the buyer only needs to pay those installments that are due at that time. The Act also clarified that for property transferred between July 1 and January 1, if the buyer elects a semiannual payment schedule, the seller is not liable for the second semiannual payment that is due after the date of transfer.

Chapter 97 also clarified that once a property owner has elected to pay property taxes on a semiannual basis, the election remains effective until it is changed or the property is transferred. However, a semiannual payment election only remains effective if the first installment is paid on or before September 30. The law also requires an escrow account servicer to make payments on a semiannual basis if the taxpayer provides written direction at least 60 days

before the beginning of the tax year.

To make sure that property owners know that they may elect semiannual payment, counties and municipal corporations are required annually to notify property owners through advertisement or written notification sent to all eligible property owners.

HOMEOWNERS' PROPERTY TAX CREDITS

The homeowners' circuit breaker property tax credit program is a State funded program that provides credits against State and local real property taxation for qualifying homeowners. Originally enacted in 1975, the program was designed primarily to provide tax credits for elderly and disabled homeowners. Only the taxes associated with the first $60,000 of assessed valuation of an individual's principal residence may qualify for the credit. Any taxpayer with a net worth of more than $200,000, excluding the value of the home, is currently ineligible for a credit. The program limits a homeowner's liability to a specified proportion of household income. A credit is granted for the difference between this amount and the total taxes owed on the first $60,000 in value.

The General Assembly increased the amount of this tax credit in ***Chapter 6 of 1998***, by decreasing the liability percentages applied to the various income brackets as indicated:

0 - $4,000 of income	0% (No change)
$4,001 - 8,000 of income	reduced from 2.5% to 1%
$8,001 - 12,000 of income	reduced from 5.5% to 4.5%
$12,001 - 16,000 of income	reduced from 7.5% to 6.5%
Over $16,000	9% (No change)

State expenditures are expected to increase by $9.2 million in fiscal 2000, with future expenditures decreasing by 3% annually.

TAX EXEMPTIONS

Research and Development - Personal Property Tax Exemption

Chapter 128 of 1995 granted a partial personal property exemption for machinery, equipment, materials, and supplies that are consumed in or used primarily in research and development. The mandatory partial exemption applied only to property purchased or transferred into the State after December 31, 1994, and was equal to the assessment of the property in excess of 50% of the original cost of the property. The Act also replaced an existing authorization for a tax credit with new authority for the governing bodies of the counties and municipal corporations to provide, by law, a more complete and more broadly applicable exemption from the county or municipal corporation property tax for machinery, equipment, materials, and supplies consumed in or used primarily in research and development.

Chapters 659 and 764 of 1998 repealed the partial exemption for research and development property that had been enacted in 1995 and reclassified research and development property as manufacturing property for tax exemption purposes. The definition of manufacturing property includes the identification, design, or genetic engineering of biological materials for sale or manufacture as well as the design, development, or creation of computer software for sale, lease, or license.

Personal Property of Small Businesses

Chapter 589/Chapter 590 of 1998 provided that personal property is exempt from valuation or taxation if: (1) the property is owned by a business, occupation, or profession located at an individual's principal residence; and (2) the sum total of the property had a total original cost of less than $10,000, excluding the cost of vehicles exempt under current law.

COUNTY PROPERTY TAX SETOFFS

Owners of property located within a municipal corporation pay property taxes to both the municipal government and the county government. Frequently, the taxes provide for parallel services provided by both governments, such as police and fire protection, road maintenance, parks and recreation, solid waste collection, and planning and zoning. In order to address the problem of municipal property owners who pay for these parallel services, ***Chapter 719 of 1997*** created a Task Force to Study County Property Tax Setoffs and Related Fiscal Issues.

Following up on the Task Force's study and recommendations, in 1998 the General Assembly enacted ***Chapter 680 of 1998*** to alter the process used by counties and municipalities to evaluate and determine property tax setoffs. Any municipality desiring a property tax setoff from a county is required to submit a proposal that states the desired level of the setoff at least 180 days before the required date of approval of the county's annual budget. The municipality would be required to provide the county with financial records, documentation of municipal revenues and expenditures, and a description of the services or programs provided by the municipality in lieu of similar services provided by the county.

The county is then required to provide the municipality with financial information regarding county revenues and expenditures. At least 90 days prior to the required date of approval of the county's annual budget, representatives from both the county and the municipality must meet and discuss the tax setoff request. Prior to the release of the proposed county budget to the public, a statement of intent regarding tax setoffs, including an explanation of the proposed tax setoff, would be submitted to each municipality requesting a setoff. Provisions are also included authorizing counties and municipalities to bypass these timing and informational requirements in the event that alternative processes result from negotiations that are satisfactory to both participants. Counties and municipalities are authorized to determine tax setoffs by any other process that is mutually agreeable.

PROPERTY TAX SALES

Rights of Redemption - Limits on Reimbursement of Foreclosure Expenses

Under the law applicable to tax sales, the purchaser of a tax sale certificate may not file an action to foreclose the original owner's right of redemption until six months after the tax sale. If the original owner redeems the property, the purchaser of the tax sale certificate is entitled to reimbursement for expenses incurred to foreclose or in preparation to foreclose. A problem developed in several jurisdictions as certain tax sale purchasers would purchase tax sale certificates simply for the purpose of prematurely accumulating "legal costs" for which they could seek reimbursement. Over the past few years several counties had requested local legislation that would prevent this practice, which was seen as unfair to delinquent taxpayers who are often vulnerable individuals.

This issue was addressed by the General Assembly in ***Chapter 617 of 1996.*** The Act provided that, in 14 counties, the plaintiff or holder of a certificate of sale is not entitled to be reimbursed for expenses incurred in any action or in preparation for any action to foreclose the right of redemption if the expenses were incurred within 4 months after the date of a tax sale. The Act applied to Anne Arundel County, Baltimore City, Baltimore County, Calvert County, Caroline County, Cecil County, Charles County, Harford County, Howard County, Kent County, Prince George's County, Queen Anne's County, St. Mary's County, and Washington County.

The provisions of the Act did not apply property for which the holder of a certificate of sale may file a complaint after 60 days from the date of the tax sale.

In 1997, Dorchester, Frederick, Wicomico, and Worcester Counties were added to the list of counties in which this limit is applicable ***(Chs. 651, 653, and 716/97).***

In 1998, Carroll and Somerset Counties were added to the list (***Chs. 107 and 773/98).*** As a result, the limit is now applicable in every county other than Allegany, Garrett, Montgomery, and Talbot counties.

Excessively High Bids

In 1997, a number of counties experienced problems with outrageously high bidding on properties that were offered for

tax sale. In many instances bidders are not concerned about overbidding because they have no intention of paying that price for the property. The bidders are only required to pay the overdue taxes on the property, and many of them are only interested in making money when the original property owner redeems the property by paying to the successful bidder the overdue taxes plus interest at rates ranging from 12% to 24%. If the property is redeemed, the successful bidders are also entitled to reimbursement for expenses such as legal fees and other related costs.

Tax sales in several counties were contentious and disruptive, and at least four civil actions were filed in the courts to challenge the efforts of county tax collectors to control tax sales in their counties. ***Chapters 326 and 786 of 1998*** address these problems by providing that a tax collector may establish a high-bid premium to be applied to all properties offered for tax sale. Any high-bid premium would be 20% of the amount by which a property's highest bid exceeds 40% of that property's full cash value. In addition, a tax collector or auctioneer is allowed to refuse any bids that are not made in good faith, and a potential bidder must meet certain eligibility requirements in order to bid on properties.

PART B
TAXES

INCOME TAX

INDIVIDUAL INCOME TAX RELIEF

Following up on the major theme of tax reduction surrounding the November 1994 State and federal elections, the General Assembly framed debate over taxes at the outset of the 1995 Session as an issue of when and by how much taxes should be cut, rather than as an issue of whether or not taxes should be cut. With continuing improvement in revenue outlook, spending as limited by spending affordability guidelines was predicted to leave a substantial General Fund surplus. Various proposals were introduced early in the 1995 Session to return some or all of this projected surplus to taxpayers in the form of an individual income tax reduction.

Concerned about the potential effect of proposed federal budgetary actions and proposed federal income tax changes on the finances of the State, the General Assembly declined to pass an income tax cut during the 1995 Session. Instead, the 1995 General Assembly established a special reserve account for the purpose of funding future individual income tax relief legislation.

1995 Session

Chapter 128 of 1995 established the Citizen Tax Reduction and Fiscal Reserve Account within the State Reserve Fund to retain State revenues for the purpose of funding individual income tax relief. The Account was intended to serve as a safeguard against the impact of potential federal budget and tax actions or a potential economic downturn.

1996 Session

Various proposals were again introduced during the 1996 Session to provide individual income tax relief. Continued uncertainty over federal budget actions, together with downward revisions in projections for State sales tax and income tax revenues for fiscal 1996 and fiscal 1997, forced the General Assembly again to defer consideration of these individual income tax reduction measures.

1996 Interim

Reduction of the individual State income tax remained a major issue during the 1996 Interim and at the outset of the 1997 Session. Maryland's relatively high State and local income tax burden has been perceived as a disincentive for businesses to locate or expand in the State. While Maryland's overall tax burden is close to average when compared to other states, the State's high reliance on the income tax in its mix of taxes, together with the county "piggyback" income tax, puts Maryland near the top in rankings of states based on income tax burden.

1997 Session

In 1997, the General Assembly took action to reduce the State's reliance on the personal income tax by enacting a 10% income tax reduction phased in over a 5-year period. ***Chapter 4 of 1997***, the 1997 Tax Reduction Act, provided a 10% reduction in State income taxes, phased in at 2% per year for 5 years. The 10% income tax reduction is divided equally between a reduction in the top State tax rate and an increase in the amount allowed as deductions for personal exemptions. Under ***Chapter 4***, when the reduction was to be fully phased in tax year 2002, the highest marginal tax rate would be reduced from the previous 5% to 4.75%, and the amount allowed for personal exemption would be increased from the previous $1,200 per exemption to $2,400 per exemption. To account for the reduction in the top marginal rate, the maximum subtraction modification for two-income married couples would be reduced from the previous $1,200 to $1,105 when the reduction is fully phased in.

Chapter 4 of 1997 provided for calculation of the county income tax without regard to the State tax changes made under the Act, so that county income tax revenues would not be affected. ***Chapter 4*** also altered the calculation of the

income tax revenue distribution to municipalities, to hold the municipalities harmless from the income tax reduction. In addition, ***Chapter 4*** would have required that the Comptroller to design the returns and other forms under the income tax to provide for payment of income tax payments attributable to the county income tax by separate payments made payable to a local income tax fund (this requirement was repealed by ***Chapter 147 of 1998***).

In addition to reducing the income tax by 10% over 5 years, ***Chapter 4*** broadened the exemption under the sales and use tax for property used in manufacturing. (See the discussion below under the Subpart Sales and Use Tax within this Part.)

1998 Session

Continued better than anticipated revenue growth enabled the General Assembly to consider further tax reductions in 1998. The cornerstone of the 1998 General Assembly's tax reduction package was ***Chapter 4 of 1998***, which speeded up the phase-in of the income tax cut enacted in 1997. ***Chapter 4*** accelerated the first 2 years of the current income tax reduction, structured in a similar fashion (half through a rate reduction and half through an exemption increase). Under ***Chapter 4,*** the 1998 tax reduction was 5% rather than 2%; the 1999 reduction was 6% rather than 4%. These changes will result in an estimated return to taxpayers above the amount authorized in 1997 of $170.7 million in fiscal 1999 and $45.3 million in fiscal 2000. Since the 1997 Tax Reduction Act "decoupled" the counties from the State income tax reduction, these changes do not affect the local income tax.

Revised revenue estimates from the Board of Revenue Estimates issued in March of 1998 helped make this acceleration possible. General Fund revenue estimates were revised upwards by $69.7 million for fiscal 1998 and by $73.2 million for fiscal 1999. ***Chapter 4*** included a requirement for the Spending Affordability Committee to include a recommendation in its final report of the 1999 interim on the fiscal prudence of further accelerating the 1997 reduction or increasing it above 10%. In addition, to improve the likelihood of either of those scenarios becoming a reality, the Act included a provision requiring the Governor to dedicate any unappropriated general fund surplus in excess of $10 million at the end of each of the next four fiscal years to the Revenue Stabilization Account of the State Reserve Fund. To offset the fiscal 1999 cost of ***Chapter 4 of 1998,*** the Governor is required to transfer $170.7 million from the Revenue Stabilization Account to the General Fund.

REFUNDABLE EARNED INCOME CREDIT

Since 1987, Maryland's income tax law has provided an earned income credit against the State income tax equal to 50% of the federal earned income credit. For federal income tax purposes, the earned income credit, which provides tax relief to low income wage earners, is "refundable"; that is, if the amount of the federal credit exceeds an individual's income tax liability, the individual may receive a refund. However, since its enactment in 1987, the State earned income credit had not been refundable for State income purposes.

Chapter 5 of 1998 provided additional tax relief to low income wage earners by making part of the earned income credit refundable for State income purposes. Under ***Chapter 5***, for tax years 1998 and 1999 taxpayers with dependents may claim a refund of the amount by which 10% of the federal earned income credit exceeds the State income tax. The percentage of the federal earned income credit on which the refund is based is phased up to 12.5% for tax year 2000 and to 15% for tax years after 2000. Individuals not eligible for a refund may still claim the nonrefundable earned income credit based on 50% of the federal earned income credit. ***Chapter 5*** provided that refunds are only allowed against the State income tax and do not affect the computation of the county income tax.

Chapter 5 of 1998 also converted the poverty level subtraction modification under former law to a poverty level credit that provides essentially the same tax relief as under the former subtraction modification, but prevents the duplication of benefits that would otherwise occur as a result of the refundability of the earned income credit.

Chapter 5 included a requirement that the Spending Affordability Committee include a recommendation in its final report of the 1999 interim as to the fiscal prudence of accelerating the phase-in of the refundable earned income credit refund. The Act also required the transfer of $14.5 million from the Revenue Stabilization Account to the general fund to offset the cost of these bills in fiscal 1999. When the 15% credit is phased in for tax year 2001, up to $41.5 million will be returned to taxpayers under the refundable earned income credit.

VOLUNTEER POLICE, FIRE, RESCUE, AND EMERGENCY MEDICAL SERVICES PERSONNEL

Chapter 508 of 1995 provided a subtraction modification under the income tax in the amount of $3,000 for qualifying volunteer fire, rescue, and emergency medical services personnel. To qualify for the subtraction modification, an individual must have been an active volunteer member for at least 72 months during the last 10 calendar years and must qualify for active status during the taxable year under a length of service award program or point system established by a county or municipal corporation. The active status requirement for the current year is waived for active volunteer members who have maintained active status for at least 25 years. A similar bill had been passed by the 1994 General Assembly and was vetoed by Governor Schaefer.

Chapter 485 of 1997 provided a similar subtraction modification under the Maryland individual income tax for volunteer police officers. ***Chapter 485*** had a delayed effective date of July 1, 1998, and is applicable to taxable years beginning after December 31, 1998.

Chapter 384 of 1998 increased the amount allowed under these subtraction modifications for qualifying volunteer police, fire, rescue, and emergency medical services personnel from $3,000 to $3,500.

MARYLAND HIGHER EDUCATION INVESTMENT PROGRAM - TAX INCENTIVES

In recognition of the impact of the skyrocketing cost of higher education on many families, the General Assembly in 1996 enacted ***Chapter 89*** to establish a Task Force on the Maryland Prepaid Tuition Savings Program, and in the following year enacted ***Chapters 110 and 111 of 1997,*** establishing a seven-member Board to develop and administer a higher education investment program for Maryland. See the discussion of the Maryland Higher Education Investment Program in Part L - Education, under the Subpart "Higher Education".

In 1998, the General Assembly enacted State income tax benefits for those participating in the prepaid tuition program. First, ***Chapter 572 of 1998*** provided taxpayers a subtraction modification of up to $2,500 of the amounts contributed for the purchase of a prepaid tuition contract. A subtraction modification was also provided for benefits furnished under a prepaid tuition contract, to the extent they are included in federal adjusted gross income, by ***Chapter 571 of 1998***. Taken together, these two tax benefits can provide Maryland residents a method of saving for college tuition free from State taxes.

WATER QUALITY IMPROVEMENT ACT OF 1998 - TAX PROVISIONS

Chapters 324 and 325 of 1998, the Water Quality Improvement Act of 1998, enacted to address the outbreaks of the pfiesteria toxin that occurred in some of the State's rivers in the summer of 1997, included requirements for the development and implementation of nutrient management plans for farms in the State. (See the discussion of these Acts generally under the Subpart "Agriculture" of Part K - "Natural Resources and Agriculture".)

To help pay for the costs associated with the substantive requirements imposed, ***Chapters 324 and 325*** provided certain tax benefits for farmers. The Acts provided a subtraction modification under the Maryland income tax for 100% of the cost of poultry or livestock manure spreading equipment used on a farm to comply with a nutrient management plan. The subtraction modification may be carried over for up to 5 years if it exceeds the taxpayer's Maryland taxable income computed without the modification.

The Acts also allowed a credit against the State income tax in an amount equal to 50% of the certified additional commercial fertilizer costs necessary to convert agricultural production to comply with a nutrient management plan. The credit may not exceed $4,500 in any taxable year and may only be claimed for up to 3 consecutive taxable years. The credit remains in effect for 10 years and may not be earned for tax years after 2008. The total cost of this credit to the State over the life of the credit is estimated to be about $20.3 million.

CLEAN-FUEL VEHICLES

Chapter 124 of 1995 allowed a credit against the State income tax for the purchase of clean-fuel vehicles, electric

vehicles, and property installed to convert a vehicle to a clean- fuel vehicle. For clean-fuel vehicles and property installed to convert a vehicle to a clean-fuel vehicle, the amount of the credit is 80% of the deduction allowed under § 179A of the Internal Revenue Code for the cost of a truck or van weighing between 5,000 and 10,000 pounds and 40% of the deduction allowed under § 179A for other qualifying clean-fuel vehicle property. For electric vehicles, the credit equals 40% of the credit allowed under § 30 of the Internal Revenue Code. The credit is not allowed to an alternative fuel provider and is not allowed with respect to a vehicle unless the claimant has already met any State or federal requirements applicable for the taxable year requiring the purchase of clean-fuel or electric vehicles. The credit is allowed only with respect to vehicles titled and registered in the State, and is not allowed for vehicles heavier than 26,000 pounds. As enacted under ***Chapter 124***, these provisions were applicable for tax years 1995 through 1997 and were to terminate after 3 years.

Chapter 705 of 1998 extended the termination date for these income tax credits for alternative-fuel vehicles from June 30, 1998 to June 30, 2000.

PART B
TAXES

SALES AND USE TAX

"SNACK TAX"

As part of a multitude of revenue enhancement measures in response to the State's budgetary crisis in the early 1990's, the 1992 General Assembly enacted the so-called "snack tax", by excepting specified "snack foods" from the general exemption under the sales and use tax for food sold by a food vendor operating a substantial grocery or market business. The snack tax was criticized as being an unfair taxation of food and as negatively affecting the State's business climate. ***Senate Bill 229/House Bill 83 of 1995*** (both failed) would have repealed the "snack tax". The controversy over the repeal of the "snack tax" and related issues received considerable attention in the press, but the repeal was not included in a package of tax relief enacted in 1995.

However, the General Assembly in 1996 did repeal the snack tax ***(Chapter 85 of 1996***). ***Chapter 85*** also provided a new exemption from the sales and use tax for "snack food" sold through vending machines. Under the Act, food that is sold through a vending machine, other than snack food, remained subject to the tax, as will candy, which is excluded from the definition of "food" under the law. The "snack tax" repeal and the exemption for snack food sold through vending machines took effect July 1, 1997.

PROPERTY USED IN MANUFACTURING

Chapter 345 of 1996 broadened the exemption under the sales and use tax for machinery or equipment used in a production activity. Under the former law, property used in administration, management, sales, or any other nonoperational activity did not qualify for the exemption. Under ***Chapter 345***, the restriction on use of property in nonoperational activities was repealed and machinery and equipment qualifies for the exemption as long as it is predominantly used in a production activity.

In addition to reducing the individual income tax (see discussion above under the Subpart Income Tax within this Part), ***Chapter 4 of 1997*** went much further than ***Chapter 345 of 1996*** by providing a broader exemption for all tangible personal property used directly and predominantly in a production activity at any stage of operation on the production activity site from the handling of raw materials or components to the movement of the finished product. The Act, when fully phased in, will eliminate existing requirements that to be eligible for the sales tax exemption property must either be fully consumed within 1 year or capitalized to claim depreciation. The broader exemption under ***Chapter 4 of 1997*** was phased in as a one-third credit for fiscal 1999 and a two-thirds credit for fiscal 2000, with the full exemption taking effect July 1, 2000. ***Chapter 4*** also broadened the definition of "production activity" under the sales and use tax to include providing for the safety of employees, providing for quality control, and maintaining production machinery and equipment, but excluding storing the finished product.

SALES TAXATION OF VEHICLE RENTAL AND LEASING

The General Assembly enacted legislation during the 4-year term significantly affecting the sales taxation of short-term vehicle rentals and vehicle leasing. See the discussion under the Subpart "Miscellaneous Taxes" in this Part.

PART B
TAXES

RECORDATION AND TRANSFER TAXES

CLOSING COST TAX RELIEF FOR FIRST-TIME MARYLAND HOME BUYERS

In addition to requiring an optional semiannual payment schedule for property taxes (see the Subpart "Property Tax" under this Part), ***Chapter 123 of 1995*** provided an exemption from the State transfer tax and authorized counties to provide an exemption from the local transfer tax and the recordation tax for "first-time Maryland home buyers" - individuals who have never owned in the State residential real property that has been the individual's principal residence. To qualify for an exemption from any of these taxes an instrument of writing must be accompanied by a statement under oath that:

(1) the grantee has never owned in the State residential real property that has been the grantee's principal residence and the residence will be occupied by the grantee as the grantee's principal residence; or

(2) the grantee is a co-maker or guarantor of a purchase money mortgage or deed of trust and will not occupy the residence as a principal residence.

Chapter 123 required that, for sales to first-time Maryland home buyers, the seller must pay the entire amount of State transfer tax. The exemption under the Act was for half of the State transfer tax. Because it is customary for sellers and purchasers to each pay half of the cost of recordation and transfer taxes, the seller is merely required to pay that portion of the State transfer that the seller would normally pay. The Act also required the seller to pay the entire amount of recordation tax and any local transfer tax unless there is an express agreement otherwise.

To offset the cost to the State for allowing the semiannual payment of property tax and the exemption for first-time Maryland home buyers, ***Chapter 123*** repealed an existing exemption from the State transfer tax for the first $30,000 of the consideration paid for residentially improved owner-occupied real property.

RECORDATION TAX COLLECTION

Under current law, while the revenue from the recordation tax is distributed to the counties, the tax is collected by the clerks of the circuit courts, except in Prince George's County where the Director of Finance collects the tax. In 1997, a proposal to allow other jurisdictions the option to collect the recordation on their own passed both houses of the General Assembly (***Senate Bill 454 of 1997*** (vetoed)). ***Senate Bill 454*** would have allowed the counties to choose to have the recordation tax collected by a county collector. For fiscal 1998 only, the bill provided that if the tax is collected by a county officer, the county must deduct from the tax collected and remit to the Comptroller the percentage that a clerk of court is authorized to deduct for administration of the tax. However, the Governor, citing concerns over the loss of State revenues that would result (the clerks of court deduct a certain collection costs percentage that is distributed to the General Fund), vetoed the bill.

The General Assembly passed the proposed again in 1998 (***Senate Bill 291 of 1998***), but again the Governor vetoed the bill.

PART B
TAXES

MISCELLANEOUS TAXES

EMPLOYMENT OPPORTUNITY (WORK, NOT WELFARE) TAX CREDIT

1995 Session

Chapter 492 of 1995 complemented the General Assembly's welfare reform legislation (see Part M - Human Resources, under the Subpart "Social Services - Generally") by allowing a credit against the State income tax, the financial institution franchise tax, and the public service company franchise tax for wages paid by a business entity to a "qualified employment opportunity employee" and for child care expenses incurred by a business entity to enable a qualified employment opportunity employee to be gainfully employed.

As enacted by ***Chapter 492***, the credit was allowed for an employee who is a resident of Maryland and who for 6 months before the employment commenced was a recipient of benefits under the Aid to Families with Dependent Children program. The amount of the credit for wages was 30%, 20%, and 10%, respectively, of up to the first $6,000 of the wages paid to the employee during the first year, second year, and third year, respectively, of employment. The amount of the credit for child care expenses is up to $600, $500, and $400, respectively, of the qualified child care expenses for the first year, second year, and third year, respectively, of employment. The credit is limited to the total tax owed for the taxable year, but unused credit may be carried over for 5 taxable years.

The credit is not allowed for an employee who is hired to replace a laid-off or striking employee, for an employee for whom the business simultaneously receives federal or State employment training benefits, or for an employee whose employment lasts for less than one year. If an employee's employment lasts less than one year because the employee voluntarily terminates employment, is terminated for cause, or is unable to continue employment due to death or disability, a pro-rata credit is allowed. As enacted under ***Chapter 492 of 1995***, the credit was allowed only for employees hired on or after June 1, 1995 but before June 30, 1998. The provisions relating to the credit expire after 3 years except to the extent unused credit may be carried forward.

1996 Session

Following up on the 1995 legislation, the 1996 General Assembly enacted legislation expanding the availability of the credit. ***Chapter 626 of 1996*** made the credit available to nonprofit tax exempt organizations that have unrelated business income subject to the income tax. ***Chapter 379 of 1996*** extended eligibility for the employment opportunity credit to insurance companies subject to the insurance premiums tax. ***Chapter 379*** also broadened the class of employees for whom a business is eligible for the credit, reducing from 6 to 3 the number of months prior to the employment for which an individual must have been a welfare recipient to qualify as an employee for whom the credit is allowed. The Act also provided that if an employee's employment lasts less than 1 year because the employee voluntarily terminates employment, the credit is not required to be prorated if the employee left to take another job.

1998 Session

The Work, Not Welfare Tax Credit law was originally enacted in 1995 with a 3-year termination provision. ***Chapters 598 and 599 of 1998*** modified the tax credit and extended the termination date for the program for 3 additional years, so that the program applies to employees hired before July 1, 2001.

Under ***Chapters 598 and 599***, the Work Not Welfare tax credit is limited to the first 2 years of employment (3 years under former law). The Acts added an enhanced credit for employment of individuals who have been on welfare for 18 of the last 48 months, equal to 40% of up to the first $10,000 in wages paid. In addition, the Acts added transportation expenses incurred on the employee's behalf as an eligible expense for which an employer is allowed a credit. The Acts also added several reporting requirements to enhance the program's accountability.

JOB CREATION TAX CREDIT

1996 Session

As part of its efforts to stimulate the State's economy, the 1996 General Assembly passed the Job Creation Tax Credit Act of 1996. ***Chapter 84 of 1996*** provided substantial credits under the income tax, financial institution franchise tax, public service company franchise tax, and insurance premiums tax for businesses that create new jobs in the State by establishing or expanding a business facility in the State. As enacted under ***Chapter 84***, to be eligible for the credits, a business must establish or expand an eligible business facility in the State that results in the creation of at least 60 jobs, or at least 30 jobs having an aggregate salary greater than 60 times the State's average salary. Eligible business facilities are those engaged in specified businesses and activities, which include: manufacturing; research, development, or testing; biotechnology; computer programming; central administrative offices or company headquarters; and others.

The credit is earned in an amount equal to the lesser of $1,000 per job ($1,500 in a "revitalization" area of the State) or 2.5% of the wages paid for the jobs (5% in a revitalization area). For individuals qualifying as disabled, a business otherwise claiming the credit could earn a credit equal to the lesser of $1,500 or 5% of the wages paid to the disabled individual, whether or not the individual is a "qualified employee" for purposes of the credit. The credit earned is allowed over a 2-year period. A business entity may not earn more than $1 million in credits for any credit year. The Act provided for the carrying forward of unused credits and for the recapture of credits if the number of qualified employees falls below specified levels within 3 years after the credit year.

The credit terminates as of January 1, 2002 and may be claimed only for credit years beginning before January 1, 2002 for facilities established or expanded before January 1, 2001.

1997 Session

Following up on the 1996 legislation, the 1997 General Assembly enacted ***Chapters 755 and 756***, expanding eligibility for the credits for businesses that locate in a "State priority area". Under the Acts, "State priority funding area" is defined to include an incorporated municipality, a designated neighborhood under the Neighborhood Business Development Program, an enterprise zone, those areas of the State between the Washington Beltway and Washington, D.C., and those areas of the State between the Baltimore Beltway and Baltimore City. For businesses locating or expanding in a State priority funding area, the Act reduced the threshold number of jobs that must be created to be eligible for the credit from 60 to 25. In addition, the eligible activities of the business facility that will qualify for the credit were expanded to include any business services, if the business facility is located in a State priority funding area.

1998 Session

In 1998, the definition of "State priority funding area" for purposes of the credit was expanded by ***Chapter 438 of 1998*** to include one county-designated priority funding area per county, consistent with criteria enacted in the "Smart Growth" legislation in 1997.

TAX CREDIT FOR EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

As originally enacted in 1996, the Job Creation Tax Credit provided an enhanced credit calculation for employees qualifying as disabled. Under ***Chapter 84 of 1996,*** a business otherwise eligible to claim the Job Creation Tax Credit could earn a credit equal to the lesser of $1,500 or 5% of the wages paid to a disabled individual, whether or not the individual is a "qualified employee" for purposes of the credit. ***Chapters 755 and 756 of 1997*** repealed the enhanced credit provision of the Job Creation Tax Credit providing additional credits related to employment of disabled individuals, in light of the passage of ***Chapters 112 and 113 of 1997***.

Chapters 112 and 113 of 1997 established a new tax credit for business entities, including tax exempt organizations, that hire individuals with disabilities. The credit was modeled after the Work, Not Welfare Tax Credit and is allowed against the State income tax, insurance premiums tax, financial institution franchise tax, and public service company

franchise tax for wages and qualified child care or transportation expenses paid with respect to a qualified employee with a disability. The amount of the credit for wages is 20% of up to the first $6,000 of the wages paid to the employee during the first and second years of employment. The amount of the credit for child care or transportation expenses is up to $600 and $500, respectively, of the qualified child care expenses for the first year and second year, respectively, of employment. The credit is limited to the total tax owed for the taxable year, but unused credit may be carried over for 5 taxable years.

As enacted in 1997, the new credit for businesses hiring individuals with disabilities was made subject to a December 31, 2000 termination date. ***Chapter 614 of 1998*** extended the termination date to December 31, 2002. The credit is now available for qualified employees hired before January 1, 2003. The Maryland Department of Education is required to report annually on the marketing and use of the credit.

TOBACCO TAX

During the 1997 Session, the Governor proposed a tobacco tax increase in ***Senate Bill 236/House Bill 501*** (both failed). The Governor's proposal was one of several proposals introduced in the 1997 Session that would have increased the rate of the tobacco tax on cigarettes or expanded the application of the tobacco tax to tobacco products other than cigarettes. The Governor proposed a 36 cent per pack increase in the tobacco tax on cigarettes, the additional revenues to be used to help fund an income tax reduction.

Several other unsuccessful proposals were introduced in 1997 and again in 1998 to increase the tobacco tax rate on cigarettes by varying amounts. Other proposals that failed would have imposed the tobacco tax on tobacco products other than cigarettes. Most of these proposals, other than the Governor's 1997 proposal, would have dedicated the additional revenue resulting from the tobacco tax to various purposes, including cancer prevention advertising, drug and alcohol abuse prevention and treatment, tobacco crop conversion, and various educational purposes.

INHERITANCE TAX

A number of significant inheritance tax changes were made by a package of Acts passed during the 1997 Session to streamline and simplify the probate process. (See Part F - Courts and Civil Proceedings, under the Subpart "Estates and Trusts".)

Chapter 693 of 1997 made one significant direct change to the inheritance tax and made a number of changes to the laws governing estate administration that affect the inheritance tax. ***Chapter 693*** provided for date of death valuation under the inheritance tax by providing that the inheritance tax does not apply to income, including gains and losses, accrued on probate assets after the death of the decedent. Under the former law, income received from intangibles after the death of a decedent, when ultimately distributed to a beneficiary, would be subject to the inheritance tax as well as to income tax. ***Chapter 693*** eliminated this double taxation of income received by an estate.

Also under this Act, the determination of whether an estate is a "small estate" eligible for simplified administration and exempt from inheritance tax is to be made based on "value" instead of "gross value" as provided under former law. ***Chapter 693*** provided that value is to be reduced by debts of record secured by the property as of the date of death and not paid off by insurance. As a result, more estates should qualify as small estates exempt from the inheritance tax. The Act also provided that instead of an appraisal being required, the fair market value of real and leasehold property may be determined for probate and inheritance tax purposes by reference to the full cash value of the property for property tax purposes as of the most recent date of finality.

Chapter 596 of 1997, which provided an election for modified administration of an estate under the probate laws, also provided for payment of the inheritance tax under the modified administration procedure at the time of filing a final report.

TAXATION OF BANKS AND TRUST COMPANIES

Chapter 127 of 1995 altered the definition of "financial institution" under the financial institution franchise tax to repeal the tax as to commercial banks, savings banks, trust companies, and companies that substantially compete with

national banks in the State. The repeal of the financial institution franchise tax as to these entities was phased out and became fully effective January 1, 1998. As a result, these banks and trust companies beginning in the 1998 tax year are subject to the corporate income tax instead of the financial institution franchise tax. The income of these institutions derived from government obligations, formerly subject to taxation under the financial institution franchise tax, is not subject to tax under the income tax. For tax years 1996 and 1997, the tax on interest derived from federal obligations under the financial institution franchise tax was phased out for these institutions, with the banks and trust companies being subject to the tax on 50% of their government obligation interest for 1996 and 25% for 1997.

Chapter 127 also phased out for these same institutions over a 3 year period an exemption under previous law from personal property tax for financial institutions. The Act continued to provide an exemption for the computer equipment and software of a bank or trust company that is used in connection with the processing of loans, if the property is not used for word processing.

TELECOMMUNICATIONS TAX REFORM

Much of the structure of the State's taxation of the telecommunications industry was developed many years ago based on the monopoly structure of the industry. In the past few decades, the telecommunications industry has undergone significant changes, with competition now existing in virtually all areas. The tax structure has not changed, resulting in differential taxation of competing providers and raising questions as to the adequacy and fairness of the current tax structure. The federal Telecommunications Act of 1996, by allowing cross-market entry and by relaxing concentration and merger rules, should increase competition in the telecommunications industry, further complicating the tax treatment of this industry. ***Chapters 629 and 630 of 1997*** provided significant reforms in taxation of telecommunications providers, eliminating several disparities in the taxation of telecommunications providers and services.

As introduced, ***Chapters 629 and 630*** would have raised a significant amount of additional revenue for the State, which was proposed to be used to finance a 10% income tax reduction. (See the discussion above under the Subpart Income Tax within this Part.) As introduced, the bills would have provided comprehensive reform, by bringing a broad range of telecommunications services, including cellular and other mobile telephone service and satellite television service, under the gross receipts tax, to be increased from a 2% rate to 5% over a 3-year period. The proposal was scaled back during the course of the 1997 Session as the result of opposition to any tax increase and the mid-session upward revision in the Board of Revenue Estimates projections.

As enacted, ***Chapters 629 and 630 of 1997*** provided more limited reform as a first step toward comprehensive reform in this area. First, the Acts effectively eliminated for telecommunications providers a property tax penalty that has historically been imposed on public utilities. Under the property tax, an ordinary taxpayer is assessed based on 100% of the value of personal property, but only 40% of the value of real property. The operating real property of a public utility is assessed at 100% of its value. Efforts over the past several years to remedy this disparity have been hindered by the revenue loss that counties and municipalities would suffer if the operating real property were assessed at only 40% of its value. ***Chapters 629 and 630*** effectively eliminated the disparity while holding the counties and municipalities harmless, by allowing a credit against the State income tax in the amount of 60% of the total State, county, and municipal corporation property taxes paid on operating real property. The credit is limited to the State income tax otherwise imposed for the taxable year, and may not be refunded or carried over to any other taxable year. An addition modification is required for the amount of the credit, to avoid a double benefit to the companies by deduction of property taxes for which they receive the credit.

The 1997 Acts also repealed an existing exemption under the income tax for revenues of a local telephone provider that are subject to the public service company franchise tax. As a result of the imposition of the income tax on these revenues, the Acts were expected to be generally revenue neutral to the State or to have a small positive impact on revenues. The Acts also allowed a local telephone provider to disclose and separately state the public service company franchise tax as a line item on the customer's bill. Under former law, this was allowed only for a long distance telephone provider.

Chapters 629 and 630 also reclassified as personal property for property tax purposes the lines, poles, cables, and

towers of a telecommunications provider that is a public utility. Under previous law, this type of property was considered personal property in the hands of a nonpublic utility but had been classified as real property for a public utility.

ELECTRIC UTILITY TAX REFORM

As has occurred in the telecommunications, natural gas, and airline industries, the electric utility industry is in the process of transition from a regulated monopoly industry to a competitive market. (See the discussion of retail electric industry restructuring generally in the subpart "Public Service Companies" under Part H - Business and Economic Issue.) The current structure of Maryland State and local taxation of the electric industry is ill-suited for retail electric competition because the tax structure is tied to the current monopoly structure of the industry. Without changes to the existing tax structure, retail electric competition would result in disparate taxation with respect to competing providers, creating competitive inequities and distorting the "level playing field" desired for a competitive industry. The prospect of retail electric competition in the State also will have significant revenue implications for the State's public service company franchise tax and for local property taxes.

While there was consensus that significant further study would be required before undertaking a major revision of the State's taxes relating to electric utilities, the issue was formally put before the General Assembly during the 1998 Session by the introduction of two bills that would have addressed several of the tax issues presented by retail electric competition. ***House Bill 1322 of 1998*** (failed) and ***House Bill 1323 of 1998*** (failed) would have made significant changes to the taxation of electric utilities in the State. Among other changes, the bills would have:

(1) replaced the existing public service company franchise tax imposed on electric utilities (a 2% gross receipts tax) with a tax based on the kilowatt hours of electricity delivered for final consumption within the State;

(2) imposed the 7% corporate income tax on electric utilities; and

(3) allowed credits against State taxes for 60% of the total local property taxes paid on machinery and equipment used to generate electricity in the State.

The State and local tax implications of retail electric competition are being further studied during the 1998 legislative interim and legislation addressing these issues is expected to be before the General Assembly in the 1999 Session.

TAXATION OF VEHICLE RENTALS AND LEASING

Short-Term Vehicle Rentals

Chapter 125 of the Acts of 1995 extended a termination provision applicable to sales and use tax provisions relating to the short-term rental of vehicles. Chapter 254 of the Acts of 1993 restored a credit under the sales and use tax for motor vehicle excise tax paid for short-term rental passenger cars and multipurpose vehicles. This credit had been repealed under Chapter 1 of the First Special Session of 1992 as part of the solution to the State's budgetary crisis. Chapter 254 of 1993 also increased the sales tax rate for those vehicles from 8% to 11.5% for the short-term rental of passenger cars and multipurpose vehicles. For all short-term vehicle rentals (not including dump truck, tow truck, or farm truck rentals), the 1993 Act also altered the definition of "taxable price" to which the sales tax applies to include all sales and charges made in connection with the rental, excluding only motor fuel sold in connection with the rental. Chapter 254, by its terms, was to expire at the end of June 30, 1995. ***Chapter 125*** extended these provisions through June 30, 1999.

The General Assembly revisited the issue of sales taxation of short-term rental vehicles in 1998. ***Chapter 706 of 1998*** significantly revises the tax treatment of short-term rental vehicles in the State, effective July 1, 1999. Under current law, short-term rental vehicles are technically subject to both the motor vehicle excise tax (which is dedicated to the Transportation Trust Fund) and the State sales and use tax (which goes to the State General Fund). However, under current law, the rental car company is allowed to recover the amount of the motor vehicle excise tax the vendor has paid on short-term rental vehicles by means of the credit against the sales and use tax that the vendor is required to remit to the Comptroller. This credit structure allows for the distribution of revenues to the Transportation Trust Fund

while relieving the burden of the imposition of two different taxes. Pursuant to ***Chapter 125 of 1995***, the existing tax structure would have terminated on June 30, 1999, and after that date, the sales tax credit for motor vehicle excise tax would have been eliminated.

Chapter 706 simplifies the existing double taxation/credit system by exempting short- term rental vehicles from the motor vehicle excise tax. To offset the loss of revenue to the Transportation Trust Fund that would result from this exemption, the Act included a requirement that 45% of the sales and use tax collected on short-term rental vehicles be distributed to the Transportation Trust Fund, with 80% of that amount going to the Gasoline and Motor Vehicle Revenue Account (shared with local governments) as currently occurs with motor vehicle excise tax revenues. The credit provision under the sales and use tax is repealed, except for credits resulting from titling tax on vehicles titled before the effective date of the Act. The Act also made permanent the 11.5% sales and use tax rate applicable to short-term rentals of passenger cars and multipurpose vehicles, repealing the sunset date applicable to that provision.

Long-Term Vehicle Leases

The General Assembly also addressed the taxation of long-term motor vehicle leases during the past 4-year term, enacting ***Chapter 126 of 1995.*** The Act exempted long-term motor vehicle leases (for a period of more than 1 year) from the sales and use tax. Under previous law, vehicle leasing, a popular alternative to purchasing, was subject to tax disadvantages. Motor vehicle purchases generally are taxed only under the motor vehicle excise tax and not under the sales and use tax. When a motor vehicle leasing company purchases a vehicle, the motor vehicle excise tax applies, and that tax is typically passed on to the person who leases the vehicle. Under former law, the lease down payment and monthly lease payments were also subject to the sales and use tax. ***Chapter 126 of 1995*** eliminated this double taxation of motor vehicle leasing transactions.

PART C
STATE GOVERNMENT

STATE AGENCIES, OFFICES, AND OFFICIALS

REORGANIZATION OF STATE GOVERNMENT

The Department of Natural Resources and the Department of the Environment

The Maryland Department of the Environment (MDE) serves as the lead agency in environmental regulation, while the Department of Natural Resources (DNR) is the lead agency in resource management and protection. ***Chapter 488 of 1995*** consolidated environmental regulatory programs into a single cabinet agency by transferring the responsibilities and functions of the Water Resources Administration from DNR to MDE's Water Management Administration. All of DNR's regulatory programs relating to water and water resources were transferred to MDE, specifically the permitting and enforcement functions over water appropriation, waterway construction, mining of coal and other minerals, extraction of oil and natural gas, and tidal and nontidal wetlands. The Chesapeake Bay Program and watershed management functions transferred from MDE to DNR. By consolidating all major environmental regulatory permitting activities into MDE, ***Chapter 488*** was intended to eliminate overlap and duplication and to enhance service to the public. By streamlining the permitting process, the law was also designed to enable regulated entities to obtain "one-stop shopping" for State permits and approvals. The consolidation included the transfer of approximately 135 employees from the Water Resources Administration in DNR to MDE.

The Department of Business and Economic Development and the Department of Labor, Licensing, and Regulation

Chapter 120 of 1995 established two new agencies in State government, the Department of Business and Economic Development (DBED) and the Department of Labor, Licensing, and Regulation (DLLR). The Department of Economic and Employment Development (DEED) and the Department of Licensing and Regulation (DLR) were both abolished and the duties, responsibilities, authority, functions, Secretaries, and employees of DEED and DLR were transferred and reassigned to the new Departments.

- *Maryland Economic Development Commission*

Chapter 120 also created the Maryland Economic Development Commission under the jurisdiction of DBED to establish economic development policy in the State and to oversee the Department's efforts to attract, retain, and support the creation of businesses and jobs in the State. The Commission's duties include developing and updating a strategic plan for economic development in the State and recommending to the Governor program and spending priorities necessary to implement the strategic plan. The Commission may not exceed 25 voting members appointed by the Governor and approved by the Senate. The geographic representation of the Commission must cover the entire State, and include at least one representative from the Upper Eastern Shore, the Lower Eastern Shore, the Tri-County area of Southern Maryland, Garrett and Allegany Counties, and Carroll, Frederick, and Washington Counties.

Chapter 321 of 1996 repealed the authority of the Economic Development Commission to review the budget of DBED before its submission to the Governor and the General Assembly and to periodically advise the Secretary on the allocation of economic development resources in the DBED. ***Chapter 321*** also required the Commission to raise private sector "funds" to supplement economic development programs and financial incentives to business. The private sector funds may be expended only through an approved budget amendment. This requirement supplements a directive under existing law for the Commission to raise private sector "contributions" for these purposes. According to DBED, the term "contributions" applies to in-kind services, but not to monetary donations.

- *International Trade*

To further a mission to attract and encourage business development and improve the quality, productivity, and competitive position of existing Maryland businesses in the global marketplace, ***Chapter 120 of 1995*** designated the

Maryland International Division within DBED as the Office of International Trade. The Office must report at least twice a year to the Maryland Economic Development Commission on the status of the State's international activities. ***Chapter 120*** also abolished the International Cabinet and the Private Sector Advisory Council. ***Chapter 321 of 1996*** renamed the Office of International Trade as the Office of International Business.

- *Business Development and Resources*

The Division of Business Development was designated by ***Chapter 120 of 1995*** as the Office of Business Development and Resources within DBED to assist businesses in the areas of technology development and commercialization, small business development, workforce development and productivity, manufacturing modernization, and defense conversion. DBED's activities must be coordinated with the Apprenticeship and Training Council and the Apprenticeship and Training Program established in DLLR. The Division of Employment and Training was transferred to DLLR. ***Chapter 321 of 1996*** eliminated the Office of Business Development and Resources within DBED and assigned the responsibilities of that office to the Department in general.

- *Division of Tourism, Film, and the Arts*

Chapter 321 of 1996 renamed the Division of Tourism and Promotion in the Department of Business and Economic Development as the Division of Tourism, Film, and the Arts.

The Department of Budget and Management

Chapter 349 of 1996 abolished the Department of Personnel (DOP) and renamed the Department of Budget and Fiscal Planning as the Department of Budget and Management (DBM). The responsibilities of administering the personnel management functions of the Executive Branch of State government were assigned to DBM. The telecommunications functions of the Executive Branch, including the Governor's Advisory Board for Telecommunications Relay, were transferred from the Department of General Services (DGS) to DBM. ***Chapter 349*** also altered provisions relating to the Chief of Information Technology by providing that the Chief was to be appointed by the Secretary of DBM rather than by the Governor and by repealing a prohibition against the Chief having any operating responsibilities for information technology functions.

Department of Aging

The Office on Aging originated in 1959 as the State Coordinating Commission on the Problems of the Aging and was renamed in 1971 as the Commission on Aging. In 1974, the Governor established the Governor's Coordinating Office on Problems of the Aging. In the following year, this Office and the Commission merged to form the Office on Aging, a cabinet-level unit. ***Chapters 573 and 574 of 1998*** removed the Office on Aging from the Executive Department and created the Department of Aging as a principal department of the State government. The head of the Department is the Secretary of Aging, appointed by the Governor with the advice and consent of the Senate. By July 1, 1999, the Secretary must report to the Governor and the General Assembly concerning a strategic plan to prepare the State for the growth of the elderly population over the next 30 years. Components of the strategic plan must include recommendations for: (1) using information technology to provide the elderly with user-friendly computerized access to State, local, and private services; (2) streamlining and coordinating systems for processing requests for information about services for the elderly provided by State and local agencies; (3) using senior centers and public-private partnerships to promote education concerning health care, disease prevention, financial preparation for later life (including long-term care), and available services; and (4) promoting and developing service information and education programs delivered by volunteer retirees.

The Department of Juvenile Justice

Chapter 8 of 1995 changed the name of the Department of Juvenile Services to the Department of Juvenile Justice. This change was deemed a more appropriate name for a department that is committed to bringing juvenile offenders to justice.

Council on Management and Productivity

During the 1994 Session, the General Assembly created the Efficiency 2000 Commission to review the structure and functions of State government and to make recommendations on how to make government more responsive and accountable in light of projected fiscal imbalances in the 1990s. ***Chapter 171 of 1996*** abolished the Efficiency 2000 Commission and established a Council on Management and Productivity in the newly reorganized and named Department of Budget and Management. The Council was charged with soliciting ideas, proposals, and suggestions from the business community, nonprofit organizations, government entities, and citizens of the State for innovative ways for the State to manage its resources more efficiently while maintaining quality programs and delivery of services in the State. In addition, the Council must review the organization and management of State government, and evaluate public- private partnership alternatives regarding State programs and State owned real property. The membership of the Council includes representatives of labor, local government, and nonprofit organizations. ***Chapter 171*** required the Council to prepare a budget to be submitted to the Governor, and each year by August 30, to submit to the General Assembly, the Legislative Policy Committee, and the Governor a report concerning its activities and recommendations. The Council will terminate by June 30, 2002.

Forvm for Rural Maryland

In 1992, Maryland and the federal government concluded an agreement providing for the State's participation in the National Rural Development Partnership. Pursuant to an Executive Order of the Governor issued in 1994, the Forum for Rural Maryland was established as the State rural development council required under the 1992 agreement. Approximately 37 other states have established rural development councils to enhance collaborative ventures involving all levels of government and the private and nonprofit sectors in developing strategic responses to rural development needs in the states.

Chapter 119 of 1995 changed the name of the Maryland rural development unit to the "Forvm" for Rural Maryland, established the Forvm as an independent unit of State government to address the issues and concerns of the citizens of rural Maryland, and provided for annual funding of this unit through an appropriation in the State budget. Membership in the Forvm is open to any citizen of the State who subscribes to the goals of the Forvm and has an interest in rural Maryland. Additionally, the Forvm consists of the Governor (or designee) and representatives from the General Assembly, federal agencies that serve rural interests, and private sector organizations. The law required the Forvm to establish an Executive Board to make recommendations to the Forvm on policy matters.

African American Museum Corporation

The Governor's fiscal 1999 capital budget includes $1.58 million in bonds to be administered by the Department of Housing and Community Development for the preparation of detailed plans to construct an African American Museum. As a result of this initiative, ***Chapters 428 and 429 of 1998*** established a Maryland African American Museum Corporation as an independent unit in the Executive Branch. The Corporation will plan, develop, and manage a Maryland Museum of African American History and Culture in Baltimore City with the support of the Mayor and City Council, affected State agencies, and other institutions. The total capital project cost is estimated at $24.7 million, with an estimated completion date of August 2001.

Elimination and Consolidation of Certain Boards and Commissions

During the term, the General Assembly determined that certain State boards and commissions had missions that overlapped and needed consolidation, or which could be accomplished through other existing organizations. Moreover, some State entities were nonfunctioning. In response to this situation, legislation was enacted in 1996-1997 to eliminate and consolidate certain boards and commissions to maximize the effectiveness of grant moneys, create single points of agency contact, and increase overall governmental efficiency.

Accordingly, ***Chapter 341 of 1996*** combined 12 separate Public Defender District Advisory Boards into 4 Public Defender Regional Advisory Boards for standardization of decisions concerning fee disputes. ***Chapter 341*** also eliminated the following organizations: the Department of Human Resources Advisory Council, the Advisory Commission on Sports, the Blue Sky Advisory Committee, the Education Coordinating Council for State Hospital Centers, the Commission on State Publications Depository and Distribution Program, the Water Resources Advisory

Commission, the Susquehanna River Watershed Advisory Board, the Commission on the Capital City, and the Governor's Volunteer Council. The members of the Board of Directors of the Maryland Jockey Injury Compensation Fund, Inc. were replaced with the members of the Racing Commission. ***Chapter 5 of 1997*** eliminated the State Advisory Council on Alcohol and Drug Abuse. ***Chapter 5*** also changed a requirement that there be an advisory council for physical fitness for each county to a general authorization to establish advisory councils for each county and Baltimore City.

PUBLIC RECORDS AND FORMS

Access to Records of the Motor Vehicle Administration

In order to bring the State into compliance with the federal Driver's Privacy Protection Act of 1994, ***Chapters 338 and 339 of 1997*** generally offered individuals the opportunity to prohibit the knowing disclosure of a public record of the Motor Vehicle Administration (MVA) that contains personal information, such as an individual's address, driver's license number or any other identification number, medical or disability information, name, photograph or computer generated image, social security number, or telephone number.

A person who receives personal information may not use or redisclose the information for a purpose other than the one for which the information was originally disclosed and must comply with certain recordkeeping requirements where authorized redisclosure occurs. The records custodian must adopt regulations to establish a waiver procedure for the release of personal information that the custodian is not otherwise authorized to disclose. ***Chapters 338 and 339*** also prohibited the unauthorized disclosure, receipt, or use of personal information, specified penalties for violation of this prohibition, and set forth several circumstances under which a disclosure of personal information contained within MVA public records is allowed or required. For additional discussion of ***Chapters 338 and 339***, see Part G - Transportation and Motor Vehicles.

Electronic Access to Public Records

Increasingly, agencies at all levels of government are providing access to public documents through the electronic media. Consistent with this trend, ***House Bill 844 of 1997*** (referred for interim study by the Senate Economic and Environmental Affairs Committee) would have required that a copy of a public record be provided in the form or format requested by an applicant if the record is readily reproducible by the custodian of the record in that form or format. The bill also would have required units of State and local government to make a reasonable effort to maintain their public records in forms or formats that are both readily reproducible and likely to be requested. The costs of providing a copy of a record in a computerized or electronic format could have been recovered by a governmental unit as part of its fee for this service. The bill also would have the Office of Information Technology in the Department of Budget and Management, in consultation with the Attorney General, the Maryland Association of Counties, and the Maryland Municipal League, to study the feasibility of making public records available by computer telecommunications and to report its findings to the General Assembly by December 31, 1997.

In 1998, the General Assembly considered several proposals on electronic materials as public records, but failed to achieve a consensus. ***Senate Bill 387/House Bills 386*** and ***1250 of 1998*** (all failed) would have declared electronic materials or reproductions of State records to be public records for purposes of public access. The bills would have limited the fees that an agency would have been able to charge for reproducing these materials and providing them to the public.

Consistent with the general trend toward increasing electronic access to governmental records through the Internet, ***Senate Bill 573 of 1998*** (failed) would have required the Division of State Documents to make the *Maryland Register* and the *Code of Maryland Regulations* (COMAR) available to the public, at no cost, with direct on-line search capability. Under the bill, access would have been limited to personal, noncommercial use of the material, subject to a fine for each violation. Uncertainty relating to the effect of the proposal on current licensing arrangements and on the agency budget led to the defeat of the bill.

Racial Designation on Government Forms

In the Fall of 1997, the federal Office of Management and Budget issued Revised Standards for the Classification of Federal Data on Race and Ethnicity. In order to conform State forms with these revised standards, ***Chapter 459 of 1998*** provided that, in the preparation of a form that requires identification of individuals by race, a department or independent unit of State government will include the following racial categories, of which respondents may pick more than one: (1) American Indian or Alaskan Native; (2) Asian; (3) Black or African American; (4) Native Hawaiian or Other Pacific Islander; and (5) White. ***Chapter 459*** also required that there be a separate question about whether a respondent is of Hispanic or Latino origin, with the question preceding the racial category question. All relevant data forms must reflect these standards no later than January 1, 2002.

English Language

By the beginning of 1998, 23 states had designated English as their official language. ***Senate Bill 236/House Bill 443 of 1998*** (both failed) would have designated English as the official language of the government of Maryland. English would have been the language of government functions and actions. The bills would have applied to the Legislative, Executive, and Judicial Branches of government and would have required all official documents, with certain exceptions, to be written and published in English.

PART C
STATE GOVERNMENT

ELECTIONS

ELECTION LAW REFORM STEMMING FROM THE CONTROVERSY PRODUCED BY THE 1994 GUBERNATORIAL ELECTION

This term of the General Assembly began under the cloud produced by the alleged mishandling of voting procedures in the extremely tight 1994 gubernatorial election in which Parris Glendening squeaked to a 5,000 vote victory over former General Assembly member Ellen Sauerbrey. Although the election results were challenged in court, ultimately the Maryland Court of Appeals affirmed the election results and Governor- elect Glendening took office as scheduled.

Creation of a Task Force to Review the State's Election Laws

Questions regarding the voting procedures in the 1994 gubernatorial election prompted the General Assembly to enact ***Chapter 514 of 1995***. That legislation established a 13-member Task Force to Review the State's Election Laws that was composed of seven appointees of the Governor (reflecting the demographic makeup of the State and including two members of the Republican party) and six appointees of the Speaker and the Minority Leader of the House and the President and Minority Leader of the Senate.

The Task Force was charged with the responsibility to review the rules, regulations, and procedures of the State Board of Elections and the various county boards of supervisors of elections, with a particular focus on the manner in which these regulations and procedures were carried out in the 1994 general election. In addition, ***Chapter 514*** required the Task Force to complete its review and make findings and recommendations to the Governor and the General Assembly by December 31, 1995.

The Recommendations of the Task Force to Review the State's Election Laws

As anticipated by ***Chapter 514***, the Task Force to Review the State's Election Laws formulated a broad array of recommendations pertaining to election law reform, some of which resulted in the enactment of significant pieces of legislation in the 1996 Session.

Application for Absentee Ballots

One of the major recommendations of the Task Force was accomplished in ***Chapter 2 of 1996*** which repealed the requirement that an application for an absentee ballot include an affidavit containing information required by the State Board of Elections as to the voter's inability to vote at the polls.

In its examination of the election process, the Task Force had found that for a number of years some local election boards accepted signed letters of application for an absentee ballot without the required affidavit. The Task Force reported that since an affidavit is already required on the actual ballot envelope, the first affidavit in connection with the application for an absentee ballot is unnecessary.

Election Recounts

Several recommendations by the Task Force regarding recounts were enacted by ***Chapter 672 of 1996***. First, the enactment authorized a recanvass and recount of ballots cast in a general or special election, rather than just a primary election as the law previously had allowed.

In addition, ***Chapter 672*** allowed for the filing of a statewide or multicounty recount petition by filing a single recount petition with the State Board of Elections. Prior law had required a separate petition for each county. If a statewide or multicounty petition is filed, a judge of the Anne Arundel County Circuit Court is directed to set the amount of the required bond.

Chapter 652 further authorized local election boards to hear and determine any appeals to review and correct the action of the election judges in their respective jurisdictions and to certify the result of any general or special election.

Appointment of Election Judges

The Task Force confirmed that some jurisdictions, particularly Baltimore City, have had difficulty finding a sufficient number of qualified persons to serve as election judges at the polls. To assist in addressing this deficiency, ***Chapter 112 of 1996*** permitted local election boards to appoint "declines" (i.e., registered voters who decline to affiliate with any political party) to serve as election judges, provided the boards has first tried to appoint a full complement of judges belonging to the majority party or principal minority party.

Repeal of Criminal Penalties

Chapter 550 of 1996 repealed the criminal penalties for an election judge who fails or refuses to serve as a judge or who fails or refuses to appear for an examination of his qualifications for judge. The Task Force noted that the difficulty in prosecuting these violations of the Election Code had resulted in its not being used. Moreover, the threat of criminal prosecution may have discouraged some people from accepting appointment as election judges.

Commission to Revise the Election Code

Finally, the Task Force determined that there was a need for a comprehensive revision of the Election Code. To that end, ***Chapter 431 of 1996*** established a nine member bi-partisan Commission to Revise the State's Election Code that was composed of appointees of the Governor, the Speaker and the Minority Leader of the House, and the President and the Minority Leader of the Senate.

The Commission was told to make a thorough review of the Election Code, including the organization of the State Board of Elections and the local boards of elections, the integration of computer technology into the administration of elections, as well as the procedures used to conduct elections. The Commission was directed to complete its work in time to introduce the revision in the 1998 Session of the General Assembly.

The Results of the Commission to Revise the Election Code

For years, the State's Election Code has been noted for its poor organization, ambiguity, and numerous obsolete provisions. As envisioned by the 1995 Task Force to Review the State's Election Laws that had been created by ***Chapter 244 of 1995***, and as instructed in the 1996 legislation establishing the Commission to Revise the Election Code, the long-anticipated goal of enacting a totally revised State Election Code finally was achieved in the 1998 Session. ***Chapter 585 of 1998*** was the product of two years of intense review and drafting by the Commission and its staff.

Consistent with its charge, the Commission accepted the challenge to produce a revised Code characterized by "... clarity, precision, consistence, conformity, completeness, and effectiveness ..." and to include "... substantive structural changes ... the Commission considers necessary to meet the needs of modern election administration".

In developing the revised Election Code, the Commission was guided by several policies and goals that had been recommended by the Task Force, including:

- to make the Election Code understandable and to lend itself to easy reference;
- to enhance the effectiveness of the State Board of Elections and clearly define its authority and responsibilities;
- to establish high standards of performance for all aspects of election administration and to apply the standards uniformly throughout the State to the extent practicable, feasible, and necessary, given the vast differences between and among the 24 jurisdictions of the State; and
- to maximize the use of technology in election administration by developing a total election administration

system in which the variety of administrative functions in the election process are tied together in an integrated computer- based system.

Chapter 585 reflected the work of the Commission to incorporate these goals and policies in the new Election Code. The enactment provided a rational organization to the Election Code; set policy; authorized the State Board of Elections to adopt regulations and establish procedures to carry out the policies; standardized nomenclature for all election processes, concepts, documents, officials, and other entities; left unchanged the numerous "local" provisions in the current law that were enacted over the years at the request of a single county or Baltimore City and apply only to that subdivision; and made no substantive changes to the provisions in the current law relating to campaign finance and disclosure by persons doing public business. The new Election Code was made effective s January 1, 1999, the beginning of the quadrennial election cycle that starts after the November 1998 gubernatorial election.

Summary of Substantive Changes in the Major Revision Bill

A summary overview showing the structure and highlighting some of the specific provisions in the 16 titles of the new Election Code is set forth below.

- Title 1: Definitions and General Provisions

Definitions were added, deleted, or amended to reflect changes in the revised article; a statement of purpose, expressing legislative intent, was added; and the law was changed to authorize the filing of any document by "fax" (facsimile machine) transmittal unless the document is required to contain a signed affidavit.

- Title 2: Powers and Duties of the State and Local Boards

The authority of the State Board of Elections was broadened and clarified. For example, the State Board was specifically empowered and directed to "direct, support, monitor, and evaluate the activities of each local board".

The appointment of the State Administrator, a professional staff director, was altered to make the appointment and service of the State Administrator subject to the pleasure of the State Board, rather than being appointed by the Governor for a six-year term;

Each local election board was required to be headed by an election director appointed by the members of the board, specific duties previously assigned to the local board were changed to be duties of (or made delegable to) the election director, and the terms of members of local boards were changed from two years to four years.

- Title 3: Voter Registration

Provisions relating to registration were clarified and made subject to supplemental regulations adopted by the State Board of Elections.

- Title 4: Political Parties

If there is a conflict between State law and party constitution and bylaw, the party position prevails unless there is a compelling State interest (reflecting the U.S. Supreme Court position in Eu v. San Francisco County Democratic Central Committee).

- Title 5: Candidates

The use of nicknames on the ballot was allowed, subject to specified standards. The bill also modified the requirements for nomination of candidates by petition, and the standards were further altered in a separate bill discussed below.

- Title 6: Petitions

The State Board of Elections was directed to adopt regulations covering the form and content of petitions, circulation procedures, and verification and counting of signatures. Verification by random sample will be allowed, if approved by

the State Board.

- Title 7: Questions

The law relating to ballot questions was clarified and modernized.

- Title 8: Elections

The process for filling vacancies in the U.S. Senate and House of Representatives was clarified. In the case of a Senate seat, the individual appointed by the Governor to fill a vacancy will serve the remainder of the term if the vacancy occurs later than 21 days before the filing deadline for the congressional election held in the fourth year of the term. If the vacancy occurs before the 21st day preceding the filing deadline, the Governor will issue a proclamation declaring that a special primary and special general election will be held concurrent with the next regular statewide primary and general elections. If a vacancy occurs less than 21 days before the filing deadline in the second year of the term, the special election will take place in the fourth year of the term.

If a House of Representatives vacancy occurs during the period beginning 120 days before the regular primary election and ending 40 days before the regular primary election, the special primary election will be merged with the regular primary election. Candidates filing certificates of candidacy for a regular primary election will be deemed to have filed certificates for the special primary election. The winner will be the nominee in both the special general election and the subsequent regular general election. (This process was used to fill the vacancy in the Seventh Congressional District in 1996, in accordance with a special law enacted for that election.)

- Title 9: Voting

The State Board of Elections was charged with the responsibility to adopt regulations to govern all types of voting systems. The regulations will replace numerous archaic provisions of the current statute repealed by the revised Election Code.

- Title 10: Polling Places

The State Board of Elections was required to develop a program of instruction for election judges. Detailed procedures for election judges will be in an instruction manual developed by the State Board.

- Title 11: Canvassing

Canvassing of votes will be governed by regulations, providing a uniform statewide process.

- Title 12: Contested Elections

The revision provided for the first time for a recount of the certified results of a question.

- Title 13: Campaign Finance

The *only* change made to this title was to include, as "campaign material", information transmitted by or appearing on an electronic medium, such as the Internet.

- Title 14: Disclosure by Persons Doing Public Business

No substantive change was made to this title.

- Title 15: Public Financing Act

No substantive change was made to this title.

- Title 16: Offenses and Penalties

The law dealing with election-related offenses was reorganized and consolidated. A new provision was added establishing a felony offense with a penalty of up to a $50,000 fine and 10 years in jail for tampering with electronic voting system.

Separate Bills Sponsored by The Commission that Were Enacted

In addition to the general revision of the Election Code embodied in ***Chapter 585***, the Commission also proposed eight separate bills to address several other substantive or potentially controversial issues that the Commission opted not to include in the general revision. Four of these measures were passed by the General Assembly.

- *Nomination of Candidates - Petition Signature Requirements*

Unaffiliated candidates and advocates for new or "minor" political parties long have complained that Maryland laws are among the most restrictive in the country in the requirements for establishing and maintaining official status as a party, as well as for gaining access to the ballot by the petition process. ***Chapter 585 of 1998*** addressed those concerns by altering several requirements regarding petition signatures and the qualification of political parties.

The law relating to political parties was changed to:

(1) allow a new political party to nominate its candidates by convention, if at least 1% of the State's registered voters, as of January 1st in the year of the election, are affiliated with the political party;

(2) after qualification, allow a new political party to continue as a recognized political party through the next two statewide general elections, regardless of the election results or the party's voter registration figures; and

(3) at the conclusion of the second general election following recognition, allow the party to continue to be a recognized political party if:

(i) the party's candidate for the highest office on the ballot in a statewide general election received at least 1% of the total vote for that office; or

(ii) the most current voter registration totals showed that at least 1% of the State's registered voters were affiliated with that party(a determination that would be made on the December 31 following the election).

Chapter 587, in concert with ***Chapter 585***, also reduced the petition requirements for an unaffiliated or minor party candidate from 3% to 1% of the registered voters eligible to vote in the contest.

- *Close of Voter Registration Books Prior to an Election*

In order to increase the opportunity for citizens to participate in the electoral process, ***Chapter 586 of 1998*** shortened from 29 days to 24 days the period of time prior to an election during which voter registration is closed, commencing with the primary election in the year 2000. The bill also provided that the period of time when the voter registration books will be closed prior to an election will be shortened even further - to 21 days - prior to the 2002 primary election.

- *Waiver of Costs for Election Recounts*

Chapter 666 of 1998 provided for the waiver of costs for a vote recount following an election by mandating a recount if the margin of difference in the number of votes received by an apparent winner and the losing candidate with the highest number of votes for an office (or, in the case of a question, the margin of difference between the number of votes cast for and the number of votes cast against the question) is 0.1% or less.

- *Assumption of Gubernatorial Nomination by Lieutenant Governor Nominee in the Event of a Late Vacancy by the Nominee for Governor*

Under ***Chapter 150 of 1998***, if a gubernatorial nominee dies, declines the nomination, or is disqualified less than 15 days before a scheduled election, the Lieutenant Governor nominee may assume the status of gubernatorial nominee and thereafter campaign for the office of Governor.

Proposals Endorsed by the Commission That Were Not Passed

Four of the separate election law proposals endorsed by the Commission were not passed by the General Assembly: ***Senate Bill 120/House Bill 124*** (both failed), which would have repealed the provision in State law that requires a candidate's county of residence to appear on the ballot if the contest is for an office that represents more than one county; ***Senate Bill 124/House Bill 120*** (both failed), which would have aided in the identification of voters by requiring a voter registration applicant to provide election officials with the last four digits of the applicant's Social Security number; ***Senate Bill 127/House Bill 119*** (both failed), which would have repealed all filing fees in connection with the filing of a certificate of candidacy for public or party office; and ***Senate Bill 128/House Bill 125*** (both failed), a constitutional amendment which would have eliminated specific publication requirements for ballot questions proposing amendments to the Maryland Constitution and certain referendum.

CAMPAIGN FINANCING

Because of the often controversial and partisan nature of campaign financing issues, the Commission to Revise the Election Code decided not to propose any substantive changes to that portion of the Election Code.

Moreover, the Commission took particular note of the fact that the General Assembly had done a review of the campaign financing law in the 1997 Session, during the very time when the Commission was deeply engaged in its general review and revision of the entire Election Code. Through the joint efforts of the Speaker of the House and the President of the Senate, the General Assembly enacted several major proposals pertaining to campaign fund-raising and contributions during the 1997 Session. The proposals enacted were designed: to provide the public with information about campaign fund-raising more easily and in greater depth than had been done in the past; to establish restrictions on fund-raising activities; to revise procedures for enforcement of the campaign finance law; and to place further restrictions on lobbyists' involvement in campaign fund-raising activities.

Electronic Filing of Campaign Fund-Raising Reports

After years of debate, the General Assembly enacted legislation to require all candidates and political committees that file campaign fund-raising reports with the State Board of Elections to do so by a computerized electronic storage format. ***Chapter 562 of 1997***:

- required all statewide candidates, and each political committee affiliated with a candidate, that file campaign fund-raising reports with the State Board to do so by electronic filing beginning in November 1997;

- allowed any other person who files a campaign fund-raising report with the State Board to do so by electronic filing, beginning in November 1997;

- required all candidates (both statewide and non-statewide) and all other political committees that are required to file campaign fund- raising reports with the State Board to do so by electronic filing, beginning in November 1999;

- required the State Board to make the campaign finance reports that are filed in an electronic storage format by statewide candidates beginning in November 1997 available for duplication on a computer disk and, beginning in November 1999, make all of the campaign finance report information that the State Board maintains in an electronic storage format widely and easily accessible to the public; and

- required the State Board to submit a report to the Legislative Policy Committee of the General Assembly by December 15, 1997 and include a plan for the full implementation of electronic filing, including information sufficient for the General Assembly to assess whether any additional legislation should be considered in the 1998 Session to ensure the successful implementation of electronic filing and maintenance of campaign finance

information. (In this regard, departmental legislation proposed by the State Board and passed in the 1998 Session empowered the State Board to exempt candidates and political committees that engage in "de minimis" campaign fund-raising activity from the electronic reporting requirements (See ***Chapter 339 of 1998***)).

No Fund-Raising During the Session

Chapter 562 of 1997 also prohibited fund-raising by the Governor, Lieutenant Governor, Attorney General, Comptroller, or a member of the General Assembly, or anyone acting on their behalf, during a regular session of the General Assembly. During the session period, these individuals were prohibited from receiving a contribution, conducting any fund-raising event in order to receive a contribution, soliciting or selling a ticket to any fund-raising event, or depositing any contribution received before a regular session of the General Assembly. A person who holds one of these offices but has filed as a candidate for an elective federal or local government office was exempted from the "no fund-raising during the session" restriction, so long as the funds are being raised solely for that election.

Further, ***Chapter 562*** established a civil penalty for violating the fund-raising prohibition and required the committee that received a prohibited contribution to refund the contribution to the contributor and pay a fine of $1,000 and the amount of the contribution.

In addition, ***Chapter 562*** codified a voluntary policy restricting fund-raising during the session that had been adopted by the presiding officers for members of the General Assembly which had been in effect since 1988 and expanded the prohibition to apply to all statewide officeholders.

No Lobbyist's Involvement in Fund-Raising

Chapter 562 also further expanded the existing prohibition on a regulated lobbyist's involvement in campaign fund-raising for members of, and candidates for election to, the General Assembly, by applying this same restriction to fund-raising on behalf of the Governor, Lieutenant Governor, Attorney General, Comptroller, or a candidate for election to any of these offices. With regard to these officeholders, a lobbyist was prohibited from:

(1) soliciting or transmitting a political contribution from any person, including a political committee;

(2) serving on a fund-raising committee or a political committee; or

(3) acting as a treasurer or chairman of a political committee.

Reporting of Contributions by Persons Doing Business with State or Local Government

Chapter 638 of 1997 transferred from the Secretary of State to the State Board of Elections the authority to collect and monitor campaign contribution data reported by persons doing business with the State or local government. The threshold amount for a sale, purchase, lease, or contract governed by the law was raised from $10,000 to $100,000 and the threshold reportable contribution amount was raised from $100 to a contribution in excess of $500.

Chapter 638 also changed the frequency of the disclosure to the State Board by requiring twice-yearly reporting rather than once a year.

To provide greater notice about the law's reporting requirements to persons doing business with State or local government, ***Chapter 638*** required that each procurement contract of the State or a local government contain a clause obliging the contractor to comply with the contribution reporting requirements.

Enforcement, Statute of Limitations, and Penalties for Campaign Finance Law Violations

Chapter 565 of 1997 significantly enhanced the provisions of the Election Code regarding the enforcement of the campaign finance laws by:

- establishing a civil enforcement procedure and granting the District Court of the State exclusive jurisdiction to

handle civil infraction cases involving civil violations of the campaign finance law;

- authorizing the State Prosecutor, in addition to the local State's Attorney, to prosecute criminal violations of the campaign finance law;
- establishing a three-year statute of limitations for civil violations of the campaign finance law (while maintaining the two-year statute of limitations for criminal violations of the election law);
- establishing a civil fine of up to $5,000 for a violation of the campaign finance law that is made "without knowledge of the illegality of the act"; and
- increasing the maximum criminal fine from $1,000 to $25,000 for a "willful and knowing" violation of the campaign finance law.

Surplus Campaign Funds Held by Former Officeholders

Finally, in the 1998 Session, to address concerns raised because some former officeholders continue to maintain campaign fund accounts that hold significant amounts of money for many years after leaving office, ***Chapter 286*** set a time limit on the retention of such funds by an individual who:

(1) is not an officeholder or a candidate to public or party office, and each political committee affiliated with that individual; and

(2) after payment of all outstanding debts in connection with an election campaign, has a balance of surplus funds in a campaign account.

Under the enactment, an individual or entity subject to the retention limitation must file a final campaign report to close out the campaign accounts of the individual, and of each political committee affiliated with the individual, by the expiration of the 8th year following the latter of:

(1) the end of the individual's most recent term of office;

(2) the date of the election for which the individual last was a candidate; or

(3) the extinguishment of every debt or the deficit incurred in connection with the campaign that is payable from the account.

Surplus campaign funds must be disposed of in accordance with, and for the charitable, educational, political, and other similar purposes specifically directed under the Election Code. A political committee that continues in existence from year to year that becomes subject to the restrictions of the bill on January 1, 1999, must comply with the requirements for the disposition of surplus campaign funds by December 31, 2006.

FAIR CAMPAIGN FINANCING ACT

The General Assembly first enacted a public financing law for candidates in the State for a federal, State, or county office in 1974 (***Chapter 729***). However, the Fair Campaign Financing Fund created by the Fair Campaign Financing Act never gathered a sufficient amount of money from voluntary contributions through the State income tax check-off system established under the law to allow for implementation of the public financing program as envisioned. By ***Chapter 263 of 1982***, the General Assembly discontinued the voluntary check-off system and transferred the money in the Fund to the State Board of Elections where it sat until a determination could be made about what to do with the funds.

Chapter 104, which made the Act applicable only to the candidates for Governor and Lieutenant Governor and delayed implementation until the 1990 primary and general election. At that time, the Fund totaled approximately $1.5 million. Three years later, the General Assembly decided to delay the application of the Act to the 1994 gubernatorial

election when both major parties would field non- incumbent candidates for Governor **(*Chapter 699 o f 1989*)**. Thereafter, the Act would be terminated and any remaining money left in the Fund transferred to the State Board of Elections for purposes of voter education.

At last, in the 1994 gubernatorial election, several candidates utilized the public financing law to wage their election campaigns. Encouraged by this effort, the General Assembly enacted ***Chapter 392 of 1995*** and repealed the termination of the Fair Campaign Financing Act in order to continue public financing for gubernatorial elections in the State indefinitely. Funding was again provided through a voluntary income tax add- on system that allows individuals filing a State personal income tax return to make contributions up to $500 per filer, effective with the taxable year beginning January 1, 1995.

Under ***Chapter 392***, a candidate for Governor who accepts money from the Fair Campaign Financing Fund is required to adhere to campaign spending limits of 30 cents (up from 20 cents in the prior law) multiplied by the State's population, adjusted annually in accordance with the Consumer Price Index. The amount of seed money required by these candidates in order to be eligible to receive public funds is reduced from 15 to 10% of the maximum campaign expenditure limit that will be allowed by law. Expenditures made on behalf of a gubernatorial candidate by a State or local party central committee also was exempted from the campaign spending limits.

Chapter 392 also provided that candidates who are opposed in the primary would receive $1 in public contributions for every $1 (reduced from $2 in the prior law) in eligible private contributions. Additionally, the legislation directed that any money that was left over in the Fair Campaign Financing Fund from the 1994 gubernatorial election as of October 1, 1995 be retained in the Fund for the purposes of public financing for future gubernatorial campaigns (as would any money left in the Fund after disbursements to candidates in any subsequent gubernatorial election).

The period for receipt of qualifying eligible seed money that qualifies for matching contributions also was extended by 6 months to March 1 of the year immediately preceding the year of the election.

Finally, ***Chapter 392*** clarified that the State Board of Elections must begin distributing one-half of the money in the Fund by February 1 of the election year to eligible candidates in the primary election and on a continuing basis thereafter. In addition, the State Board was required to distribute any money in the Fund promptly after the primary election to eligible candidates in the general election.

It is anticipated that candidates in the 1998 gubernatorial election who elect to participate in public financing will be eligible to receive approximately $1.5 million in public matching funds (up from approximately $1 million per candidate in 1994), provided sufficient money is contributed to the Fund.

PART C
STATE GOVERNMENT

ETHICS

Ethics matters were among the most prominent and vexing issues considered by the General Assembly during the 1995-1998 term. In the first year of the term, the General Assembly enacted a far-reaching package of ethics reform legislation governing the regulation of lobbying activities and conflicts of interest of various officials and employees. Additional ethics law refinements relating to gifts and lobbying activities were enacted in 1997. Finally, the last year of the term sparked ethics fireworks following allegations of ethical misconduct by several legislators and resulted in the painful expulsion of a member of the State Senate and the resignation of a member of the House of Delegates.

GIFTS BY REGULATED LOBBYISTS

Disclosure and Reporting Requirements for Gifts of Meals or Beverages by Regulated Lobbyists

Chapter 617 of 1995 tightened significantly the disclosure and reporting requirements for gifts of meals or beverages that are given by regulated lobbyists to State officials of the Executive or Legislative Branch of government. ***Chapter 617*** required a regulated lobbyist to file with the State Ethics Commission a special report to disclose the name of any State official of the Executive or Legislative Branch (or a member of the immediate family of such official) who has received gifts of meals or beverages during the reporting period, whether or not in connection with lobbying activities. The State officials governed by ***Chapter 617*** are the Governor and Lieutenant Governor, the Attorney General, the Comptroller, the State Treasurer, State's Attorneys, sheriffs, and members of the General Assembly.

As to State officials in the Executive Branch and Legislative Branch (and their immediate family members) other than members of the General Assembly, ***Chapter 617*** required that the value of all meals or beverages be disclosed. With regard to members of the General Assembly, the name of the member (or immediate family member) need be disclosed on the special lobbyist disclosure report only if the cost of the meal or beverage for the individual is $15 or more.

Gifts of meals or beverages are to be reported by name of recipient, date and value of gift, identity of the entity or entities to whom the gift is attributable, and cumulative value of gifts of meals or beverages.

Chapter 617 also repealed the gift reporting loophole in the law that had allowed for the allocation of the cost of a gift among numerous clients and for the exclusion from the lobbyist reporting requirements of all gifts totaling less than $15 in a calendar day for purposes of determining whether the $75 cumulative gift reporting threshold had been reached.

Unsolicited Gifts of Nominal Value

Chapter 618 of 1995 prohibited a State official in the Executive or Legislative Branch from accepting an unsolicited gift of nominal value from a regulated lobbyist if the gift exceeded $15 in cost. The State officials who were made subject to the $15 unsolicited gift limitation are the Governor and Lieutenant Governor; members of the General Assembly; the Attorney General; the Comptroller; the State Treasurer; State's Attorneys; and sheriffs.

Further, ***Chapter 618*** prohibited a regulated lobbyist from knowingly making a gift, directly or indirectly, to an official or employee that the regulated lobbyist knows or has reason to know is in violation of the State ethics law. Previously, the law only prohibited the official or employee from accepting such a gift.

Tickets and Trips

Under ***Chapter 550 of 1995***, gifts by regulated lobbyists to an elected constitutional officer of tickets or free admission to sporting, charitable, cultural, or political events continued to be allowed. However, a regulated lobbyist now must file a special report disclosing the name of any member of the General Assembly who is the recipient of any gift of

tickets or free admission to a sporting, charitable, cultural, or political event for which other persons are charged a fee exceeding $15. Such gifts of tickets must be reported semiannually to the State Ethics Commission regardless of whether the gifts were given in connection with lobbying activities. The report must include the name of the recipient, the date and value of the gift of a ticket or admission, all entities to which the gift is attributable, and the total cumulative value of gifts of tickets or free admissions as to each recipient.

Chapter 550 also emphasized that its gift ticket restrictions are not to be construed to preclude a member of the General Assembly from accepting tickets from a regulated lobbyist as part of a personal interaction that flows from a social relationship between a regulated lobbyist and a member of the General Assembly.

Finally, ***Chapter 550*** further required that if the expenses of a State official of the Legislative or Executive Branch in connection with the official's participation on a panel or speaking engagement at a meeting are to be paid by a regulated lobbyist and the expenses are anticipated to exceed $500, the official shall notify the appropriate advisory body before attending the meeting. Again, the State officials subject to this trip notification requirement are the same as those under ***Chapter 617*** and ***Chapter 618***: the Governor and Lieutenant Governor; members of the General Assembly; the Attorney General; the Comptroller; the State Treasurer; State's Attorneys; and sheriffs.

Lobbyist's Gift to Family Member

Ethics issues raised by relationships occasioned by the marriage or other personal involvement of legislators and regulated lobbyists prompted the General Assembly to enact ***Chapter 101 of 1997*** and exempt from the lobbyist gift reporting requirements any gift by a regulated lobbyist to the lobbyist's immediate family, if the gift is:

(1) purely personal and private in nature and not related to the regulated lobbyist's lobbying activities; and

(2) from the regulated lobbyist's personal funds and not attributable to any other entity.

Under the ethics law, "immediate family" is defined to mean an individual's spouse and dependent children.

RESTRICTIONS ON LOBBYING AND REPRESENTATION BY FORMER MEMBERS AND CURRENT MEMBERS OF THE GENERAL ASSEMBLY

Former Members - Legislative Action - "Cooling-Off" Period

In order to establish a "cooling-off" period between the time when a member of the General Assembly leaves office and then undertakes lobbying activities, ***Chapter 511 of 1995*** prohibited a former member from assisting or representing a private party for compensation with regard to matters that are the subject of legislative action until the conclusion of the next regular session that begins after the member leaves office. However, the limitation does not apply to a former member's representation of a municipal corporation, county, or State governmental entity.

Current Members - Representation Before State Agencies

For many years now, a legislator representing a person for compensation before a State agency has been required to file a disclosure statement with the Joint Committee on Legislative Ethics and with the appropriate presiding officer to reveal the name of the person represented, the services performed, and the consideration received.

Chapter 591 of 1995 placed additional restrictions on a legislator's representation of clients before State agencies by prohibiting a legislator from representing a person for compensation before a State agency in any matter involving procurement or the adoption of regulations.

STATUTE OF LIMITATIONS FOR ETHICS LAW VIOLATIONS

To allow a more reasonable amount of time for civil enforcement officials to discover possible violations of the State ethics law and to complement the change to a three-year statute of limitations for civil violations of the State election laws, ***Chapter 565 of 1997*** established a similar three-year statute of limitations for civil law violations of the State

ethics law. Under ***Chapter 565***, the State Ethics Commission must file a complaint petition seeking the imposition of a civil fine under the ethics law within three years from the time the conduct ended. Prior to 1997, there was a two-year statute of limitations for civil violations of the ethics law.

REFORM OF THE LEGISLATIVE ETHICS LAW

Special Study Commission

In response to the ethics controversies that hovered over the 1998 General Assembly Session, ***Joint Resolution 2/Joint Resolution 3*** established a Special Study Commission to review and make recommendations regarding the ethics law as it relates to the General Assembly and its members. The apparent uncertainty regarding the standards to which legislators should be held in balancing their legislative duties with their private lives highlighted the need for a careful examination of the Maryland Public Ethics Law.

Since the Maryland Public Ethics Law was enacted almost 20 years ago, the legislative environment in Annapolis has changed greatly. Some of these changes have had a demonstrable impact on ethics issues. The Study Commission was directed to make a broad examination of the Public Ethics Law, particularly as it relates to:

(1) the relationship of members of the General Assembly with businesses, lobbyists, and nonlegislative State agencies, boards, and commissions;

(2) the use of offices, staff, equipment, and resources provided to members of the General Assembly by the State;

(3) the use of title and prestige of office for certain purposes;

(4) conflicts of interest, including employment with State agencies and businesses with issues before the General Assembly;

(5) the disclosure of interests;

(6) the authority and powers of the Joint Committee on Legislative Ethics; and

(7) any other matters related to legislative ethics that the Commission considers appropriate.

In addition, the Study Commission was asked to review compliance with the "Guidelines for Compensation and Expenses for Legislators" to better identify, monitor, and enforce the appropriate standards for the use of public funds to pay legislative district office, telephone, and other expenses of members of the General Assembly.

The Study Commission, which began meeting in May, 1998, consists of six legislators and nine public members, with staff provided by the Department of Legislative Services. The Study Commission is required to report its findings and any recommendations for legislation to the President of the Senate and the Speaker of the House on or before February 1, 1999, and any recommendations for legislative changes proposed by the Study Commission will be introduced in the 1999 Legislative Session.

Joint Committee on Legislative Ethics - Advisory Services and Disclosure

The Joint Committee on Legislative Ethics is staffed by attorneys assigned on a part-time basis by the Department of Legislative Services and, in extraordinary circumstances and when approved by the presiding officers, by outside independent counsel. The increased activities of the Joint Committee during the 1998 Session highlighted the Joint Committee's potential need for additional legal resources. ***House Bill 1248 of 1998*** (failed) would have required the presiding officers to appoint a full- time attorney to serve as counsel to the Joint Committee. The duties of the ethics counsel would have included advising members about the requirements of applicable ethics laws or rules and helping members in preparing statements and reports that must be filed with the Joint Committee.

Under current law, members of the General Assembly are required to file annual financial disclosure statements with the State Ethics Commission in Baltimore. ***House Bill 1248*** would have required the State Ethics Commission to forward a copy of the financial disclosure statement of each legislator to the Joint Committee on Legislative Ethics, which would have maintained the financial disclosure statements of members in its public files in Annapolis. ***House Bill 1248*** also would have required the Joint Committee to keep a record of inspection activity relating to members' public files and to notify members when their files were examined or copied.

PART C
STATE GOVERNMENT

PROCUREMENT

INTEGRITY OF THE PROCUREMENT PROCESS

Conflicts of Interest

In 1994, the General Assembly amended the Public Ethics Law to prohibit an individual who assists an executive unit in the drafting of specifications, an invitation for bids, or a request for proposals, or the individual's employer, from competing for the procurement or assisting another in competing for the procurement. The 1994 legislation was based on a recommendation of the Joint Task Force on Maryland's Procurement Law. This legislation, however, had the unintended effect of limiting the ability of agencies to obtain information beneficial to the State's procurement efforts, especially in the areas of high technology where the state-of-the-art is rapidly changing. To assure that they were not inadvertently precluded from competing for the State's business, some vendors were unwilling to provide any information to executive agencies.

To alleviate some of the difficulties associated with the 1994 legislation, ***Chapter 449 of 1996*** modified the general prohibition by providing that specified activities do not constitute assisting in the drafting of specifications, an invitation for bids, or a request for proposals. Specifically, activities not subject to the prohibition include: (1) providing descriptive literature (e.g., catalogue sheets, brochures, technical data sheets, and standard specification samples); (2) submitting written comments on an agency's specifications or solicitation, as long as comments are sought from at least two persons as part of a request for information or a prebid or preproposal process; (3) providing specifications for a sole source procurement; and (4) providing architectural and engineering services for programing, master planning, or other project planning services.

Fraud Under Procurement Contracts

Chapter 416 of 1995 established a criminal offense in connection with fraud under the procurement process. Specifically, the Act states that, in connection with a procurement contract, a person may not willfully falsify, conceal, or suppress a material fact; make a false or fraudulent statement; or use a fraudulent document. In addition, a person may not aid or conspire with another person to commit an act that constitutes a violation of the section. Violation of the Act is a felony, subject to a fine of not more than $20,000, imprisonment for not more than five years, or both.

Enforcement of the State Procurement Law is handled by the Office of the Attorney General, which had advised that legislation was necessary to fill a gap in the law. Criminal acts under the procurement law had been prosecuted as thefts. Since the elements of theft are difficult to prove, the Attorney General advised that the improper activity is better characterized as fraud. As such, a specific statutory offense was necessary to address this matter and ***Chapter 416*** was enacted to accomplish this objective.

MINORITY BUSINESS ENTERPRISE PROGRAM

Background

In 1978, the General Assembly created a Minority Business Enterprise (MBE) Program. In 1989, the Supreme Court of the United States, in City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989) held that state and local minority business programs should be narrowly tailored to remedy the effects of past discrimination. In response to the Croson decision, the Governor and the Board of Public Works authorized the State to commission a Minority Business Utilization Study. Based on the findings of the study, the General Assembly enacted Chapter 708 of 1990, which narrowed the scope of the existing program by removing Alaskan Natives and Pacific Islanders from the list of socially and economically disadvantaged individuals. The 1990 Act also authorized the Board of Public Works to designate a single agency for certification of minority business enterprises. Finally, the 1990 Act authorized the initiation of a study to evaluate the MBE Program's continued compliance with the requirements of the Croson decision and any

subsequent federal or constitutional requirements.

In compliance with the requirements of Chapter 708, the Maryland Department of Transportation entered into a contract with the National Economic Research Associates, Inc. (NERA) to conduct a Minority Business Utilization Study, the findings of which were presented to the General Assembly.

Glendening Administration Initiative

Bolstered by the findings of the NERA Study, the Glendening Administration proposed legislation during the 1995 Session that would have increased the MBE participation goal from 10% to 18% (***House Bill 717, as introduced***). The legislation would have divided the MBE goal for construction contracts, requiring each governmental unit to try to achieve a minimum of 5% of the unit's total value of construction work directly or indirectly from MBEs owned by women and the remaining 13% directly or indirectly from MBEs owned by other minorities. The legislation expanded scope of the MBE Program by applying the program to all governmental units rather than those units previously designated. For construction contracts awarded by the Maryland Department of Transportation (MDOT), the MBE participation goal applied to contracts over $100,000.

House Bill 717, As Enacted

In enacting ***House Bill 717***, (***Chapter 116 of 1995***), the General Assembly rejected the bifurcated 18% MBE participation goal. Instead the MBE participation goal was established at 14%, a 40% increase over the previous level. This goal was applied to all units of State government and to all construction contracts, except MDOT construction contracts under $100,000. ***Chapter 116*** also increased threshold levels over which bonding requirements apply in order to assist small businesses compete for State procurement contracts.

To enhance the availability of contracting and subcontracting opportunities for MBEs, ***Chapter 116*** required contractors to identify work available to MBEs and to actively solicit participation, including attempts to make personal contact with minority firms. If a contractor complies in good faith with these requirements and provides the unit with acceptable documentation, the contractor should not be required to rebid subcontracts in order to achieve a higher level of MBE participation. In other words, once good faith efforts to obtain MBE participation have been made, the contractor should be granted a waiver if the goals were not fully satisfied.

Chapter 116 also directed the Board of Public Works to adopt regulations in several areas, including new record keeping and reporting requirements. Starting in 1995, MBEs were required to report to the contracting agency, acknowledging payments received under State contracts. Agencies were required to verify and maintain payment data, as well as to track payments made to contractors to ensure that proceeds are making their way down to subcontractors. In addition, the Board of Public Works was required to establish a graduation program based on the financial viability of the business. The concept is to wean businesses off the priority once they can compete in the marketplace, thereby allowing new and struggling businesses to benefit even more from the program.

Program Outlook

Under ***Chapter 116***, the MBE Program and regulations adopted under the program are automatically repealed as of July 2, 2000. In other words, to retain the program, the General Assembly will need to revisit the MBE Program during the 1999 Session or 2000 Session. ***Chapter 116*** requires another study to be undertaken along the lines of the NERA Study, to be presented to the General Assembly no later than September 30, 1999.

PREVAILING WAGE LAW

Maryland is one of 30 states with a prevailing wage law. The prevailing wage rate is the hourly rate of wages paid to individuals involved in the construction of certain public works (including those with a contract value over $500,000 or that part of a project utilizing federal funds where the federal law applies). The rate, which varies by occupation and locality, is determined by the Commissioner of Labor and Industry who is advised by the Advisory Council on Prevailing Wage Rates. The Advisory Council consists of representatives of management and labor organizations involved in the building and construction industry as well as members of the general public.

Overtime

Chapter 687 of 1997 changed the overtime requirement under the State prevailing wage law so that overtime is paid to an employee for each hour worked in excess of 10 hours in any single calendar day and each hour worked in excess of 40 hours during one workweek. Previously, a prevailing wage worker is entitled to overtime for each hour worked in excess of 8 hours a day on any single calendar day and on a Sunday or legal holiday. ***Chapter 687*** did not alter the requirement that a prevailing wage employer must pay overtime on Sunday or a legal holiday.

Chapter 687 also: (1) created a penalty for a failure to post prevailing wage rates; (2) doubled the penalty for failure to pay the appropriate prevailing wage rate; (3) increased from one to two years the length of time a contractor can be barred from bidding on State projects for persistent and willful violations of the prevailing wage law; and (4) added uncodified language requesting the Governor include five wage and hour inspectors in the prevailing wage unit in the Fiscal Year 1999 Budget. The Act applies to contracts resulting from requests for proposals issued after January 1, 1999.

The intent of ***Chapter 687*** is to give contractors additional flexibility in scheduling work.

Prevailing Wage Determinations

The Commissioner of Labor and Industry sets applicable prevailing wage rates for each worker classification by locality, in consultation with the Advisory Council on Prevailing Wage Rates. Prior to October 1, 1996, prevailing wage rate determinations were effective for a one-year period. However, because the date of finality was dependent on calls for bids and resulting reviews, a determination might actually remain in effect for a period as long as two years.

Chapter 76 of 1996 required that a determination be made once each year and required the Commissioner to issue a new determination for the applicable locality upon expiration of the determination. The expiration now occurs either one year from the issuance of the determination or from any modification resulting from a review as authorized under the Act. Review, however, is limited to the first time a public body publishes a call for bids or proposals in which the determination is initially used following its issuance.

PURCHASING PROCESS

During the 1995-1998 term, the General Assembly made several modifications in the area of procurement intended to increase efficiency in the manner that the State handles purchasing.

Intergovernmental Cooperative Purchasing Agreements

Increasingly, governments are joining together in procurement efforts in order to reduce administrative costs and to achieve better prices as the result of increased economies of scale. As part of the Federal Acquisition Streamlining Act of 1994, Congress initially authorized the opening of federal supply service schedules to state and local governments.

At the State level, ***Chapter 680 of 1997*** authorized the State's primary procurement units to either sponsor or participate in intergovernmental cooperative purchasing agreements with other governments. Sponsorship or participation in such an agreement, however, is subject to the approval of the agency head and any other approval required by law. The procurement officer is required to make a written determination that the agreement will result in cost benefits to the State, promote administrative efficiencies, or promote intergovernmental cooperation and is not intended to evade the purposes of the State's procurement law. To assure that the State does not deprive small businesses of an opportunity to compete for State contracts, the bill prohibits the State's primary procurement units from participating under a federal government contract if the State's participation is valued at less than $250,000.

In 1998, Congress eliminated the authority of state and local governments to purchase under federal supply service schedules. Therefore, although ***Chapter 680*** allows the State to participate under procurement contracts entered by the federal government as well as contracts of other states and local governments, the primary beneficiaries of ***Chapter 680*** may be Maryland's local governments which could achieve savings by participating in intergovernmental

cooperative purchasing agreements sponsored by State procurement units.

Small Procurement Threshold

State law allows use of an expedited procurement process whereby a unit subject to the procurement law may employ a less formal process in accordance with regulations for "small procurements".

Enacted on recommendation of a Task Force on Procurement that the Governor had appointed during the 1995 Interim, ***Chapter 215 of 1996*** increased the maximum small procurement threshold from $10,000 to $25,000. In recommending the increased threshold for the small procurement process, the Governor's Task Force anticipated that adequate competition and opportunity would not be sacrificed in the name of increased efficiency.

SECURITY PROVISIONS

The State procurement law and the Maryland Little Miller Act, applicable to certain State and local government construction contracts, require that security be posted with the contracting government entity for certain contracts exceeding statutory thresholds. Although security could be in cash or other form satisfactory to the public body awarding the contract, normally security is provided by a bond executed by a surety company and payable to the State or the public body awarding the contract. The ability to obtain a bond is sometimes viewed as an obstacle to small businesses and minority business enterprises (MBEs) interested in competing for public contracts.

During the 1995 Session, as part of the modifications to the State's MBE Program discussed above, the thresholds above which bid security, payment security, and performance security are required for State procurement contracts were increased (***Chapter 116 of 1995***). For construction contracts, the threshold for which bid security is generally required was increased from $50,000 to $100,000. Similarly, the threshold above which payment security and performance security is required under State procurement contracts was increased from $50,000 to $100,000.

In 1997, the Maryland Little Miller Act was amended to allow additional flexibility in the manner that a contractor might satisfy performance security requirements. ***Chapter 687 of 1997*** provided that a public body awarding a contract may accept as performance security a mortgage or deed of trust on real property located within the State. However, the face amount of the mortgage or deed of trust may not exceed 75% of the contractor's equity interest in the property. The mortgage or deed of trust must be filed in the land records of the county where the property is located by an official designated by the public body awarding the contract.

In 1998, the Maryland Little Miller Act was again amended. ***Chapter 636 of 1998*** increased the construction contract threshold amount above which payment and performance security is required from $50,000 to $100,000, consistent with threshold increase for State construction contracts discussed above. The Act also increased the maximum amount of construction contracts not involving State money where Baltimore City has discretion to determine security requirements. Under its program, Baltimore City may require security for contracts under $200,000. However, under contracts for which security is required, the contractor must provide for payment security of at least 50% of the contract value.

SERVICE DELIVERY

As government seeks to balance service delivery and controlling costs, privatization is often considered as an alternative to direct provision of services by governmental employees.

Chapter 409 of 1997 required the Governor to establish a "competitive re- engineering" pilot program in order to improve the quality, effectiveness, and efficiency of services provided by the State to its citizens. Under the pilot program, the Council on Management and Productivity is charged with establishing a procurement process whereby executive branch employees have an opportunity to compete with private contractors for an opportunity to provide services that their unit has determined qualifies as a targeted service. To qualify as a targeted service, the agency must determine that objective performance measures can be established, the service is or could be provided by the private sector, cost savings could be achieved, and competition for the service is in the State's best interest. The Council is required to adopt guidelines and policies to carry out the purposes of the pilot program.

On or before October 1, 1999, the Council is required to issue a report to the Senate Budget and Taxation Committee and the House Appropriations Committee concerning the effect of the program on each participating agency. The Council also is required to notify the two committees of the Executive branch agencies selected to participate in the program for purposes of review and comment.

The pilot program is in place for three years and terminates on September 30, 2000.

STATE CONSTRUCTION CONTRACTS - CLAIMS PROCESS

Extensive attention during the 1995 Interim over the manner in which certain State construction contracts were being handled resulted in legislative review of the construction claims process. Specifically, legislators had concerns over the handling of claims by agency personnel, delays in payment to contractors and subcontractors, and the failure of contractors to submit required information to the applicable procurement agency in a timely manner. This review resulted in enactment of ***Chapter 682 of 1996***, which modified the construction claims process in several respects.

Chapter 682 prescribed a fixed schedule for submission of claim notices and the final claim under construction contracts. Consistent with the prescribed schedule, recovery was prohibited for expenses incurred more than 30 days before the day the claim notice is required to be submitted. Similarly, unless an extension is granted by the agency, recovery was prohibited for expenses incurred more than 60 days before the day the claim is required to be submitted.

Under the Act, an agency is required to pay to a contractor the undisputed amount of a construction claim, consistent with the terms of the contract, if the agency determines that it is responsible for a portion of the claim. However, such payment does not constitute an admission of liability nor does it preclude recovery of the amount paid if it is later determined that the initial determination was incorrect.

Previously, the law granted the agency 180 days to review a claim. ***Chapter 682*** reduced this review period to 90 days, unless a longer period is agreed to by the parties, for claims that are not more than the amount under which an accelerated procedure may be selected before the Board of Contract Appeals, currently $50,000. Should this amount be adjusted by regulation in the future, the 90-day requirement will automatically be adjusted without the need for legislation. For larger claims, the agency will continue to have the full 180 days.

The Board of Contract Appeals had been authorized to award interest to a contractor on money that the Appeals Board determines is due to the contractor. Interest accrues from the day that the Appeals Board determines to be fair and reasonable, as long as it does not predate the time that the procurement officer receives the contract claim. ***Chapter 682*** authorized the Appeals Board to also award a contractor the costs of pursuing a claim, including reasonable attorney fees, if the Appeals Board determines that agency personnel acted in bad faith or without substantial justification in processing the claim.

TECHNOLOGY - NONVISUAL ACCESS

Until 1998, the State had not statutorily required nonvisual access for information technology purchased through the State procurement process. ***Chapter 591 of 1998*** required the Chief of Information Technology in the Department of Budget and Management to develop a clause for inclusion in State procurement contracts regarding nonvisual access. The nonvisual access clause must be included in each invitation for bids or request for proposals issued after December 31, 1998, unless: (1) the information technology is not available with nonvisual access because the essential elements of the technology are visual, and nonvisual equivalence cannot be developed; or (2) the cost of modifying the information technology for compatibility with software and hardware for nonvisual access would increase the cost of the procurement by more than 5%.

PART C
STATE GOVERNMENT

REGULATIONS AND ADMINISTRATIVE PROCEDURE ACT

During the four-year term, there was substantial interest in the General Assembly in gaining greater legislative control over the State's regulatory process. Legislative attention to this issue was particularly evident from 1995-1996 when numerous bills were introduced on this subject. In general, these measures either sought to mandate additional procedures during the promulgation process to assess the fiscal or economic impact of a regulation or to alter certain existing procedures to enhance legislative oversight. Many of these measures involved the role of the Joint Committee on Administrative, Executive, and Legislative Review (AELR Committee), a legislative committee which under current law is charged with reviewing agency regulations.

ASSESSMENT OF REGULATORY IMPACTS

Local Government Mandates

To ensure that executive agencies conduct the same mandate review for regulations that occurs under current law for legislation, ***Chapter 388 of 1995*** required agencies to indicate whether a proposed regulation, including a regulation proposed for emergency adoption, imposes a mandate on a unit of local government. A mandate is defined as a directive that requires a local government unit to perform a task or assume a responsibility that has a discernible fiscal impact on the unit. If the regulation imposes a mandate, the agency's fiscal impact statement must specify whether the regulation is required to comply with a federal mandate and, if applicable and if the required data are available, to estimate the effect of the mandate on local property tax rates. The agency must also include an estimate of the impact of the regulation on the revenues and expenditures of local government units. In the case of a regulation proposed for emergency adoption, however, the latter information need only be provided if practicably obtainable in light of the emergency circumstances.

Small Business Impact

Similarly mirroring requirements applicable to legislation, ***Chapter 692 of 1996*** required agencies and the former Department of Fiscal Services (now the Department of Legislative Services) to prepare an "economic impact analysis" that estimates the cost or economic benefit to small businesses that may be affected by proposed regulations and an "economic impact analysis rating" that indicates the relative extent to which a regulation will economically impact small businesses. A small business is defined as an entity that is independently owned and operated, is not dominant in its field, and employs 50 or fewer full-time employees. The law details factors that must be considered in developing an economic impact analysis and rating, provides for transmittal of an agency's documentation to the Department of Legislative Services and the AELR Committee, and requires publication of the analysis and rating in the *Maryland Register* at the same time as the notice of adoption for the regulation is published in the *Register*. Underlying the enactment were legislative concerns that regulations often impose a disproportionate financial burden on small business and that there was a need for a more systematic and consistent means for evaluating the impact of regulations on the operations and growth of small business.

PROCEDURAL REFORM

Although a number of bills were introduced during the term to alter the current procedures by which agencies promulgate regulations, particularly in 1995-1996, efforts to obtain greater legislative control over the State's regulatory process by this means were unsuccessful. The bills reflected varying legislative approaches. ***House Bill 88/Senate Bill 154 of 1995*** (both failed) would have substantially expanded the period of time in which an agency must delay final adoption of a regulation in response to a request for a delay by the AELR Committee. ***House Bill 563 of 1995*** (failed) would have amended the Maryland Constitution to prohibit an agency from adopting a regulation that the AELR Committee opposed as being beyond the statutory authority of the promulgating agency or as not in reasonable compliance with the legislative intent of the underlying statute. ***House Bill 567 of 1995*** (failed), a

companion measure to the preceding bill, would have implemented the constitutional amendment by eliminating the authority of the Governor under current law to override a vote by the AELR Committee to oppose a regulation. Subject to certain exceptions, several bills would have prohibited an agency from adopting a regulation that was more restrictive or stringent than an applicable federal requirement, as evidenced by ***House Bill 401 of 1995, Senate Bill 432 and House Bill 110 of 1996, and House Bill 10 of 1997*** (all failed). Under Executive Order 01.01.1996, State agencies that propose regulations that are more stringent or restrictive than an applicable federal standard must justify, in accordance with criteria specified in the executive order, the need for the more restrictive State requirement in light of the need to maintain the State's economic competitiveness.

Procedural reforms were also evident in ***House Bill 599 of 1995*** (failed) which would have required a promulgating agency, before publishing a proposed regulation in the *Maryland Register*, to publish in that source an "advance notice of proposed rulemaking" to advise the public of the agency's intent to propose a regulation and to solicit public comment before the agency actually formulated the regulation. For the purpose of ensuring greater compatibility between agency regulations and the legislative intent contained in the underlying statutes, ***House Bill 1064 of 1995*** (failed) would have required an agency, during the development of a regulation and before submitting the regulation to the AELR Committee, to consult with either (1) the committee staff of each standing committee of the General Assembly that reported the bill that became the law under which the agency adopted the regulation or (2) any other individual designated by the chairman of the appropriate standing committee. Finally, ***House Bill 177 of 1995*** (failed) would have established

a joint executive-legislative commission to evaluate the State's regulatory process, especially concerning possible overlapping or redundant regulatory jurisdiction among State agencies, the efficacy of existing regulations in meeting their goals, obsolete rules, the internal process of agencies in proposing regulations and in determining the sufficiency of underlying statutory authorization, and the compatibility of existing regulations with federal requirements.

MEMBERSHIP OF THE AELR COMMITTEE

The AELR Committee is currently composed of 20 members -- 10 Senators and 10 members of the House -- all of whom are appointed by the President of the Senate or the Speaker of the House. ***Chapter 414 of 1996*** increased the existing membership of the Committee from 18 to 20 members by adding one Senator and one Delegate. Underlying this change was the need to ensure greater geographic proportionality throughout the State of the Committee's membership. Although the Committee's authorizing statute requires proportional representation of each political party among the membership of the Committee, the law is silent concerning geographic proportionality within the State.

PART C
STATE GOVERNMENT

PERSONNEL

STATE PERSONNEL MANAGEMENT SYSTEM REFORM ACT

On June 6, 1995, the Governor signed an Executive Order creating the Task Force to Reform the State Personnel Management System. The Task Force was charged with developing a personnel system that streamlines and simplifies the State's personnel policies, decentralizes personnel management functions, and provides for the consistent application of human resources management principles throughout the Executive Branch of State government, with the ultimate goal of improving the quality of State services.

Chapter 347 of 1996, which enacted the State Personnel Management System Reform Act of 1996, incorporated many of the Task Force's recommendations. The major provisions of the Act follow.

Classes of Employees

Chapter 347 eliminated the classified and unclassified services and established four basic classes of permanent employees: the skilled service, the professional service, the management service, and the executive service. Employees in the skilled and professional services are competitively selected and subject to termination for just cause, while employees in the management and executive services are noncompetitively selected and subject to termination for any reason not legally prohibited.

The Act established within each of the classes of permanent employees a category of "special appointment employees" (formerly unclassified service employees) who are exempted from the selection and termination provisions of their service. The Act also provided for two categories of temporary employment, contractual and emergency (which replaced the former temporary pending, temporary extra, and emergency categories).

Recruitment and Selection

Chapter 347 established a shared responsibility for recruitment and selection between Executive Branch agencies and the former Department of Personnel (currently the Department of Budget and Management) with the intent that agencies would assume responsibility for their specialized recruitment needs. The "rule of five" was eliminated and replaced with a process that allows candidates for initial appointment to be selected from within a broad band of qualified applicants. The Act allowed five points for each resident of the State, and one-quarter point for each year of service for a current State employee (up to a maximum of five points), in the selection process for an initial appointment. While the absolute veterans selection preference under the former law was eliminated, the points a nondisabled veteran receives was increased from five to ten, and the ten point preference given to a disabled veteran, the spouse of a disabled veteran, and the surviving spouse of a deceased veteran was retained.

Probationary Period

The Act eliminated the former three- or six-month probationary period based on pay grade and established a standard six-month probationary period upon initial appointment to a position in the skilled, professional, or management service and upon appointment to a position in the skilled or professional service following a competitive promotion or reinstatement. An exception to the probation requirement was provided for an employee who is reinstated, within one year after the employee's separation from employment, to a position in which the employee had previously completed a probationary period. Under ***Chapter 347***, an appointing authority may extend a probationary period up to an additional six months for an employee in grades 7 and above and an additional three months for an employee in grades below 7. The Act required each supervisor to explain the duties and responsibilities of the position to an employee, and to give the employee a written performance evaluation at the end of the first 90 days of probation. The Act also eliminated the requirement under the former law that a nonprobationary employee who transferred between agencies serve an additional probationary period.

Position Descriptions

Chapter 347 required that employees in the skilled, professional, and management services be provided with a written position description that identifies the essential functions, duties, and responsibilities of the job and the standards for satisfactory performance. The employee and the employee's supervisor must jointly review and revise the position description whenever there is a change in the essential functions of the position and as part of the employee's annual performance appraisal. The Act required an appointing authority to approve position descriptions and revised position descriptions for each employee in the unit.

Performance Appraisal Process

The Act required that employees in the skilled, professional, and management services receive an annual written performance appraisal on or about the employee's anniversary, instead of the calendar year appraisal under the former law, and an additional midyear performance appraisal six months before the annual appraisal. Under the Act, the performance appraisal process must be based on an objective review of the major tasks assigned to the employee and must include a preliminary appraisal by the employee's supervisor, a self-assessment by the employee, a joint review and discussion of the supervisor's assessment and the employee's self-assessment, and a final appraisal. A manager's evaluation must include an anonymous survey of employees assigned to the manager. ***Chapter 347*** also required each supervisor to attend mandatory training by the former Department of Personnel (currently the Department of Budget and Management) on the methods and procedures required in the performance appraisal process.

Disciplinary Actions

Chapter 347 required an appointing authority to meet with an employee and consider any mediating circumstances before taking any disciplinary action related to employee misconduct. The Act increased from two to five days the amount of time an appointing authority has to investigate and impose a disciplinary suspension. Under the Act, the Office of Administrative Hearings (OAH) is required to make final decisions in a disciplinary appeal. However, to expedite the appeals process and reduce the number of appeals filed with OAH, the former Secretary of Personnel (currently the Secretary of Budget and Management) is authorized to mediate disciplinary appeals, and an agency is allowed to establish a peer review panel to adjudicate a disciplinary appeal as an alternative to a hearing by OAH. The Act authorized the forfeiture of up to 15 days of annual leave in a disciplinary action, and provided for the automatic termination of employment as a penalty for specified employee misconduct. The Act also eliminated the "suspension pending charges for removal" procedure under the former law; an employee who is dismissed must appeal as a "former" employee.

Grievance Procedures

The Act required the former Secretary of Personnel (currently the Secretary of Budget and Management) to mediate grievances before referral to OAH so that they are resolved more quickly, and allowed agencies to establish a peer review panel which a grievant may elect as the final arbiter of a grievance as an alternative to the normal grievance process. ***Chapter 347*** also established a written reprimand as a disciplinary action that is subject to the grievance procedure, and limited an appeal of a performance appraisal of satisfactory or better to an appeal to the head of the principal unit.

Layoffs and Reinstatements

Chapter 347 established a 60-day statutory layoff notice requirement, and limited the displacement rights of laid off employees to the class and job series the employee currently holds or to a class which the employee held within the previous 36 months, instead of to a job in any class that the employee ever held. The Act extended reinstatement rights to employees who are terminated because their positions are eliminated through the budgetary process, and extended the reinstatement period from two to three years.

Employee/Management Teams

Chapter 347 required the head of each principal unit to establish employee/management teams for the purpose of conducting open and candid discussions on issues of mutual concern. Each employee/management team must have established goals and objectives that reflect the overall mission of the principal unit, and must meet monthly and prepare a quarterly report that describes the team's activities for the head of the principal unit.

Leave Policies

Chapter 347 eliminated the four floating holidays under the former law and designated the day after Thanksgiving as a State holiday. The number of personal leave days was increased under the Act from three to six, and the number of unused annual leave days that may be accumulated was increased from 45 to 50. The Act also eliminated advanced and extended sick leave and provided that all forfeited annual, personal, and sick leave will be placed in the State Employees' Leave Bank unless the employee objects. An attendance incentive reward system was created to reduce sick leave usage by State employees. Finally, the Act eliminated family and seasonal leave and incorporated the federal Family and Medical Leave Act of 1993.

Equal Employment Opportunity (EEO) and Whistleblower Law Protections

Chapter 347 required the former Department of Personnel (currently the Department of Budget and Management) to provide training, assistance, and advice for EEO Officers and Fair Practice Officers. A "fast-track" system for resolving EEO complaints was established, and a Joint Committee on Fair Practices was created to oversee matters relating to equal opportunity in employment and procurement.

The Act extended whistleblower law protection to all employees in the Executive Branch of State government, including employees in an independent personnel system, and allowed an employee to bring a whistleblower complaint through either the grievance process or through a whistleblower complaint investigation conducted by the former Secretary of Personnel (currently the Secretary of Budget and Management). The Act authorized the Office of Administrative Hearings to conduct the final hearing on a whistleblower complaint if the complainant is not satisfied with the Secretary's investigation and proposed resolution. Finally, the time for filing a whistleblower complaint was shortened from one year to six months.

State Substance Abuse Policy

The Act provided that an appointing authority may not consider probation before judgment for a substance abuse offense to be a conviction for purposes of the State Substance Abuse Policy. Under the Act, appropriate disciplinary action may be imposed against an employee if the employee receives probation before judgment in a substance abuse offense and the appointing authority can demonstrate a relationship between that offense and the employee's job responsibilities. ***Chapter 347*** also established that an employee who consumes an alcoholic beverage in the workplace is in violation of the State Substance Abuse Policy, and prohibited the employee from driving a State vehicle or operating State construction equipment during the employee's normal workday.

ELIMINATION OF DEPARTMENT OF PERSONNEL

During the 1996 Session, the General Assembly also enacted ***Chapter 349***, which abolished the Department of Personnel (DOP) as an independent unit within the Executive Branch of State government and designated the Department of Budget and Management (formerly the Department of Budget and Fiscal Planning) as the successor of DOP. The positions of the Secretary of Personnel and the Deputy Secretary of Personnel were also abolished, and the Secretary of Budget and Management was designated as the successor of the Secretary of Personnel. Under the Act, employees of DOP were transferred to the Department of Budget and Management without diminution of their rights, benefits, or employment and retirement status.

CORRECTION OF REFERENCES TO CLASSIFIED AND UNCLASSIFIED SERVICE EMPLOYEES

To comply with the directive of the General Assembly to replace obsolete designations to the classified and unclassified services with the designations created by the State Personnel Management System Reform Act of 1996, ***Chapter 743 of 1997*** was introduced on behalf of the Department of Budget and Management, the agency that has

been charged with the responsibility of administering the State's personnel management system. The Act replaced references to classified and unclassified service positions throughout the Annotated Code with the appropriate new categories of State employee service positions enacted by the 1996 Reform Act: skilled, professional, management, and executive. In several cases, ***Chapter 743*** indicated those employee positions that are designated as special appointments.

CONTRACTUAL EMPLOYEES

As the result of the State Personnel Management System Reform Act of 1996, the Department of Budget and Management was required to study the issue of long-term contractual employment. The Department submitted a report and developed several recommendations addressing long-term contractual employment. One recommendation was that the law should be changed to convert contractual employees to permanent positions after six months, instead of the current 24 months, of satisfactory on-the-job performance. ***Chapter 510 of 1998*** allowed the Department to convert contractual employees to permanent positions after six months of satisfactory job performance if: (1) there is a continuing need for the function to be performed; (2) the agency can document a competitive hiring process; (3) the budgeted position was not available at the time the contractual employee was hired; and (4) the employee meets the minimum qualifications for the budgeted position.

REPRISALS FOR EMPLOYEE ACTIONS

In order to protect State employees against reprisals for pursuing lawful actions related to employment, ***Chapters 160 and 161 of 1995*** provided that during any stage of an employee's complaint, grievance, or other administrative or legal action that concerns State employment, the employee may not be subjected to coercion, discrimination, interference, or restraint by or initiated on behalf of the employer solely as a result of the employee's pursuit of the complaint, grievance, or other action. The Acts also prohibited an employee from intentionally taking or assisting in taking any act of coercion, discrimination, reprisal, or restraint against another employee solely as a result of that employee's pursuit of a grievance, complaint, or other administrative or legal action that concerns State employment, and provided for disciplinary action, including termination of employment, for an employee who violates this prohibition.

COMPETITIVE RE-ENGINEERING

In an effort to improve the quality, effectiveness, and efficiency of services for which Executive Branch agencies contract, ***Chapter 409 of 1997*** required the Governor to establish a "competitive re-engineering" pilot program. The pilot program, in accordance with guidelines and policies adopted by the Council on Management and Productivity, is to establish a process of competitive re-engineering, a procurement process by which the State employees may compete with private contractors by submitting a proposal in response to a request for proposals from an executive branch agency, for a "targeted service". A "targeted service" is defined under the Act as a service for which the agency determines that: (1) objective performance measurements can be established; (2) the service is or could be performed by the private sector; (3) costs or increases in the costs for the service could be reduced; and (4) competition for the service is in the best interest of the State.

The Act required the Council on Management and Productivity to submit a report to the Senate Budget and Taxation Committee and the House Appropriations Committee on or before October 1, 1999 concerning the effect of the pilot program within each agency that participates in the Program. Under the Act, the Pilot Program terminates at the end of September 30, 2000.

RACE TRACK EMPLOYEES

Under current law, the State Racing Commission is authorized to employ "additional employees" considered by the Commission to be essential at or in connection with a horse race meeting. This category of employees includes auditors, experts, guards, inspectors, breathalyzer operators, scientists, secretaries, specimen collectors, and veterinarians. Under the prior law, the licensee who held the race meeting for which an additional employee was used was responsible for paying that employee's personnel costs.

Chapter 751 of 1997 made the State responsible for all of the personnel costs, except pension contributions, of

additional employees of the State Racing Commission. Under the Act, licensees remain responsible only for pension contributions. The Act also guaranteed that all additional employees receive at least the same level of compensation, rights, and benefits in effect on January 1, 1997.

DISTRICT COURT EMPLOYEES

Clerical, administrative, and constabular employees of the District Court were included in the State Personnel Management System at a time when the Judiciary did not have its own personnel system. Currently, other District Court employees are under the personnel system of the Judicial Branch. Accordingly, the District Court has had to deal with two personnel systems.

In order to reduce the Judiciary's administrative burden of having two personnel systems, ***Chapter 741 of 1998*** removed about 840 employees of the District Court from the State Personnel Management System and placed them in the personnel system of the Judicial Branch along with the District Court's other employees. The Act also removed the authority of the Secretary of Budget and Management to set the salaries of District Court commissioners.

PART C
STATE GOVERNMENT

PENSIONS AND RETIREMENT

Four major themes in pension legislation emerged during the 1995 to 1998 term. These themes were: (1) benefit enhancement for pension system members; (2) early retirement incentives for general State and university employees; (3) expansion of the Law Enforcement Officers' Pension System to provide a pension upgrade to certain State and local law enforcement officers; and (4) creation of a true liability "pool" for local governments that participate in the State pension system and subsequent legislation to ease the burden of increased local pension liabilities.

BENEFIT ENHANCEMENT FOR EMPLOYEES' PENSION SYSTEM AND TEACHERS' PENSION SYSTEM

To improve pension benefits for members of the Employees' Pension System (EPS) and the Teachers' Pension System (TPS), ***Chapter 530 of 1998*** increased the benefit formula for both systems, provided an enhanced cost-of-living adjustment, and for the first time provided a State match to State employees' defined contribution plans. Except for the defined contribution component, which is effective July 1, 1999, the Act took effect July 1, 1998.

The Act, as originally introduced, reflected a proposal for benefit enhancement from the Board of Trustees of the Maryland State Retirement and Pension System (MSRPS). The Board of Trustees was responding to a survey by the State Retirement Agency indicating that Maryland's teachers' and employees' systems rank among the lowest in the nation, as measured by total estimated benefits. While a subsequent analysis by the Department of Legislative Services showed that the agency's survey failed to take into account employee contributions, it was generally felt that the current pension benefits were inadequate and that certain features in particular, such as the simple COLA formula and integration with Social Security, needed to be addressed. The prior two-tiered benefit formula provided lower benefits to lower-paid employees than to higher-paid ones. In addition, benefit levels were actually eroding due to wages growing slower than the Social Security Wage Base. (Under the prior formula, average final compensation below the Social Security Integration Level was subject to a 0.8% multiplier, while compensation above the integration level was subject to a 1.5% multiplier.)

Defined Benefit Enhancements - Future Service

All active TPS and EPS members (except employees of participating local governments and members who transfer from the old retirement systems after April 1, 1998) receive 1.4% of average final compensation for each year of service earned after July 1, 1998. This represents an increase in future service benefits for all members earning less than $200,000 per year. For employees earning less than $29,300 per year (the current Social Security Integration Level) who receive a 0.8% multiplier under the previous pension system formula, the new multiplier represents a 75% increase.

All of the TPS and EPS members described above are now required to contribute 2% of earnable compensation to help offset the costs of the enhanced multiplier. Highly- compensated employees are no longer required to contribute 5% of compensation above the Social Security Wage Base.

Defined Benefit Enhancements - Past Service

For the TPS and EPS members described above, service earned prior to July 1, 1998 is now calculated as the greater of:

- 1.2% of average final compensation for each year of service; or
- the previous two-tiered 0.8%/1.5% benefit formula.

The new formula increases past service benefits for all employees who earn less than $68,000. Employees who earn

more than that are held harmless. No "vesting" period is required for employees to take advantage of the enhancements.

3% Compound Cost-of-Living Adjustment

All TPS and EPS members, except employees of current or withdrawn participating local governments, now receive a compound COLA up to a maximum of 3%, versus the previous 3% maximum simple COLA. A compound COLA is an increase based on the previous year's benefit and hence takes into account the compounding effect, while the simple COLA is based on the amount of the original benefit.

Deferred Vested Members

Deferred vested members -- those who vested in one of the pension systems but who have since left State service prior to full retirement -- receive benefits under the old pension system formula if they separated from employment on or before June 30, 1998. Those who leave after that date receive the enhanced past-service benefit for their service credit. All deferred vested members, however, receive the 3% compound COLA.

Defined Contribution Program

All State members of the EPS (except retirement system transferees after April 1, 1998) are eligible for the optional defined contribution program, in which the State matches deferred compensation contributions, up to a maximum of $600. This component of ***Chapter 530*** does not take effect until July 1, 1999. It is estimated that if all EPS members participate and take full advantage of the matching program, the State's cost will be $29 million. The Governor is required to include in the budget an appropriation sufficient to pay the employer contributions for participating employees. ***Chapter 530*** authorizes the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans to negotiate a contract for the administration of a plan qualified under Section 401(a) of the Internal Revenue Code for the employer contributions made under the Act.

Costs and Funding

It is estimated that the defined benefit enhancements will increase the liabilities of the MSRPS by $2.3 billion. These liabilities will be funded over 20 years beginning on July 1, 1999. The State's actuary estimates that the additional liabilities will result in increased annual employer contributions of $121 million per year. Prior to the legislative session, the Board of Trustees of the MSRPS proposed making certain actuarial changes, such as increasing the assumed investment return, that would offset the increased costs of a benefit enhancement. It is assumed that the Board will make such changes and, as a result, there will be no increase in employer contributions for the EPS and TPS. ***Chapter 530*** does not mandate that the Board make actuarial changes, but indicates the General Assembly's intent that the Board modify the actuarial assumptions of the State systems in a manner consistent with sound actuarial principles and independent of any increase in accrued liability under the Act.

The benefit enhancements would not have taken effect, however, if the State's actuary had not certified the actuarial costs of the enhancements to the Board of Trustees, and the Board in turn adopted a resolution by June 30, 1998 certifying that the enhancements can be implemented without adversely affecting the MSRPS's funding or the State's fiscal 2000 aggregate employer contribution rate. The Board has already adopted such a resolution.

Items for Further Study

To address several related pension issues considered worthy of further study, ***Chapter 530*** directs the Joint Committee on Pensions to study seven items in consultation with the boards of trustees of the MSRPS and the Supplemental Retirement Plans. These study items are as follows:

- the feasibility of creating a stand-alone defined contribution plan for State employees and teachers as a portable alterative to the defined benefit plan;

- issues related to local governments that currently participate in the EPS or have withdrawn from participation

but continue to make unfunded liability payments to the MSRPS;

- the appropriateness of member benefits and employer contribution rates for any system within the MSRPS which is over 100% funded;
- actuarial valuation procedures related to the crediting of unused sick leave and military service credit at the time of retirement, service credit for part-time employees, and mortality assumptions;
- a comparison of the benefits under ***Chapter 530*** to the benefits provided to state employees and teachers in all other states;
- the advisability of eliminating the State subsidy for health insurance benefits for retirees who are hired in the future; and
- the unfunded liabilities of the MSRPS.

EARLY RETIREMENT INCENTIVE PROGRAM FOR STATE EMPLOYEES

After several years of attempts and as part of the General Assembly's effort to downsize State government, the Workforce Reduction Act of 1996 ***(Chapter 353 of 1996)*** provided incentives for State employees to take early retirement. To accomplish the objective of downsizing, there were stringent requirements for eliminating positions that were vacated by those who retire. ***Chapter 353*** also provided retirement and health benefits for employees whose positions were eliminated in the budget or by budget amendment.

Eligibility for Retirement

State employees who were members of the Employees' Retirement System or the Employees' Pension System were eligible to retire with the retirement incentive under ***Chapter 353*** if the employee:

(1) was eligible to retire with a normal or early service retirement allowance;

(2) had at least 25 years of creditable service and is at least 50 years old;

(3) had at least 30 years of creditable service; or

(4) had been separated from employment through budgetary action and had at least 20 years of creditable service.

Employees of certain governmental units, including the judicial branch and higher education, were not eligible to retire under ***Chapter 353***.

Retirement Incentive

Those employees who retired under ***Chapter 353*** received a retirement incentive of one month of credit for each year of creditable service, not including the member's credit for unused sick leave. Those who retired before they would normally be eligible to retire were subject to an actuarial reduction of 0.5% per month (or 6% per year) for each month that their retirement date preceded their normal retirement date. Under ***Chapter 353***, however, the reduction was offset by as much as 18%, which results in the reduction being capped at 12% for those in the Employees' Retirement System and at 24% for those in the Employees' Pension System.

Retirement Dates

Except for those whose positions were terminated through budgetary action, employees who were eligible to retire by August 31, 1996, retired on October 1, 1996, unless their retirement date was delayed by their appointing authority. Those employees whose positions were terminated through budgetary action retired on the first day of the month following the month in which the employee files the application. For some Executive Branch units and the Legislative

Branch, the appointing authorities were authorized to delay the retirement date of a portion of those who apply to retire under ***Chapter 353*** until no later than June 30, 1997.

Restrictions on Reemployment

There were severe restrictions on the reemployment of those who retire under ***Chapter 353***. No more than 2% of the total number of employees retiring under the Act were to be reemployed in a contractual or temporary position in State government. The Department of Budget and Fiscal Planning and the former Department of Fiscal Services (now the Department of Legislative Services) were directed to review applications for reemployment of contractual or temporary employees to ensure compliance with this requirement. If a retiree was reemployed with the State or other employer that participates in the State systems, the retiree's retirement allowance was reduced as currently required under State law as well as by the amount of the allowance based on the retirement incentive.

Required Elimination of Positions

In order to achieve the necessary salary savings to make ***Chapter 353*** a fiscally responsible vehicle for downsizing State government, approximately 1,200 positions were eliminated so that at least 60% of the number of positions vacated by those who retire under ***Chapter 353*** (and at least 60% of the salaries for those positions) are eliminated.

Health Insurance for Terminated Employees

Chapter 353 also provided health insurance at full cost for up to one year for those who were separated from employment through budgetary action and who did not retire under the Act.

Reporting Requirements

Both ***Chapter 353*** and the Budget bill required extensive reporting by the State Retirement Agency and the Department of Budget and Fiscal Planning on the employees who retire under the Act and the positions that were eliminated. As stated in ***Chapter 353***, it was the intent of the General Assembly to achieve the salary savings objectives of the Act through elimination of positions and by not increasing the State workforce above the newly established level.

UNIVERSITY SYSTEM OF MARYLAND EARLY RETIREMENT PLAN

Two years later, ***Chapter 675 of 1998*** provided a similar early retirement incentive program for employees of the University System of Maryland (USM) who were members of the Employees' Retirement System or the Employees' Pension System, including employees of USM and the University Medical System who were separated from employment between January 1, 1998 and June 30, 1999.

The eligibility criteria were generally the same as under **Chapter 353 of 1996**. Employees' systems members as of January 1, 1998 who were USM employees on June 1, 1998 were eligible if they had 30 years of creditable service, or 25 years of such service and they were at least 50 years old, or if they were otherwise eligible to retire on or before June 30, 1999.

Participating members received one month of additional service credit for each year of creditable service (excluding service credit earned through unused sick leave). Up to 18% (three years) of the reduction for early retirement was eliminated.

Under ***Chapter 675***, all eligible members, other than some of those who are being separated from employment, have from July 1, 1998 through August 31, 1998 to apply for early retirement. The members who are separated from employment on or after August 1, 1998 have 30 days after separation to apply. An application to take early retirement is irrevocable, with exceptions. All eligible applicants retire on October 1, 1998, or the first day of the month following the month in which they become eligible.

Sixty percent of the vacated employees' systems positions must be abolished. USM's general fund allocation will be

reduced by an amount equal to at least 60% of the total salaries and fringe benefits of the positions eliminated. It is estimated that these abolishments will result in fiscal 1999 savings of approximately $4.1 million, which is reflected in the State budget.

No more than 2% of employees' systems members may be reemployed in a contractual or temporary position in any branch of State government; any reemployment by an employees' systems member requires Board of Public Works approval. Each USM institution may defer the retirement of up to 50% of retiring employees' systems members to no later than June 30, 1999. The retirement allowance for these members is based on the higher of the allowance of the date they were first eligible to retire or the date they actually retired.

Any increased liability will be funded over five years and will be the obligation of USM. USM has the option to pay the liability in less than five years if it chooses. Employees of the University of Maryland Medical System who are currently State employees and meet the criteria described above are eligible for early retirement; the Medical System is liable for the actuarial costs of these early retirements.

The Act also allows employees of USM and the Medical System who are separated from employment (laid off) and who have at least 20 years of service to participate in the early retirement program. Laid-off employees who do not participate in the early retirement are entitled to up to one year of free health insurance. The costs of this health insurance will be deducted from USM's general fund reduction discussed above.

Chapter 675 also clarified that anyone who retires under the early retirement plan is not eligible for any enhanced benefit under ***Chapter 530 of 1998*** and that any member contributions that are made as required under ***Chapter 530*** are to be refunded with regular interest on retirement.

EXPANSION OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM

During the past term, several changes were made to the Law Enforcement Officers'= Pension System (LEOPS), formerly known as the Department of Natural Resources Pension System. These changes altered the funding of the plan and expanded the membership of LEOPS to include other State and local law enforcement officers, who were previously in the Employees'= Pension System (EPS). LEOPS requires 25 years of service to receive full retirement, while the EPS requires 30 years.

Chapter 453 of 1996 transferred funds from the State's employees' systems to the then Natural Resources Pension System (created in 1990), in the amount of the employer contributions plus interest for members of that system who transferred from the employees' systems. This transfer put the plan in a sounder financial condition and reduced the future employer contributions.

Aside from lowering pension benefit costs for the Department of Natural Resources, ***Chapter 453*** also lowered employer contributions for the other employee groups that subsequently were added to the system. ***Chapter 438 of 1996*** added the law enforcement officers of the Maryland Investigative Services Unit of the Comptroller's Office to the system and changed the name of the system to the Law Enforcement Officers' Pension System to reflect the addition of this group of law enforcement officers to the system.

Chapters 148 and 149 of 1997 authorized members of the Maryland Transportation Authority police force to join LEOPS. Membership was optional for those who are employed by the Authority on June 30, 1997. The Acts, however, required that those who elect to join must do so by December 31, 1997. The Acts also imposed this requirement on the Natural Resources police officers and the Maryland Investigative Services Unit law enforcement officers who had the option to be members of the System. Any of these officers who did not make the election by that date were precluded from later joining the system.

Similarly, ***Chapter 162 of 1997*** authorized Baltimore City Deputy Sheriffs to become members of LEOPS. While these deputy sheriffs are local employees, the State has historically paid their pension contributions.

In 1998, ***Chapter 554*** added the State Fire Marshal and Deputy Fire Marshals to LEOPS. ***Chapter 390 of 1998*** added the University of Maryland police officers. ***Chapter 514 of 1998*** added current Maryland Port Administration police

officers to LEOPS as part of the consolidation of that police force into the Maryland Transportation Authority Police Force.

Local law enforcement officers were authorized to join LEOPS under ***Chapter 494 of 1998***. This Act allowed a county or municipal corporation to elect participation in LEOPS. The procedures are similar to the procedures followed by governmental units that participate in the employees' systems. ***Chapter 494*** requires the local governments to pay the costs of participation in LEOPS. The provisions are similar to the funding provisions for local governments that participate in the Local Fire and Police System.

PARTICIPATING GOVERNMENTAL UNITS

A sequence of legislation during the term addressed significant funding issues that relate to the participation of local governmental units in the State employees' systems.

Under ***Chapter 661 of 1996***, the General Assembly altered the computation of employer contributions for the governmental units that participate in the State employees' systems. Prior to 1996, the liabilities of the participating governmental units were pooled but the assets were accounted for separately. ***Chapter 661*** changed the funding mechanism so that both assets and liabilities were pooled. There were transition provisions in the Act that gave credit to those units that were overfunded and provided for deficit payments for those that were underfunded. The employer contribution rate also included a 5% addition for active members of the Employees' Retirement System. The altered computation of employer contributions resulted in some participating governmental units having to pay significant deficit payments in order to continue to participate in the State systems because of large unfunded liabilities. The Act also altered the payments that would be required if a participating government unit elects to withdraw from the State systems.

The following year, ***Chapter 740 of 1997*** adjusted the deficit payments required for those participating governmental units that were required to pay additional amounts. The Act limited the deficit payments to an amount equal to 40% of the aggregate annual earnable compensation of the unit plus half of the difference between that amount and the amount of the deficit payment otherwise required. To preserve the integrity of the funds in light of these lower required deficit payments, the Act also provided for a transfer of $3.85 million from the fund of the employees' systems for State participants to the fund of the employees' systems for participating governmental unit participants.

In 1998, ***Chapter 476***, further reduced the deficit payment of participating governmental units to 40% of its aggregate annual earnable compensation as of June 30, 1995. To compensate for the reduction in local contributions to the local pool for the employees' systems, the State is required to transfer $4.45 million from the State's asset pool within the MSRPS to the local government's pool.

PART C
STATE GOVERNMENT

GENERAL ASSEMBLY

Although numerous bills relating to the General Assembly were introduced in the legislature during the four-year term, the majority of these bills failed. A summary of the major, successful pieces of legislation pertaining to the General Assembly follows.

ECONOMIC IMPACT OF LEGISLATION ON SMALL BUSINESSES

In today's highly competitive and entrepreneurial driven global economy, the importance of small businesses as a generator of jobs in the State of Maryland is a significant component of the Maryland economy. Because legislation often imposes a disproportionate financial burden on small businesses, the General Assembly recognized the need for a more systematic and consistent means for evaluating the impact of legislation on the operations and the growth of small businesses. ***Chapter 121 of 1995*** required that, beginning with the 1996 regular Session of the General Assembly, the appropriate Executive Branch agency prepare an economic impact analysis rating and an economic impact analysis for each bill that is introduced at the request of the administration or a department, agency, or commission of the Executive Branch. The Governor's Office must submit copies of both the rating and the analysis to the former Department of Fiscal Services (currently the Department of Legislative Services) and to the Committee to which the bill is referred prior to the hearing of the bill. The former Department of Fiscal Services (currently the Department of Legislative Services) will comment on the analysis and rating prior to the hearing on the bill.

The 1995 legislation also required that beginning with the 1997 regular Session, the former Department of Fiscal Services (currently the Department of Legislative Services) prepare an economic impact analysis and rating for each bill that is introduced by a member of the General Assembly. The Department must submit copies of both the rating and the analysis to the primary sponsor of the bill and to the committee to which the bill is referred prior to the hearing of the bill. Members of the General Assembly are encouraged to provide economic impact analysis information to the appropriate legislative agency when submitting proposed legislation.

CONSTITUENT SERVICES - IMMUNITY FROM LIABILITY

Chapter 558 of 1997 conferred immunity from civil liability on members of the General Assembly, as well as individuals who are on the staff of a member, for any act or omission within the scope of the public duties of the member when the member or staffer provides a constituent service or makes a communication on behalf of a constituent. Constituent service, as defined in the legislation, includes intervening for an individual, group, organization, or business that has a request of or grievance against any public or private entity, but does not include the operation of a motor vehicle. This legislation did not create a waiver of a member's constitutional, statutory, or common law privileges.

Under Article 10 of the Maryland Declaration of Rights and Article III, Section 18 of the Maryland Constitution -- collectively known as the Speech and Debate Clauses -- members of the General Assembly are protected against civil suit or criminal prosecution for words they speak, votes they cast, or other legislative acts they perform that are an integral part of the legislative process. The immunity conferred by the Speech and Debate Clauses is absolute; that is, it is conferred without regard to the legislator's purpose or motive or the reasonableness of the legislator's conduct. ***Chapter 558*** extended this absolute legislative privilege to cover activities and communications a legislator or an aide to a legislator may make when interviewing in a matter on behalf of a constituent. Protected from defamation suits and other civil action under this bill, for example, would be a letter written by a legislator on behalf of a constituent to a regulatory agency or words spoken by a legislator's aide to a government official in a discussion about a problem raised by a constituent.

To be protected under this policy, an activity must relate to a service that is provided for a constituent. Left unprotected are purely political or election-related activities.

DEPARTMENT OF LEGISLATIVE SERVICES

Reorganization

Chapter 344 of 1997 reorganized the General Assembly's staff agencies. The reorganization came almost five years after a National Conference of State Legislatures (NCSL) study of the Maryland General Assembly's three staff agencies: the Department of Fiscal Services, the Department of Legislative Reference, and the Office of Legislative Data Processing.

Building on one of the options presented in the NCSL study, the legislation placed the former departments into a single Department of Legislative Services (DLS), headed by an executive director to be jointly appointed by the President of the Senate and the Speaker of the House. The internal structure of DLS was organized into four units: the Office of the Executive Director, the Office of Policy Analysis, the Office of Legislative Audits, and the Office of Legislative Information Systems. The legislation permitted the presiding officers to designate other units of the new Department.

The legislation specified that the Department is responsible for all of the professional and support functions of its three predecessors, with budget and fiscal review, legislative drafting and code revision, committee staffing, research, document preparation, and library and information services and functions residing in the Office of Policy Analysis.

The Office of the Executive Director, in addition to having general administrative control of the new department, is also responsible for administrative support to the General Assembly relating to finance, legislative accounting, personnel, distribution, telecommunications, printing, supplies, housekeeping, and maintenance.

Finally, the legislation mandated the creation of an information systems planning team to develop an integrated plan for the information systems needs of all aspects of the Department's activities and to recommend priorities for the implementation of systems to meet identified needs.

Joint Audit Committee

Chapter 344 also renamed the Joint Budget and Audit Committee to be the Joint Audit Committee and revised its process and duties to enable the Committee to focus on the review of audit reports and the audit process, with the goal of enhancing both. Also changed was the audit requirement from two to three years, including the conduct of a fiscal/compliance audit of each State department, agency, unit, and program budget, and including each clerk of the court and each register of wills, but excluding the units in the Legislative Branch.

LEGISLATIVE ETHICS

Legislative ethics was in the forefront of the 1998 Legislative Session as two legislators left the General Assembly amid allegations of ethics violations. Reflecting the increasing concern of legislators over public ethics laws and pursuant to a recommendation of the Joint Committee on Legislative Ethics ("Report of the Joint Committee on Legislative Ethics in Re: State Senator Larry Young" issued on January 12, 1998), ***Joint Resolutions 2 and 3*** established a Special Study Commission on the Maryland Public Ethics Law. The Study Commission consists of 15 members: the majority and minority floor leaders of the Senate and House of Delegates, the co- chairmen of the Joint Committee on Legislative Ethics, and nine members of the general public appointed by the President and the Speaker.

The Study Commission is charged with examining the Maryland Public Ethics Law as it relates to the General Assembly and its members, including the following matters:

- the relationship of members of the General Assembly with businesses, lobbyists, and nonlegislative State agencies, boards, and commissions;
- the use of offices, staff, equipment, and resources provided to members of the General Assembly by the State;
- the use of title and prestige of office for certain purposes;

- conflict of interest, including employment with State agencies and businesses with issues before the General Assembly;
- the disclosure of interests;
- the authority and powers of the Joint Committee on Legislative Ethics; and
- any other matters related to legislative ethics that the Study Commission considers appropriate.

The Study Commission is required to report its findings and any recommendations for legislation that it considers appropriate on or before February 1, 1999.

PART D
LOCAL GOVERNMENT

LOCAL GOVERNMENT - GENERALLY

LAND USE REGULATION

Airports - Development Rights

Chapter 744 of 1998 authorized a county or municipal corporation that includes a commercial or public use airport to establish "airport districts" by local ordinance and purchase easement rights relating to those districts to guard against development of the property in a manner that would be inconsistent with airport use. Local governments may establish airport districts, acquire an easement for development rights in an airport district, and alter or abolish an easement in an airport district. An easement, however, may not restrict a property owner from engaging in activities that are compatible with future development of an airport. ***Chapter 744 of 1998*** was intended to promote the preservation of airports with local jurisdictions working with affected landowners to preserve land for future airport development or for open space.

Development Rights and Responsibilities Agreements

- *Background*

In 1993, the Maryland Court of Appeals ruled that development rights do not vest in a property until construction begins on a structure that is visible to the general public. Prince George's County v. Sunrise Development, 340 Md. 297. This ruling gives a local government the ability to change a permissible land use until very late in the land use approval process. Because development rights have not yet vested, a change could occur even after the issuance of a building permit, which is typically the last stage in the approval process.

In a briefing paper by the Institute for Governmental Service of the University of Maryland, it was found that vested rights are legally defined in three ways: (1) through common law, often under the principle of equitable estoppel; (2) through just compensation and takings requirements under the federal and state constitutions; and (3) through legislation. In focusing on the legislative remedies to the problem of vesting presented by the Sunrise Development case, the Institute found that states have used two approaches to solve the problem: (1) prohibiting local governments from applying new regulations to on-going projects by defining when vesting occurs; and (2) authorizing the use of development agreements.

Development agreements can provide benefits for both developers and local governments. For the developer, a development agreement establishes the rules and regulations which will govern the project throughout its construction. For the local government, a development agreement provides for greater certainty in the comprehensive planning process, as well as an opportunity to ensure the provision of necessary public facilities.

- *Legislative Remedy*

Chapter 562 of 1995 enabled all municipal corporations exercising zoning and planning powers and all counties, other than Prince George's County, to negotiate with developers concerning the conditions for a development and to accommodate the desire of developers for regulatory certainty. The Act authorized the local governments to enact ordinances providing for Development Rights and Responsibilities Agreements. These agreements establish the conditions under which development of real property may proceed for a specified time period. However, the Act made clear that it may not be construed to require a local government to adopt such an ordinance or to authorize a local government to require a party to enter in such an agreement.

Chapter 562 of 1995 required that an agreement include specific elements, such as the permissible uses of the real property, the density or intensity of use, the maximum height and size of structures, a description of the permits required or already approved for the development of the property, and a statement that the proposed development is

consistent with the plan and development regulations of the jurisdiction. To the extent applicable, an agreement may contain provisions for the dedication of a portion of the property for a public use, preservation of sensitive areas, preservation and restoration of historic structures, and construction or financing of public facilities. A public hearing is required prior to the execution of an agreement. Unless otherwise provided by the parties to an agreement, the agreement becomes void five years after the date on which it is executed. In addition, the parties to an agreement may terminate it by mutual consent. Finally, the Act reserved to the applicable jurisdiction the right to modify the agreement if the jurisdiction finds that modification is essential for the public health, safety, or welfare.

Historic Area Zoning

Prior to 1995, the State zoning and planning laws were geared primarily to the preservation and protection of structures of historical and architectural value. ***Chapter 631 of 1995*** expanded the scope of the authority of nonchartered counties and municipal corporations, other than Baltimore City, to include the regulation of sites and districts of historical, archeological, or architectural significance, and to designate the boundaries for the sites or structures, which may include surrounding property.

Chapter 631 of 1995 also changed the authority of local governments with reference to local historic district commissions. The Act authorized the use of "Historic Preservation Commissions" as an alternative designation, altered the membership requirements to include a majority of resident members rather than requiring all resident members, and altered the number of members to be no less than five rather than requiring three to seven members. The Act also allowed members to represent a wider range of relevant backgrounds or training. Additionally, the Act repealed the requirement that all meetings of a local commission be open to the public, and required local commissions to adopt regulations necessary for the proper transaction of its business.

Local governments were also required under **Chapter 631** to adopt rehabilitation and new construction design guidelines for designated sites, structures, and districts that are consistent with those generally recognized by the Maryland Historical Trust. Further, the Act clarified the authority of a local government to acquire perpetual easements and regulate exterior changes to structures.

LOCAL GOVERNMENT INVESTMENT POLICIES

With extensive attention to the inappropriate investment of Charles County funds in highly speculative derivatives in 1994, followed by national attention to losses experienced by the Orange County, California investment pool, the General Assembly focused on the prudent investment of local government funds during the 1995 Session.

Chapter 143 of 1995 required the State Treasurer to adopt local government investment guidelines by emergency regulation. The guidelines are to assure that local government investments are managed in a manner that facilitates sound cash management and protection of the public while assuring required access to public funds. The investment guidelines must: (1) specify the types of investments in which local funds may be invested; (2) include guidance for prudent investments, based on cash flow projections, income, liquidity, investment ratings, and risk; (3) require that local boards of education and boards of library trustees comply with the respective county's investment policy; and (4) prohibit the borrowing of funds for the express purpose of investing.

Chapter 143 also required the governing body of each "local government unit" to adopt by September 1, 1995, a local investment policy that is consistent with the Treasurer's guidelines and that meets the local government's needs. "Local government unit" was defined to include each county, municipal corporation, community college, Baltimore City, the Washington Suburban Sanitary Commission, and, initially, the Washington Suburban Transit Commission. A certified copy of a local investment policy had to be forwarded to the Treasurer for approval. Similarly, any subsequent modification of the local investment policy must be submitted to the Treasurer. The Act prohibited an investment manager from investing public funds in a manner inconsistent with the respective local government's investment policy.

Additional reporting requirements initially were imposed on local government units whose annual budgets exceed $1 million. On or before January 15 and July 15 of each year, through October 1999 each local government unit that is subject to the reporting requirement must submit a form adopted as part of the Treasurer's guidelines to the Treasurer's

office, reporting all investments of the local government unit on the close of the final day of the preceding half of the fiscal year. The Treasurer's office is required to review the forms. Should a local government unit fail to adopt a local investment policy or fail to comply with the reporting requirements, the Treasurer is to contact the local government unit to request compliance. If compliance is not obtained, the Treasurer must notify the General Assembly's Joint Committee on the Management of Public Funds. The Joint Committee, in turn, may request the Attorney General to seek enforcement through the courts.

During the 1997 Session, the provisions concerning local government investment policies were amended. ***Chapter 319 of 1997,*** among other matters, removed the Washington Suburban Transit Commission from the requirements pertaining to investment policy guidelines and based the six month reporting requirements on expenditure reports for total operations rather than the amount of the government entity's annual budget.

Chapter 319 also clarified various provisions governing the deposit and investment of funds by local government units to provide uniformity in standards for State and local government and to ensure that funds are deposited in federally insured financial institutions in the State.

RESIDENCY REQUIREMENTS

Concerned with local governments imposing residency requirements on their employees, the General Assembly passed legislation, over the objections of the local governments, that prohibits such residency requirements, with limited exceptions.

Chapter 619 of 1995 prohibited a county, municipal corporation, Baltimore City, or a regional agency that is created under State law to provide governmental services in more than one political subdivision from requiring an employee to reside within the jurisdiction or within a required distance of the jurisdiction as a condition of employment. This Act also prohibited a local government from discriminating between its residents and other citizens of the State in employment, promotion, demotion, layoff, or discharge decisions. ***Chapter 619*** did not prohibit residency requirements applicable to elected officials, department heads, or administrators, nor does it restrict a local government from granting additional points or preferences to its residents in employment or promotion decisions under provisions of a merit system established by local law.

In a September 25, 1995, Attorney General Opinion, ***Chapter 619 of 1995*** was interpreted as not precluding a local government from imposing an in-state residency requirement on its employees. In response to the Attorney General Opinion and employment practices of certain local governments, the General Assembly expanded the protection available to local government employees during the 1997 Session. ***Chapter 426 of 1997*** precluded local governments from requiring employees covered by the law to reside within the State as a condition of employment and from discriminating between residents of the State and out-of-state residents in employment decisions.

SPECIAL TAXING DISTRICTS - INFRASTRUCTURE IMPROVEMENTS

The home rule counties of the State have had authority under the Express Powers Act to establish special taxing districts. However, only municipal corporations have had broad enabling authority to create special taxing districts and to levy ad valorem taxes and issue bonds and other obligations to support the districts in order to provide infrastructure improvements. ***Chapter 548 of 1995*** expanded the authority of the municipal corporations and granted similar authority to five counties in the State: Garrett, Howard, Prince George's, Washington, and Wicomico. ***Chapter 549 of 1995*** duplicated this authority for Prince George's County in the code of public local laws of the County.

Specifically, as to the municipal corporations, ***Chapter 548 of 1995*** authorized the levying of special taxes, as well as ad valorem taxes, and expanded the type of infrastructure improvements for which the districts may be created to include parking, libraries, and schools. The Act also allowed the municipal corporations to designate the boundaries of the district and to authorize the bonds by resolution, as well as by ordinance, and imposed certain public hearing requirements.

As to the five counties enumerated above, the new authority is essentially the same as the amended authority of the municipal corporations, but with the additional authority to create districts for the establishment or alteration of transit

facilities and solid waste facilities.

During the 1996 Session, legislation for individual counties to finance infrastructure improvements through special taxing districts was again enacted by the legislature. ***Chapter 625 of 1996*** added Anne Arundel County to the list of other counties that have been given broad powers to create special taxing districts, levy ad valorem or special taxes, and issue bonds and other obligations for purposes of providing infrastructure improvements. However, as part of the local law establishing a special taxing district, Anne Arundel County must specify the type of infrastructure and related costs that may be financed, require certain disclosures in connection with real estate transactions, and prohibit the acceleration of assessments or taxes due to a bond default.

Chapter 625 also altered the authority of Montgomery County to issue bonds to finance the cost of public infrastructure for a development district. Specifically, the Act removed a requirement for an investment grade rating for bonds that are sold to not more than 35 purchasers who have knowledge of the risks of bond investments and are not purchasing for more than one account or with a view to distributing the bonds.

In 1997, the legislature added Charles County to those counties authorized to establish special districts under the 1995 enabling legislation (***Ch. 104/97***); however, the authority was limited to those areas of Charles County designated commercial or light industrial zones.

PART D
LOCAL GOVERNMENT

COUNTIES - GENERALLY

CHARTER HOME RULE COUNTIES

County Council Vacancies

In Prince George's County v. Board of Supervisors of Elections of Prince George's County, 337 Md. 496 (1995), the Court of Appeals held that neither the Maryland Constitution nor the Express Powers Act authorized a charter county to hold a special election to fill interim county council vacancies.

In 1996, the General Assembly proposed a constitutional amendment that would authorize the General Assembly to pass legislation in order to allow a charter county to fill a vacancy on its county council by special election (***Ch. 81/96***). During the same session, legislation amending the election code and the Express Powers Act and implementing the proposed constitutional amendment also was enacted (***Ch. 674/96***), subject to the constitutional amendment receiving voter approval. The constitutional amendment was ratified by the voters at the general election held in November 1996.

Local Discrimination Ordinances

Chapter 278 of 1995 modified the Express Powers Act under Article 25A of the Annotated Code, applicable to those counties that have adopted charter home rule under Article XI-A of the Maryland Constitution, to authorize charter counties to impose penalties up to $5,000 for a violation of employment discrimination or public accommodation laws enacted by the county. Generally, the maximum monetary criminal penalty under an ordinance adopted by a charter county is capped at $1,000.

Local Initiative - Petition Requirements

Under Article XI-A, § 5 of the Constitution of Maryland, the citizens of the jurisdictions that have adopted home rule under Article XI-A (Baltimore City and eight charter counties) have the right to place a charter amendment on the ballot with the signatures of not less than 20% of the registered voters in the City or county, or of 10,000 registered voters, whichever is less. According to 1998 voter registration figures from the State Board of Elections, there are only two charter counties, Talbot and Wicomico, for which 20% of registered voters is less than 10,000. The number of registered voters in most of the larger charter home rule counties has grown to be between 7 and 9 times the number of registered voters in those counties when Article XI-A was added to the Constitution in 1915. Thus, while the 10,000 signature ceiling may well have been comparable to the 20% provision in 1915, today 10,000 registered voters represent less than 3% of the total registered voters in three jurisdictions (Baltimore City, Baltimore County, and Montgomery County).

Since 1970, citizens have initiated charter amendments through petition drives on 44 occasions, 21 of which have been in Montgomery County. Concern over the number of voter initiated charter amendments resulted in constitutional amendments being introduced during the 1997 and 1998 Sessions that would have allowed charter counties to increase the necessary signature threshold through their local charters. ***Senate Bill 638/House Bill 1205 of 1997*** (both failed) would have proposed an amendment to the Maryland Constitution to authorize Baltimore City and the charter home rule counties to modify the number of signatures required to propose a charter amendment to any number not exceeding 20% of the registered voters of Baltimore City or of the county, but not less than 10,000 signatures of the registered voters of the applicable jurisdiction. Similarly, ***Senate Bill 216/House Bill 540 of 1998*** (both failed) would have authorized Baltimore City and the charter home rule counties to set, by charter amendment, the number of petition signatures required to propose a charter amendment to any number not exceeding 20% of the registered voters of Baltimore City or of the county, but not less than 5% of the registered voters of the applicable jurisdiction.

CODE HOME RULE COUNTIES

Classification

Article XI-F, § 5 of the Constitution of Maryland allows the General Assembly to classify code home rule counties into no more than four classes, based on criteria that the General Assembly considers appropriate. Since the ratification of Article XI-F of the Constitution in 1966, the General Assembly had provided in Article 25B of the Annotated Code of Maryland for only one class of code home rule counties, thereby requiring that the legislation passed by the General Assembly concerning code home rule counties generally apply to no less than all the counties that have adopted code home rule.

In 1997, the General Assembly divided the State into four geographic regions - Central Maryland, Eastern Shore, Southern Maryland, and Western Maryland (***Ch. 666/97***). The effect of this change is to enable the General Assembly to pass legislation that will affect less than all code home rule counties. However, the Act provided that, unless limited to one or more classes, any public general law enacted by the General Assembly applicable to code home rule counties applies to each code home rule county, regardless of class.

Chapter 666 of 1997 reflects the recognition of the growing need for a more flexible means to address by statute the diverse interests and concerns of the code home rule counties throughout the State. Under ***Chapter 666***, the five counties that currently operate under Article XI-F of the Constitution fall into the following regions: Allegany County is in the Western Maryland class, and Caroline, Kent, Queen Anne's and Worcester Counties are in the Eastern Shore class. Presently, there are no code counties in the Central Maryland or Southern Maryland regions.

PART D
LOCAL GOVERNMENT

MUNICIPAL GOVERNMENTS

EMINENT DOMAIN

Urban Renewal Authority for Slum Clearance

During the 1996 and 1998 Sessions, four municipal corporations sought and received from the General Assembly urban renewal authority for slum clearance under the provisions of Article III, § 61 of the Constitution of Maryland. By way of separate legislation that amended *Public Local Laws of Maryland - Compilation of Municipal Charters* , the official compilation of charters for all the municipal corporations in the State, the General Assembly granted urban renewal authority for slum clearance and redevelopment to the Town of Betterton in ***Chapter 40 of 1996***, the Town of Cheverly in ***Chapter 631 of 1996***, the City of Taneytown in ***Chapter 36 of 1996***, and the Town of Bladensburg in ***Chapter 86 of 1998***.

Each of these laws adds an *appendix* to the charter of each municipal corporation and contains various provisions concerning the powers relating to urban renewal projects, the creation of an urban renewal agency, approval of an urban renewal plan, disposal and condemnation of property in an urban renewal area, and the issuance of general obligation and revenue bonds.

With the passage of these bills, 50 out of 156 municipal corporations now have urban renewal powers under the Maryland Constitution. The 46 prior grants of authority all occurred during the 1960's and 1970's. This type of legislation is one of the few exceptions to the otherwise broad home rule authority of municipal corporations under Article XI-E, adopted in 1954, which forbids the General Assembly from enacting local laws for particular municipal corporations. The Urban Renewal Amendment to the Constitution, Article III, § 61, which was adopted in 1960, expressly provides that the General Assembly's power to enact local laws regarding local urban renewal projects for slum clearance prevails over the restrictions in Article XI-E.

Once a municipal corporation has been granted urban renewal authority for slum clearance under the Constitution, the municipal corporation may exercise eminent domain powers for individual blighted properties under the express powers of municipal corporations, as added by ***Chapter 519 of 1995***and discussed below.

Development or Redevelopment Authority for Individual Blighted Properties

Under Article III, § 61 of the Maryland Constitution, the municipal corporations have authority to exercise the power of eminent domain with reference to slum clearance. Additionally, under Article 23A, § 2(b)(24) of the Code, the municipal corporations have authority to exercise eminent domain for "any public purpose," i.e. for a public use. Neither authority, however, had been found to be useful for municipal corporations when confronting the problem of individual blighted properties. This type of problem is the more typical kind of urban decay situation that most of the municipal corporations in the State face. Unlike larger cities, the municipal corporations are more likely to have isolated properties that need repairs rather than block after block of slum areas. Accordingly, the municipal corporations maintained that they needed another type of eminent domain power, similar to that of Baltimore City under Article XI-B of the Maryland Constitution, that would authorize the exercise of eminent domain for the "benefit of the public," rather than for the more stringent "public purpose" standard.

With this background in mind, the General Assembly enacted ***Chapter 519 of 1995*** which amended the home rule powers of the municipal corporations as expressed in Article 23A of the Code by adding the power to acquire land or property for development or redevelopment, and to sell or otherwise dispose of the land or property to any private, public, or quasi-public entity. (See Art. 23A, §2(b)(37)) ***Chapter 519*** specified that this power may be exercised only by a municipal corporation that has ben granted urban renewal authority under Article III, § 61 of the Maryland

Constitution. As safeguards for the property owners, ***Chapter 519*** prohibited the acquisition of land without just compensation first being paid to the party entitled to the compensation, and required the legislative body of a municipal corporation to adopt an ordinance for each acquisition.

THE MUNICIPAL INCORPORATION PROCESS

During the 1997 and 1998 Sessions, the General Assembly considered legislation that sought to alter the statutory provisions that govern the process by which communities may seek incorporation and exercise home rule powers as municipal corporations under Article XI-E of the Constitution of Maryland. These bills were one of the top priorities of the Maryland Municipal League (MML), in an effort to streamline and encourage the creation of municipal corporations. While the 1997 legislation was ultimately unsuccessful, representatives of MML and the Maryland Association of Counties (MACO) came to an agreement during the 1997 Interim and were able to present a united and successful bill to the General Assembly in the 1998 Session.

In particular, ***Chapter 678 of 1998*** allowed at least 20% of the residents and at least 25% of landowners in an area, or at least 25% of the residents of an area, to initiate a proposal to incorporate by presenting a valid petition to the county governing body, on a standard petition form developed by the Office of the Attorney General. The petition must be submitted within 18 months from the date that an organizing community receives the petition form from the county board of supervisors of elections. Within 60 days of receiving the petition, the county governing body must verify that the signatures and the petition meet the statutory requirements and, if the requirements are met, appoint a county liaison. Within 90 days after certification of the petition, the organizing committee is required to hold a public meeting and present a report to the county on issues related to the proposed incorporation. The organizing community must ensure that the county liaison has an opportunity to participate in its meetings; the county government in turn is obligated to fully cooperate with the community's organizing committee. The county governing body then has a 45-day opportunity to comment on the proposed incorporation.

Within 45 days of receipt of comments from the county, or within 90 days of submitting the report, the organizing committee is to present to the county governing body a proposed charter for submission to referendum. Within 40 to 60 days of receipt of the proposed charter, the county governing body may specify by resolution the day and hours of the referendum on the incorporation or decline to schedule a referendum. If the county governing body rejects the request to submit the proposed charter to referendum, the county shall provide in writing the reasons for the rejection and establish reasonable procedures for reconsideration. Then by resolution the county governing body must grant the referendum request or affirm its rejection.

Initially, the county governing body shall defray the costs of the referendum election and other related expenses; however, if the referendum results in incorporation, the new municipal corporation shall reimburse the county within one year. ***Chapter 678*** provided for a three-year phase-in to the new municipal corporation of its share of the county income tax payments unless the county governing body agrees to an accelerated schedule. Finally, ***Chapter 678*** required a county and a new municipal corporation that is eligible to assume planning and zoning authority to cooperate in developing the first comprehensive land use plan of the municipal corporation.

NEW MUNICIPAL CORPORATION - VILLAGE OF NORTH CHEVY CHASE

On November 28, 1995, the residents of the special taxing district known as the Village of North Chevy Chase in Montgomery County voted favorably on the referendum to incorporate under Article XI-E of the Constitution of Maryland. The Village was originally created as a special taxing district by the General Assembly by Chapter 117 of the Acts of 1924. Following the public proclamation of the favorable results of the referendum by the Montgomery County Council, the Village became the 156th municipal corporation in the State, effective January 11, 1996. No other communities have incorporated under Article XI-E of the Constitution since 1996.

In light of these events, the General Assembly enacted ***Chapter 70 of 1996*** which abolished the provisions of the Public Local Laws of Maryland concerning the special taxing district, effective on the date that the area became a municipal corporation. ***Chapter 70*** provided that any contract, obligation, duty, liability, or penalty outstanding on behalf of the special taxing district at the time of incorporation shall be fully assumed by the municipal corporation.

PROPERTY TAX SETOFFS

During the 1997 and 1998 Sessions, the General Assembly passed legislation dealing with the issue of municipal property owners paying county property taxes for parallel services they do not receive from county governments, service delivery efficiency, and tax equity. ***Chapter 719 of 1997*** established a 16-member Task Force to Study County Property Tax Setoffs and Related Fiscal Issues. The Task Force was required to submit a report to the Senate Budget and Taxation Committee and the House Committee on Ways and Means on or before December 15, 1997. The efforts of that Task Force led to the introduction of successful legislation in the 1998 Session. ***Chapter 680 of 1998*** provided for a standardized scheme for a county and a municipal corporation to evaluate and determine a property tax setoff. For further discussion, see Part B - Taxes, Subpart - Property Tax of this Major Issues Review.

PART D
LOCAL GOVERNMENT

BI-COUNTY AGENCIES

During the 1995-1998 term, the General Assembly considered and passed a variety of legislation concerning the bi-county agencies: the Maryland-National Capital Park and Planning Commission (MNCPPC), the Washington Suburban Sanitary Commission (WSSC), and the Washington Metropolitan Area Transit Authority (WMATA).

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Commission Organization and Procedures

- *Minority Business Enterprise Utilization Program*

Chapter 256 of 1995 extended the authority of the Maryland-National Capital Park and Planning Commission (MNCPPC) to establish and administer a Minority Business Enterprise Utilization Program (MBE program) for the award of contracts for goods, services, and construction. The Act removed the termination provision under which the MBE program was scheduled to end on May 31, 1996, and continued the program indefinitely.

Chapter 256 also required the MNCPPC to issue a final report on or before August 15, 1996 that evaluated the implementation and administration of the MBE program through May 31, 1996 and made appropriate recommendations to the Montgomery County and Prince George's County Senate and House delegations.

After reviewing the 1996 report, in ***Chapter 487 of 1997*** the General Assembly reimposed a termination date of September 30, 2001 on the MNCPPC's MBE program, and required the MNCPPC again to report on the program to the Montgomery County and Prince George's County House and Senate delegations by August 15, 2000.

- *MNCPPC Infractions - Penalties*

Chapter 488 of 1997 increased the maximum fines that may be imposed for MNCPPC infractions from $30 to $50, and the fines for repeat infractions from $60 to $100.

Montgomery County

- *Capital Budget Planning*

The only bill to pass in the 1998 Legislative Session concerning the operations of the MNCPPC dealt with the capital budget process in Montgomery County. ***Chapter 517 of 1998*** required the MNCPPC to submit a capital improvements program for projects in Montgomery County to the county government every 2 years, rather than every year. The change put the planning for these projects on the same schedule as other capital projects in the county. The act also allowed the Montgomery County Council to amend an approved 6-year capital improvements program at any time by an affirmative vote of 6 members.

- *Personnel Appointment and Status*

Chapter 486 of 1996 provided that directors under the Montgomery County Planning Board serve at the pleasure of the Board, taking directors out of the merit system. However, any individual who was serving as a director on July 1, 1995, had the option of remaining in the merit system.

- *Supermajority Voting for Special Exceptions*

The Maryland Court of Appeals held in *Mossburg v. Montgomery County* that express statutory authority is needed to impose a supermajority voting requirement for the grant of special exceptions in zoning matters by the County Board

of Appeals. 329 Md. 494 (1993). ***Chapter 481 of 1996*** authorized the District Council in Montgomery County to provide in its zoning regulations that a supermajority (4 out of 5) of the Board of Appeals is required to act on a special exception. However, the act allowed the Board to adopt a procedural motion on a special exception application by a simple majority. The Act also required the District Council to appoint a task force to review special exceptions in the zoning ordinance of Montgomery County that might be subject to the new supermajority voting requirements under the Act. The District Council was then required to report to the Montgomery County Senate and House delegations by May 31, 1997. The changes in voting requirements authorized by the Act took effect June 1, 1997.

Prince George's County

- *MNCPPC Organization and Functions*

Chapter 484 of 1996 required deputy directors of planning and of parks and recreation under the Prince George's County Planning Board to be appointed by and serve at the pleasure of the Board and to receive compensation as determined in the budget for the Board. This removed the deputy directors from the County merit system. The Act also applied to any position comparable to that of deputy director as determined by the Planning Board. However, any individual who was serving as deputy director on June 30, 1996, had the option of remaining in the merit system.

The Act also established a Prince George's County Task Force for the Study of the Maryland-National Capital Park and Planning Commission. The study examined the relationship between the MNCPPC and Prince George's County in order to identify areas where efficiency and savings might be achieved by consolidation or reassignment of overlapping responsibilities. The task force was required to complete its study on or before December 1, 1996.

In December of 1996, the task force issued a report outlining its recommendations for the MNCPPC and Prince George's County Government. The recommendations suggested increased efficiencies in governmental operations with changes such as consistent budget formats, review by the State Legislative Auditor, consolidation of certain administrative functions, and the reorganization of certain revitalization and redevelopment activities of the MNCPPC with the Redevelopment Authority and Revenue Authority of Prince George's County.

Chapter 264 of 1997 reflected many of the recommendations of the task force. The Act authorized Prince George's County to enact local legislation dealing with some of the activities of both the MNCPPC and the County.

Specifically, ***Chapter 264*** allowed the MNCPPC to receive contributions or donations for revitalization or redevelopment purposes in the County. The Act authorized Prince George's County to transfer title, control, maintenance, or operation of property in the County portion of the Metropolitan District to the Redevelopment Authority of Prince George's County or the Revenue Authority of Prince George's County and to govern the management and marketing of historic properties of the MNCPPC. The Act also provided enabling authority for the County to legislate on revitalization and redevelopment activities of the MNCPPC, including the organization and management of these activities and consolidation of these activities with those of the Redevelopment Authority. The Act allowed the County to legislate on the management and marketing of enterprise operations of the MNCPPC and the Revenue Authority. The Act granted additional authority to the MNCPPC, expanding purposes for which the MNCPPC could acquire land, including purposes such as libraries, recreation centers, and health- and elder-care facilities. The Act also authorized the MNCPPC to transfer land acquired through the advanced land acquisition fund to the Redevelopment Authority.

Through ***Chapter 264 of 1997***, the General Assembly consolidated use of existing resources and programs of the MNCPPC and Prince George's County in order to provide greater community services at a lower cost. ***Chapter 264*** required the County's education master plan to be updated annually. The Act authorized planning for interagency utilization of schools and MNCPPC and Prince George's County facilities for various community educational and recreational purposes.

- *Metropolitan District Boundaries*

Chapter 485 of 1996 modified areas of Prince George's County included in the Metropolitan District. District Heights, Greenbelt, and Laurel (along with additional areas surrounding Laurel) were expressly excluded from the Metropolitan

District, and persons within those areas were excluded from Metropolitan District taxes imposed under the MNCPPA statute in the Annotated Code of Maryland. The Act also prohibited Prince George's County from collecting any delinquent Metropolitan District taxes from those areas of the County that had never been assessed prior to the effective date of the Act.

Chapter 485 also established a Commission to Study the Metropolitan District. The commission examined the possible expansion of the boundaries of the Metropolitan District in Prince George's County and the various fiscal issues relating to expansion. The study commission was to complete its study on or before December 1, 1996.

Chapter 493 of 1997 reflected the recommendations of the study commission. The Act largely maintained the then-current boundaries of the Metropolitan District in Prince George's County, but modified the boundaries to include the area just outside the City of Laurel that was erroneously excluded from the Metropolitan District by then- existing metes and bounds language in the Annotated Code. Under the act, the Metropolitan District boundaries were clarified to include all of Prince George's County except for:

(1) District Heights and Greenbelt as their municipal boundaries existed as of July 1, 1995;

(2) the City of Laurel as its municipal boundaries existed as of July 1, 1997; and

(3) Election Districts 4 and 8, as their boundaries existed as of July 1, 1966.

The Act also provided tax forgiveness for those residents of Election District 10 outside of Laurel who technically owed Metropolitan District taxes under the then-current language of the MNCPPC statute but on whom Prince George's County never levied the taxes.

- *Supermajority Voting for Special Exceptions*

The decision of the Court of Appeals in the *Mossburg* case had implications for Prince George's County zoning as well (*see*, discussion of ***Ch. 481/1996*** under the **Montgomery County** subheading, *above*). In response to that case, ***Chapter 490 of 1996*** required a vote of two thirds of the District Council in Prince George's County to approve zoning map amendments contrary to an approved master plan, or to approve zoning map amendments or special exceptions contrary to the recommendation of an affected municipality. In addition, the Act required approval of an optional parking plan contrary to a recommendation of an affected municipality only with a two-thirds vote of the District Council and a four-fifths vote of the Planning Board.

WASHINGTON SUBURBAN SANITARY COMMISSION

Civil and Criminal Infractions

Chapter 56 of 1995 streamlined and clarified the procedures available to the WSSC in District Court infraction proceedings by allowing the WSSC to file a demand for judgment on affidavit. If a defendant did not respond to a court summons, the court was authorized to enter judgment against the defendant. This procedure was similar to that which was available to municipal corporations and other agencies that issue civil citations under Article 23A of the Annotated Code.

It was expected that the utilization of the civil infractions procedure would decrease the amount of time and resources spent by the WSSC in pursuing defendants who fail to appear in court for WSSC civil infraction citations.

Chapter 490 of 1997 lowered the maximum penalty for a violation of emergency water use restrictions from a $1,000 fine or 30 days in jail, or both, to a maximum fine of $500, with no imprisonment. This change allowed police to issue citations to water use violators requiring court appearances, without having to arrest an offender for such a violation.

Minority Business Enterprise Utilization Program

- *Extension and Oversight*

Chapter 257 of 1995 continued until July 1, 1997 the Minority Business Enterprise Program (MBE program) for the award of contracts by the WSSC in accordance with competitive bidding procedures. Further, the WSSC was required to issue an interim report by September 15, 1996 on the progress of the MBE program to the Montgomery County and Prince George's County Senate and House delegations. Thereafter, ***Chapter 491 of 1997*** extended the termination date for the WSSC MBE program to July 1, 1999, and required the WSSC to issue a report to the delegations by September 1998 on the implementation and administration of the program through June 1998.

- *Minority Business Enterprise - Compliance Officer*

Chapter 488 of 1996 required the WSSC to appoint a compliance officer for minority business contracts with the WSSC. The compliance officer was responsible for carrying out the minority business enterprise programs. ***Chapter 488*** terminated after one year on July 1, 1997, consistent with the termination provision then applicable to the WSSC Minority Business Enterprise Program.

Procurement and Construction

- *Bond Authorization*

Chapter 489 of 1997 limited the aggregate amount of total outstanding debt that the WSSC might carry from 14% to 7% of the total amount of assessable base of the WSSC Sanitary District. Beginning with bonds issued after July, 1997, the outstanding aggregate principal for bonds might not exceed 7% of the total assessable base of all property (variable), or 7% of the assessable base as of July 1, 1997 (fixed) assessed within the Washington Suburban Sanitary District (Sanitary District), whichever was greater. Because the then-current WSSC debt level was well below the reduced statutory cap, ***Chapter 489*** was not expected to impact negatively on WSSC's ability to finance required infrastructure improvements.

Chapter 494 of 1997 authorized the WSSC to issue bonds of the Sanitary District to finance the acquisition of capital equipment having a useful life of 4 to 7 years including maintenance field and yard equipment, trucks, fleet vehicles, computer equipment, telecommunications equipment, office equipment, and laboratory equipment.

The WSSC expected to finance the equipment within a 4-year period, and the bonds for the equipment were required to mature no later than 4 years after the bond issuance. The aggregate amount of outstanding bonds for equipment financed under the act, adjusted annually with the consumer price index could not exceed $15 million.

- *Design/Build Contracts*

Chapter 482 of 1996 authorized the WSSC to use one contractor for both the design and construction services of a single project involving water supply or sanitary sewer facilities. The Act required these contracts to be subject to the competitive sealed bid or sealed proposal process. Authorization for design/build contracts applied only to facilities construction contracts that exceeded $2 million and did not apply to pipeline contracts. The effect of the act was to give WSSC additional flexibility in managing development of new facilities.

The Act also granted WSSC additional flexibility in how it might award procurement contracts.

- *Front Foot Benefit Charges*

Chapter 487 of 1996 required the WSSC to make annual payments to both Montgomery and Prince George's counties for the services of each county in the collection of benefit charges as part of the county's property tax bills. It repealed language requiring the county executive of each county to determine the payment amount if WSSC and the treasurers were unable to agree on the amount of the payment. Instead, the act required the WSSC to establish the annual payment as an item in the operating budget of the WSSC, and to pay each county by December 1 of each year.

- *Water and Sewer Subdivision Lines*

Chapter 516 of 1998 required water and sewer pipelines or facilities necessary to provide service to new development

in the Sanitary District (other than "major projects" as defined in the law) to be constructed by and at the expense of the owner or developer. The owner or developer was required to enter into an agreement with the WSSC mandating that lines be constructed under plans approved by the WSSC. The WSSC was required to inspect subdivision lines before the lines were placed in service. The Act required the owner or developer to provide performance security and payment security to protect utility contractors, subcontractors, and suppliers. The Act did not apply to authorizations for water or sewer service applied for on or before June 30, 1999 and for which the WSSC enters into a contract for construction of subdivision lines with notice to proceed on or before June 30, 2001. Also exempted was service for the relief of health hazards.

Traditionally, the WSSC had been responsible for constructing new water and sewer subdivision lines in the Sanitary District. The WSSC issued approximately $40 million in bonds each year to cover construction costs for subdivision lines to serve new residential, commercial, and industrial development, for which the WSSC imposed an annual front foot benefit charge. At the request of developers, the WSSC had recently successfully allowed private construction and financing of water and sewer subdivision lines. By shifting the construction and financing of most subdivision lines to property owners and developers, ***Chapter 516*** eliminated the need for new bond issues and front- foot benefit charges for the lines.

1998 Omnibus Reform Legislation

Introduced as legislation to study the operations of the WSSC and options for privatizing some or all of its functions within the next two years, ***Chapter 713 of 1998***, as passed, also included several changes affecting the operations of the WSSC. As interpreted by the Office of the Attorney General, only the component of the Act that relates to the creation of the task force to study the WSSC operations will terminate on December 31, 1999.

- *Task Force on Privatization*

Chapter 713 of 1998 established a task force to study and report on the advantages and disadvantages of privatizing each of the operations and functions of the WSSC. The task force was required to study the agency and its facilities, options for increasing the role of the private sector in agency operations, options for turning portions of the agency over to the private sector or to each county, rate making, and the benefits and costs of the options to the customers, local governments, agency employees, regulated entities, taxpayers, and bondholders. The act required the task force to conduct public meetings in the Washington Suburban Sanitary District. The act also required the task force to retain the services of an independent consultant with expertise in financial operations and management and valuation of public utilities. The task force was required to produce a final report on or before July 1, 1999.

- *System Development Charge*

An amendment was added to ***Chapter 713 of 1998*** to alter the method of assessing the system development charge imposed by the WSSC on new residential construction. The system development charge was established in 1994 in order for the WSSC to raise additional revenue to cover the cost of new infrastructure required in response to rapid growth in the Washington Suburban Sanitary District. The system development charge was imposed on individuals seeking permits for new construction, not on existing WSSC customers.

The then-current system development charge did not fully cover growth-related capital costs. Over the preceding four years, the gap between the amount of the system development charge collected and the infrastructure needs resulting from new growth had totaled around $21.3 million. Under the then-current system, for new development to cover the costs of its infrastructure completely, the charge per fixture would have had to rise to $254.

Instead of delaying the construction of needed facilities, the WSSC had been financing additional infrastructure through the issuance of debt supported by all rate payers in the Sanitary District. As passed, ***Chapter 713*** reduced the amount of growth- related infrastructure borne by the entire WSSC rate base.

In general, ***Chapter 713*** increased the maximum system development charge from $160 to $200 per "fixture unit". In addition, for the majority of residential properties, those in apartment units and residences with five or fewer toilets, ***Chapter 713*** changed the basis for calculating the system development charge to a charge on the number of toilets at

the property, rather than on the number of "fixture units". This simplified the calculation of the charge. The charges for other residential properties, as well as all commercial and industrial properties, were still to be calculated on the fixture-unit basis. Specified classes of retirement development, elderly housing, and biotech research, development, and manufacturing might be exempted from the increase in the systems development charge by joint action of the Montgomery and Prince George's county councils.

The Act also altered the system development charge payment schedule for residential properties by requiring 50% of the payment at the time the application was filed and 50% within 12 months after filing a plumbing permit application or before transfer of title to the property, whichever occurred first. Under prior law, for the majority of development, the system development charge had to be paid in its entirety at the time of filing the permit.

- *Employee Salary Adjustments*

In the area of agency administration, ***Chapter 713*** prohibited the WSSC from granting its employees salary increases that exceeded the amount provided to State employees. However, this limitation did not apply to employees who were subject to a collective bargaining agreement or who received a base salary or annualized wage of less than $25,000 per year.

- *Optional Hookups to WSSC Facilities*

In the past, existing property owners who may have had safe well or septic systems had been required to connect to WSSC facilities constructed along their properties. Under ***Chapter 713,*** hookup to WSSC facilities was made optional for those properties, unless the WSSC found a health emergency requiring abandonment of the existing well or septic system.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Authority Operations

- *Lease Agreements for Residential Condominium Development*

Chapter 483 of 1996 provided that if the Washington Metropolitan Area Transit Authority (WMATA) owned a reversionary fee simple estate in a leasehold estate used for residential purposes, the estate might be subjected to a condominium regime. However, WMATA could not establish a leasehold estate for a condominium regime that was used for residential purposes unless the lease allowed automatic renewal when the initial term of a lease expired. Authority granted to WMATA under the act was similar to that which the State and charter counties already possessed.

- *Rate and Service Changes*

Chapter 686 of 1996 amended the WMATA Compact to limit the public hearing requirements for rate, fare, and service changes to increases in fares or rates and the implementation of major service reductions. The Act also reduced the notice for public hearings from 30 to 15 days, and required posting of notices of public hearings in accordance with regulations adopted by WMATA. Substantive changes to the WMATA Compact did not take effect until similar legislation was passed by Virginia and the District of Columbia.

In uncodified language, ***Chapter 686*** also established outside of the Compact standards for what qualified as a "major service reduction" in Maryland, and required that, in Maryland, public hearing regulations adopted by WMATA include requirements for advanced posting of notices at stations and on vehicles. ***Chapter 91 of 1997*** repealed that uncodified language, because the Maryland Attorney General had indicated that the law was unclear as to whether this requirement for WMATA operations in Maryland, not part of the Compact, bound WMATA.

- *Transit Zone Boundaries*

Chapter 489 of 1996 expanded the Washington Metropolitan Area Transit Zone to include Loudoun County, Virginia. In addition, the Act altered the appointment process to the WMATA board by the District of Columbia.

WMATA Police Authority

The General Assembly expanded the WMATA police authority on weapon possession and warrantless arrests. ***Chapter 699 of 1997*** authorized members of the WMATA police to carry and use weapons outside of transit facility property. WMATA police officers had previously been limited to carrying and using weapons only in route to or on transit facility property. The act also required criminal violations of WMATA regulations to be prosecuted in the same manner as Maryland, District of Columbia, or Virginia criminal violations were prosecuted.

Chapter 92 of 1997 authorized WMATA police to make arrests without warrants, subject to jurisdictional limitations contained in the WMATA compact. This arrest authority was consistent with other police units within the State, including the Maryland- National Capital Park and Planning Commission.

PART E
CRIMES, CORRECTION, AND PUBLIC SAFETY

CRIMINAL LAW

HOMICIDE AND THE DEATH PENALTY

Death Penalty Overview

By an Executive Order signed on December 14, 1992, former Governor Schaefer established a Commission on the Death Penalty for the purpose of studying the death penalty process in the State. Critics complained that the system was needlessly lengthy and expensive, and encouraged frivolous claims. Based on the recommendations of the Commission, Governor Schaefer introduced three bills in the 1994 Session. Only one of these bills, a bill to provide for death by lethal injection of drugs instead of the gas chamber, was enacted in 1994.

Court Review of Death Sentences

For the 1995 Session, Governor Glendening introduced legislation that, with several minor exceptions, was identical to bills that failed during the 1994 Session. ***Chapter 110 of 1995*** was designed to streamline the death penalty process. Among other features, the Act eliminated the right of a defendant to file a second postconviction petition. However, the Act also allowed a court to reopen a proceeding if a reopening is "in the interests of justice". This provision applied to all criminal cases, and was not limited to death penalty cases. The Act shortened the period for filing for post conviction relief from 240 days to 210 days, required a hearing to be set within 30 days after filing, and required a court to issue a decision within 90 days after the hearing.

In addition, the Act allowed a defendant to waive the automatic stay of a warrant of execution that is in place during the 210-day period after direct review by the United States Supreme Court. This provision addressed the situation raised in the 1994 case of John Thanos, who wanted the State to execute him as soon as possible. In that case, the Court of Appeals held, as a matter of statutory interpretation, that the automatic stay of a warrant of execution could not be waived. ***Chapter 110 of 1995*** overturned that decision and allowed a person to waive the right to file a postconviction proceeding.

Death Penalty -- Murder of Law Enforcement Officer

Chapter 538 of 1998 expanded the scope of one of the aggravating circumstances that must be considered by a court or jury in deciding whether to impose the death penalty. In doing so, the Act placed all principals in the second degree (i.e., persons involved in and present at the murder, but another actually commits the murder) in the first degree murder of a law enforcement officer performing official duties in jeopardy of receiving the death penalty. Previously, only the actual "trigger man" (i.e., a principal in the first degree) was eligible for the death penalty.

The Act specified that a principal in the second degree would be subject to the death penalty if that person: (1) willfully, deliberately, and with premeditation intended the death of the officer; (2) was a major participant in the murder; and (3) was actually present at the time and place of the murder. Both in 1990 and 1995, Maryland State Police officers were killed after making a traffic stop. In both of these incidents, persons who allegedly were present and participated in the murders, but did not do the actual shooting, were not eligible for the death penalty. ***Chapter 538*** allows a judge or jury to decide whether to impose the death penalty on these persons.

Death Penalty -- Racial Disparities

Chapter 110 of 1995, as previously discussed, was enacted with the intent to expedite the implementation of the death penalty statute in Maryland. During consideration of the Act, concerns were raised about whether the death penalty was being sought and imposed in a racially discriminatory manner. In part, this concern was motivated by the 1993 Report of the Governor's Commission on the Death Penalty. In its report, the Commission stated that it was unable to make a conclusive statement as to whether racial discrimination was a factor in the implementation of the death

penalty statute and recommended that further research be conducted on this issue. Maryland currently has 15 prisoners on "death row", 12 of whom are African American.

The Governor issued an Executive Order in 1996 establishing the Task Force on the Fair Imposition of Capital Punishment in Maryland for the purpose of undertaking further inquiry regarding racial disparities in the administration of the death penalty. The Task Force was asked to review and reexamine the contents of the 1993 Report of the Governor's Commission on the Death Penalty and develop appropriate recommendations for administrative or legislative action. The final report of that Task Force was submitted in December 1996. The report made five findings and seven recommendations, including the recommendation for further study of the fair imposition of the death penalty. ***Senate Bill 824/House Bill 1189 of 1997*** (both failed) would have created a Maryland Commission on the Fair Imposition of the Death Penalty. ***Senate Bill 165/House Bill 482 of 1998*** (both failed) would have created a Maryland Fair Imposition of the Death Penalty Database.

Manslaughter - Spousal Adultery

Prompted by two cases in Baltimore County, State v. Peacock and State v. Nalls, ***Chapter 317 of 1997*** established that the discovery of one's spouse engaged in sexual intercourse does not constitute legally adequate provocation for the purpose of mitigating murder to voluntary manslaughter. Under then current law, a person who discovered his or her spouse in the act of committing adultery may have been reasonably provoked, and the killing of the spouse or lover or both in this situation would have constituted voluntary manslaughter instead of murder. This form of mitigation is commonly referred to as the "Rule of Provocation". Voluntary manslaughter carries a maximum penalty of imprisonment for not more than 10 years, and murder carries a maximum penalty of death.

Child Abuse - Death of a Child

Chapter 372 of 1998 increased, from 20 to 30 years, the maximum term of imprisonment that may be imposed on a person convicted of felony child abuse if the crime results in the death of the victim. Current law also provides that a person can be sentenced for the underlying offense as well. Therefore, a person convicted of felony child abuse could receive an additional sentence for murder or manslaughter.

Prosecution - "Year and a Day" Rule

Chapter 360 of 1996 abolished the common law "year and a day" rule which bars a prosecution for murder or manslaughter from being instituted if the victim dies more than a year and a day after the time of the act or omission causing the death of the victim. The Act allowed such a prosecution to be instituted regardless of the time elapsed between the injury and the death.

CHILD SEXUAL OFFENSES AND KIDNAPPING

Chapter 380 of 1998 established that a person who kidnaps a child under the age of 16 years and commits first degree rape or sexual offense in the first degree to that child is subject to a penalty of not more than imprisonment for life without the possibility of parole. The Act did not apply to the parent of a child. If a prosecutor intends to seek imprisonment for life without the possibility of parole, the prosecutor must notify the defendant at least 30 days prior to trial.

FIREARMS AND EXPLOSIVE DEVICES

Firearms

The Maryland Gun Violence Act of 1996, ***Chapters 561 and 562 of 1996***, created the crime of disarming a public safety officer, prohibited straw transactions of firearms, and added the discharge of a firearm from a motor vehicle to the reckless endangerment statute in order to deal with drive-by shootings. In addition to these new crimes, the Acts limited the purchase of regulated firearms to one a month, regulated secondary sales (i.e., sales between persons who are not firearms dealers), allowed the seizure of firearms at the scenes of domestic violence, and allowed a judge to order a person in a domestic violence case to surrender any firearms during the time period a protective order is in

effect (which is up to 12 months). A provision that would have required the training and licensing of firearms purchasers was stricken from the bills. For further discussion of these Acts, see the subpart "Public Safety" under this Part E.

Explosives and Destructive Devices

Recent bombings and bomb threats in the State and in other parts of the country prompted the Committee to Revise Article 27 of the Annotated Code of the General Assembly to conduct a review of the explosives laws. ***Chapter 343 of 1997*** was designed to ensure that any destructive device containing explosive, incendiary, or toxic material will be prohibited and to strengthen penalties and provide restitution to property owners and the government.

In general, ***Chapter 343 of 1997*** consolidated existing prohibitions on explosives and other destructive devices into one subheading of the State's criminal law code (Article 27). The Act prohibited a person from manufacturing and possessing a "destructive device" and prohibited the possession of the ingredients for making a destructive device with intent to create a destructive device. Violators of the Act are guilty of a felony and subject to a fine of not more than $250,000, imprisonment for not more than 25 years, or both.

MOTOR VEHICLES AND VESSELS

Motor Vehicle Theft/Unlawful Use

In 1994, there were approximately 35,000 car thefts in Maryland, an increase of 17% from 1993. Although current law prohibits the theft of a motor vehicle, this crime consists of willfully and knowingly obtaining unauthorized control over the vehicle with the intent to permanently deprive the owner of the vehicle. According to prosecutors, it was very difficult in many cases involving motor vehicle theft to prove that the defendant intended to "permanently deprive the owner of the vehicle". This is especially true in cases involving "joy riders", who often leave the vehicle where it is likely to be found and returned to the owner. The existing misdemeanor offense of unlawful use of a motor vehicle was the only alternative in these cases. ***Chapter 268 of 1995*** created a new felony crime for the unauthorized taking of a motor vehicle. This legislation prohibited a person from knowingly and willfully taking a motor vehicle out of the lawful custody, control, or use of the owner without the owner's consent. A person who is convicted of this crime is subject to imprisonment for up to 5 years, a fine of up to $5,000 or both.

Chapter 393 of 1997 required the Motor Vehicle Administration (MVA) to assess 12 points against an individual who is convicted of the unlawful taking of a motor vehicle, the unauthorized use of a motor vehicle, or taking or driving a vehicle without the consent of the owner. An assessment of 12 points triggers the issuance of a notice of revocation by the MVA.

Chapter 249 of 1998 prohibited the possession or sale of stolen manufacturer's serial numbers or vehicle identification plates or labels. The Act also prohibited the possession of such items with the intent that they be affixed to stolen property or used for fraudulent intent. The Act altered the existing misdemeanor penalty provisions applicable to these and related infractions involving a manufacturer's serial number by increasing the maximum fine from $300 to $500, and increasing the maximum term of imprisonment from 1 year to 18 months.

Chapter 143 of 1998 added the title to a motor vehicle to the list of documents for which, with fraudulent intent, it is a felony to: (1) falsely make, forge, or counterfeit; (2) cause or procure to be falsely made, forged, or counterfeited; (3) willfully aid or assist in falsely making, forging, altering, or counterfeiting; or (4) utter or publish as true a false, forged, altered, or counterfeited version of the document. A person convicted of any of these felonies is subject to a term of imprisonment for not more than 10 years, a fine of not more than $1,000, or both.

In addition, ***Chapter 143 of 1998*** made it a misdemeanor to knowingly possess, with unlawful intent, any forged, counterfeited, or altered title to a motor vehicle. A person convicted under the Act is subject to imprisonment for not more than 3 years, a fine of not more than $1,000, or both.

Motor Vehicle Crimes

- *Drunk and Drugged Driving*

The General Assembly took a significant step towards strengthening the State's laws governing drunk and drugged driving. ***Chapter 498 of 1995*** made it a misdemeanor for a person to drive or attempt to drive while "intoxicated *per se*". The term "intoxicated *per se*" is defined to mean a blood alcohol concentration of .10 or more as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath as determined at the time of testing. A person was subject to the same penalties for this offense as are currently imposed on a person who is convicted of driving while intoxicated.

An alcohol concentration of .10 or more was formerly *prima facie* evidence that a defendant was guilty of the charge of driving while intoxicated. However, the law also specified that "evidence of the analysis does not limit the introduction of other evidence bearing upon whether the defendant was intoxicated". Thus, although an alcohol concentration of .10 raised a presumption that a person was guilty of the offense of driving while intoxicated, a court could have found otherwise if it decided that other evidence indicated that the defendant was not intoxicated. By establishing the offense of "intoxication *per se*", the General Assembly has required courts to focus only on the issue of whether or not a person has an alcohol concentration of .10 at the time of testing.

Chapter 150 of 1995 increased the penalties for drunk and drugged driving related offenses if the person at the time of the offense was transporting a minor. The Act increased both the maximum possible fines and the maximum term of imprisonment. In addition, the Act increased the penalties for second and third or subsequent offenses.

Chapter 451 of 1997 required the MVA to revoke the driving privilege of a child when a juvenile court adjudicates the child as delinquent or makes a finding that the child has committed a delinquent act without an adjudication of delinquency for driving while intoxicated per se or while under the influence of a controlled dangerous substance.

In addition, under ***Chapter 451***, if the child is adjudicated delinquent or found to have committed a delinquent act without an adjudication of delinquency for driving while under the influence of alcohol, drugs, or a combination of alcohol and drugs, the MVA is required to suspend the driving privilege of the child for 6 months. For a second offense, the MVA is required to suspend the driving privilege for 1 year.

- *Manslaughter by Motor Vehicle or Vessel While Intoxicated or Under the Influence - Felonies*

Chapter 372 of 1997 made the following offenses, that were formerly misdemeanors, felonies:

(1) manslaughter by automobile, motor vehicle, locomotive, engine, car, streetcar, train, vessel, or other vehicle;

(2) homicide by motor vehicle or vessel while intoxicated;

(3) homicide by motor vehicle or vessel while under the influence of alcohol;

(4) homicide by motor vehicle or vessel while under the influence of drugs; and

(5) homicide by motor vehicle or vessel while under the influence of a controlled dangerous substance.

Chapter 372 of 1997 also provided the District Court with concurrent jurisdiction, shared with the circuit courts, to try criminal cases charging the commission of one of the above listed felonies. With the passage of the Act, every state but Oklahoma classified homicide by motor vehicle while intoxicated as a felony.

For a further discussion of drunk and drugged driving laws and other motor vehicle laws, see the Subpart "Motor Vehicles" under Part G - Transportation and Motor Vehicles.

TELECOMMUNICATIONS AND ELECTRONIC CRIMES

Telecommunications Act

Chapter 733 of 1998 expanded the scope of the law concerning telecommunications crimes and provided for penalties. The Act's provisions did not apply to a law enforcement officer or other authorized person who possesses an access device in the course of an official police investigation.

- *Obtaining a Telecommunications Service to Avoid a Service Charge*

The Act prohibited a person from knowingly obtaining or attempting to obtain a telecommunications service with the intent to avoid a lawful fee for that service by use of a telecommunications access device without the authority of the owner. Violators are guilty of a misdemeanor and subject to a fine of not more than $2,500, imprisonment for not more than 3 years, or both.

- *Possessing and Distributing a Counterfeit Communication Device*

Also prohibited by the Act is the possession or use of a counterfeit telecommunications device. A person who violated this Act is guilty of a misdemeanor and subject to a fine of not more than $2,500, imprisonment for not more than 3 years, or both. A person who knowingly possesses with the intent to distribute, manufacture, or sell a counterfeit communication device is guilty of a felony and subject to a fine of not more than $10,000, imprisonment for not more than 5 years, or both.

- *Electronic Serial Numbers and Mobile Identification Numbers*

The act set out two prohibitions in this area:

(1) A person may not knowingly possess a combination of electronic serial numbers and mobile identification numbers that will facilitate telecommunications service without the consent of the lawful owner. Violators are guilty of a misdemeanor and subject to a fine of not more than $2,500, imprisonment for not more than 3 years, or both; and

(2) A person may not knowingly possess electronic serial numbers and mobile identification numbers in sufficient quantities that would indicate an intent to distribute, manufacture, or sell an electronic serial number and mobile identification number combination. Violators are guilty of a felony and subject to a fine of not more than $10,000, imprisonment for not more than 5 years, or both.

Electronic Mail Misuse

Chapter 668 of 1998 prohibited a person from using electronic mail for a communication intended to harass people or to harass by sending lewd, lascivious, or obscene materials. "Electronic mail" was defined to mean "the transmission of information or a communication by the use of a computer or other electronic means, sent to a person identified by a unique address and received by that person". The Act provided an exception for certain persons authorized by federal or State law to intercept or provide electronic mail communications or to conduct electronic mail surveillance. Peaceable activity intended to express political views or provide information to others was also not a violation of this provision. A person who violates this provision is guilty of a misdemeanor and on conviction is subject to a fine of not more than $500, imprisonment for not more than 1 year, or both.

Computer Access

Chapter 525 of 1998 expanded the provision of law pertaining to computer access to prohibit a person from intentionally, willfully, and without authorization exceeding the person's authorized access to computer systems or services. A violation of this offense is a misdemeanor punishable by a fine not to exceed $3,000, imprisonment not to exceed one year, or both. The Act also prohibited a person from intentionally, willfully, and without authorization possessing any valid access codes. The penalty for this misdemeanor offense is a fine up to $5,000, imprisonment for up to five years, or both. A three-year statute of limitations is applied to all unauthorized access offenses of this subsection.

Child Pornography

Chapter 443 of 1996 expanded the State's child pornography laws. The Act prohibited a person from using a computer to: (1) encourage or solicit a minor to engage in unlawful sexual conduct or sadomasochistic abuse; or (2) depict or describe a minor engaging in an obscene act, sexual conduct, or sadomasochistic abuse. Additionally, the Act expanded prohibitions against soliciting a minor to be the subject of an obscene act or sexual conduct to include soliciting a minor to be the subject of sadomasochistic abuse. A person who violates these provisions is guilty of a felony and on conviction is subject to a fine of up to $25,000, imprisonment for up to 10 years, or both. A second or subsequent violation subjects a person to a fine of up to $50,000, imprisonment for up to 20 years, or both.

Code Grabbing Devices

Chapter 635 of 1996 prohibited a person from manufacturing, selling, or using a code grabbing device with the intent to use the device in the commission of a crime. A "code grabbing device" receives and records the coded signal sent by the transmitter of an electronic security system and then plays the signal back to disarm the system. It can be used to decode a home burglary alarm system, an electronic motor vehicle security system, and some devices (anklets or bracelets) used to track the whereabouts of home detention inmates. A person who violates this provision is guilty of a misdemeanor and on conviction is subject to a fine of up to $1,000, imprisonment for up to one year, or both.

REVISION OF SELECTED CRIMINAL LAWS

The Committee to Revise Article 27 of the Annotated Code of the General Assembly was charged with revising both substantively and stylistically the State's criminal laws. In the prior term, the Committee successfully sponsored legislation revising the arson and burglary laws. In the 1995-1998 term, in addition to the explosives law (see prior discussion under the Heading "Firearms and Explosives" of this Subpart) and the recodification of the victims' rights laws (see discussion under the Subpart "Criminal Procedure" under this Part E), the Article 27 Committee successfully sponsored three other pieces of legislation.

Assault and Battery

Chapter 632 of 1996 revised the State's laws on crimes related to physical injury and attempted physical injury.

- *First and Second Degree Assault*

Chapter 632 of 1996 added a new subheading to Article 27 of the Annotated Code entitled "Assault". In this subheading, "assault" was defined to mean the offenses of assault, battery, and assault and battery, which terms retain their judicially determined meanings. Under the Act there were two degrees of assault created:

(1) Assault in the first degree was an assault involving serious physical injury or attempted serious physical injury or an assault involving a firearm. This offense was a felony with a maximum term of imprisonment of 25 years.

(2) Assault in the second degree was an assault, regardless of the manner in which it was committed. This offense was a misdemeanor with a fine of not more than $2,500, imprisonment for not more than 10 years, or both.

- *Reckless Endangerment*

Chapter 632 of 1996 also moved the current reckless endangerment statute into the Assault subheading, with stylistic changes. The one substantive change to this section clarified that if the defendant's act endangered more than one person the State may bring a separate charge for each person endangered. The section dealing with charging documents also allowed the State to bring just one charge of reckless endangerment based on the defendant's act, regardless of the number of persons endangered.

This served to clarify the unit of prosecution issue in reckless endangerment cases. The Court of Special Appeals case of Albrecht v. State, 105 Md. 45 (1995) provided that a charge may be brought against a defendant for each person endangered by the defendant's act or, in the alternative, one charge may be brought for the defendant's act, regardless of the number of persons endangered. The Act codified this holding.

- *Other Provisions*

Chapter 632 of 1996 contained a section on defenses, providing that a person charged with an offense under the provisions added by the Act is entitled to assert any judicially recognized defense. The Act made felonies of the crimes of attempt to commit murder, rape, sexual offense in the first or second degree, robbery, and robbery with a dangerous or deadly weapon. The Act also repealed the crimes of assault with intent to murder, ravish, or rob and the crimes related to mayhem and maiming.

Disturbance of the Public Peace and Disorderly Conduct

Chapter 383 of 1998 revised the laws on disturbing the peace and disorderly conduct. The Act repealed four existing sections of law and added one new section. The Act added definitions of "public conveyance" and "public place" and established the following five prohibitions:

(1) A person may not willfully and without lawful purpose obstruct or hinder the free passage of another in a public place or on a public conveyance;

(2) A person may not willfully act in a disorderly manner to the disturbance of the public peace;

(3) A person may not willfully fail to obey a reasonable and lawful order of a law enforcement officer made to prevent a disturbance to the public peace;

(4) A person who has entered the land or premises of another, whether the other is the owner or lessee, or a beach adjacent to residential riparian property may not willfully disturb the peace of persons on the land, premises, or beach by unreasonably loud noise or acting in a disorderly manner; and

(5) A person from any location may not by unreasonably loud noise willfully disturb the peace of another on the other's land or premises, in a place of business, in a public place, or on a public conveyance.

In addition, a sixth prohibition that is applicable only in Worcester County prohibited the building of a bonfire on any beach or other property between the hours of 1 a.m. and 5 a.m. A violation of ***Chapter 383 of 1998*** was a misdemeanor and on conviction a person is subject to a fine of not more than $500, imprisonment for not more than 60 days, or both.

Trespass - Revision

Chapter 498 of 1998 revised and consolidated the current trespass laws. The Act made few substantive changes, but many of the various diverse sections in the current trespass subheading were incorporated into two sections, one dealing primarily with various offenses concerning private property and the other dealing with offenses involving public property.

Chapter 498 of 1998 added a new definitional section and further revised existing prohibitions on:

(1) Wanton trespass after a person has been duly notified by the owner or the owner's agent not to enter;

(2) Using an off-road vehicle on private property without the written permission of the owner or tenant;

(3) Using an off-road vehicle on property owned by the State or a political subdivision with knowledge that the property is owned or leased by the State or a political subdivision, unless permitted by law;

(4) Entering on cultivated land without the permission of the owner or tenant;

(5) Entering or remaining in the stable area of a racetrack after having been duly notified by an official that the person is not allowed in that area; and

(6) Entering on the land or premises of another for the purpose of invading the privacy of the occupants of any building or enclosure by looking into any window, door, or other aperture of the building or enclosure.

For the offense of wanton trespass, a requirement that the landowner or tenant institute proceedings was repealed. Provisions dealing with suspension of hunting and fishing licenses were moved to the Natural Resources Article of the Annotated Code.

A violation is a misdemeanor subjecting a person to a fine of not more than $500, imprisonment for not more than 90 days, or both.

Chapter 498 of 1998 made stylistic changes to prior law concerning refusing or failing to leave public buildings or grounds. In addition, prior prohibitions against entry on the property of the Government House (the Governor's Mansion) were added to this section. The former provision that allowed persons having lawful business at the Government House to have entry on that property was eliminated. The Committee note in the Act indicated that the new requirement that the entry be wanton eliminated the need for this exception. The penalty for violating this section is a fine of not more than $1,000, imprisonment for not more than 6 months, or both.

Existing provisions of trespass law concerning interference with access to or egress from a medical facility and visual surveillance in a private place were not changed by the 1998 Act.

MISCELLANEOUS CRIMES

Harassment

Chapter 301 of 1995 increased the maximum term of imprisonment for the crime of harassment from 30 days to 90 days. A person commits the misdemeanor crime of harassment if the person follows another person in or about a public place or maliciously engages in a course of conduct that alarms or seriously annoys another person: (1) with intent to harass, alarm, or annoy the other person; (2) after reasonable warning or request to desist by or on behalf of the other person; and (3) without a legal purpose. In addition to the new maximum 90-day term of imprisonment, this crime is currently punishable by a fine of up to $500. The increase to 90 days will not also allow a defendant to request a jury trial in the first instance. A request for a jury trial could result in a delay of trial and punishment.

Cruel Killing of Animals

Chapter 338 of 1995 increased the penalties for cruelly killing an animal or causing, procuring, or authorizing the cruel killing of an animal. The Act increased the maximum term of imprisonment from 90 days to three years and the maximum fine from $1,000 to $5,000. This prohibition does not apply to "customary and normal veterinary and agricultural husbandry practices" or to activities in which physical pain may unavoidably be caused to animals, such as food processing and animal training. In such instances, cruelty means "a failure to employ the most humane method reasonably available".

Trademark Counterfeiting

Trademark counterfeiting involves intentionally mislabeling a product or service to make it appear that it is the product or service of another in order to deceive consumers. It is estimated that product counterfeiting costs the United States economy over 750,000 jobs and approximately $200 billion annually. Additionally, counterfeit products may pose serious health and safety risks since they are likely poorly produced imitations of the real products.

The General Assembly took a significant step towards protecting Maryland businesses and consumers with ***Chapter 582 of 1996***, which established the criminal offense of trademark counterfeiting. The Act prohibited a person from manufacturing, displaying, or selling an item or service that is identified with a counterfeit mark. A person convicted of trademark counterfeiting involving items with an aggregate retail value of $1,000 or greater is guilty of a felony and is subject to a fine of up to $10,000, or imprisonment for up to 15 years, or both. If the aggregate retail value of the items is less than $1,000, the person is guilty of a misdemeanor and is subject to a fine of up to $1,000, imprisonment for up to 18 months, or both.

PART E
CRIMES, CORRECTION, AND PUBLIC SAFETY

CRIMINAL PROCEDURE

REGISTRATION OF SEX OFFENDERS

Over the past few years, many states have enacted laws requiring the registration of sex offenders. These laws have become known as "Megan's Law", in memory of a child in New Jersey who was sexually assaulted and murdered by a convicted sex offender who had moved into a neighborhood without any notice provided to the neighborhood.

Child Sex Offenders

Chapter 142 of 1995 required any "child sexual offender" convicted (which includes a probation before judgment if the court orders registration as a condition of probation and a finding of not criminally responsible) of any of the following crimes to register with the local law enforcement agency: (1) child sexual abuse; (2) first or second degree rape, or first, second, or third degree sexual offense of a child under the age of 15 years. For a fourth degree sexual offense of a child under the age of 15 years, a person must register only if ordered to do so by the court. Attempts and assaults with intent to commit these offenses were included, and similar offenses from other states were also included. Victims and witnesses who submit a written request to a local law enforcement agency must be notified of the release of an offender.

Offenders of Children, Sexually Violent Offenders, and Sexually Violent Predators

The federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1994 required all states to register people who commit certain crimes against children, sex offenders, and sexually violent predators. Failure to comply with the federal law by September 1997 would have resulted in a loss of federal money, although the law allowed a two-year extension for states making good faith efforts to comply. In 1997, ***Chapter 754 of 1997*** expanded the existing law with the intent of complying with the federal law.

- *General Requirements*

Chapter 754 of 1997 added three categories of offenders, in addition to the current child sexual offenders, who are required to register with a supervising authority on release from incarceration or at the court if not incarcerated: (1) offenders who commit certain offenses against children (e.g., kidnapping, pandering, prostitution offenses); (2) sexually violent offenders; and (3) sexually violent predators. The Act defined the term "registrant" to cover all four types of persons who were required to register, and most provisions of the Act applied to all four categories. In addition to the initial registration, registrants were required to provide notice of a change of address. With the exception of sexually violent predators, the Act required annual registration for a period of 10 years.

Even after some corrective and clarifying legislation during the 1998 Session, Maryland was still found to be short of full federal compliance. This was due to some technical shortcomings under current federal rules that may change substantially prior to the 1999 Session. However, Maryland was granted a two-year waiver under the federal law.

- *"Sexually Violent Predators"*

A "sexually violent predator" is defined by ***Chapter 754 of 1997*** as a person who has committed at least two sexually violent offenses and, at the request of the State's Attorney, has been determined by the court before or at sentencing to be at risk of committing another sexually violent offense. These persons are required to verify their addresses every 90 days. In addition, they must register for life, unless after having registered for at least 10 years, they petition the court and the court finds that they are no longer at risk of re-offending. A "sexually violent offense" is: (1) first or second degree rape; (2) first, second, or third degree sexual offense; (3) attempted first degree rape or sexual offense; or (4) assault with intent to commit rape or sexual offense in the first or second degree. During the 1998 Session, bills to provide for the civil commitment of sexual predators failed.

- *Disclosure of Registration Information*

Chapter 754 of 1997 also provided for the disclosure of the registration information to the public and others as follows: (1) local law enforcement must notify the county superintendent of schools about the registration of a child sexual offender; (2) a county superintendent who receives notice must in turn notify the principals of those schools whose students may need protection from a child sexual offender; (3) the Maryland Department of Public Safety and Correctional Services and local law enforcement agencies must notify any person or group if they determine it is necessary to protect the public; (4) local law enforcement agencies must give copies of all registration statements *for child sexual offenders and sexually violent predators* to any person who requests the copies in writing, and they may disclose copies of registration statements concerning offenders and sexually violent offenders; (5) the Department of Public Safety and Correctional Services will disclose statements in the manner established by regulation; and (6) a victim or witness who requests notification and any other person designated by the State's Attorney shall receive a copy of a registration statement concerning a specific offender.

Under ***Chapter 754 of 1997***, a person who knowingly fails to register is guilty of a misdemeanor and is subject to imprisonment for not more than three years, a fine of not more than $5,000, or both.

VICTIMS' RIGHTS

Background

After the passage in 1994 of the Constitutional amendment for victims' rights (Article 47 of the Maryland Declaration of Rights), issues relating to victims' rights continued to be a priority in the General Assembly. In addition to the bills requiring the registration of child sexual offenders, there were other bills of significance considered during the 1995-1998 term. During the 1995 Interim, the President of the Senate and the Speaker of the House of Delegates appointed the Task Force to Examine Maryland's Crime Victims' Rights Laws.

Since its creation, the objective of the Task Force has been to implement the 1994 amendment to the Maryland Declaration of Rights relating to the rights of victims of crime to be notified of their constitutional rights and to participate in criminal justice proceedings.

Recodification of Victims' Rights Laws

Chapter 585 of 1996, sponsored by the General Assembly's Committee to Revise Article 27 of the Annotated Code, reorganized and restated in a nonsubstantive manner existing laws concerning victims and witnesses of crime that were previously found in various sections of the Annotated Code of Maryland. As a result, the victims' rights laws are found in a logical arrangement under one location in the criminal law statutes of the Annotated Code.

Notification Procedures

Chapter 641 of 1996 revised, both technically and substantively, the current statutory laws governing the procedures for notifying crime victims of their rights during the criminal justice process. The Act provided for the creation of two informational pamphlets concerning the rights, services, and procedures available to victims under existing law. The State Board of Victim Services was required to develop the pamphlets and, in consultation with the Administrative Office of the Courts, a Notification Request Form through which a victim may request to be notified of various proceedings in a criminal case involving the victim. The Act also provided for the distribution of the pamphlets and the Notification Request Form to victims at specified stages of the criminal case by law enforcement officers, District Court commissioners, juvenile intake officers, and State's Attorneys.

Chapter 641 of 1996 further provided for the filing of a completed Notification Request Form and required the State's Attorney to notify a victim who has filed the Form of all proceedings affecting the victim's interests, and required the clerk to include a copy of the Notification Request Form with a commitment order and, if an appeal is filed in the case, to send a copy of the form to the Attorney General and court to which the case has been appealed.

The Act also increased the membership of the Board of Victim Services from 17 members to 22 members by adding three members of the public and two professional victim service providers.

Finally, the Act repealed the termination provision for the 1995 legislation that provided additional funding through an additional $3 court cost imposed on non-jailable motor vehicle offenses for the Maryland Victims of Crime Fund.

Victims' Rights Act of 1997

During the 1996 Interim, the Task Force on Crime Victims' Rights Laws developed more comprehensive legislation which was eventually passed as the Victims' Rights Act of 1997. ***Chapter 312 of 1997*** made many substantive changes and stylistic revisions to provisions of law that relate to victims' rights in both criminal and juvenile proceedings. Among the most significant changes, the Act expanded victims' rights laws to include juvenile proceedings and required additional notifications to be made relating to parole and mandatory supervision. The Act allowed victims to request that offenders be prohibited from having contact with the victim as a condition of release or supervision. ***Chapter 312 of 1997*** also specified the factors that must be considered in parole release agreements. In addition, the Act provided that evidence relating to a victim's prior sexual conduct is not admissible in any prosecution for attempted rape or attempted first or second degree sexual offense. Current law already made this evidence inadmissible in other rape and sexual offense cases.

Chapter 312 of 1997 entitled a victim to be notified, in advance if practicable, by a commitment agency in the event of: (a) an escape; (b) a recapture; (c) a transfer to another commitment agency; (d) a release from confinement and any conditions attached to the release; and (e) the death of the defendant. ***Chapter 541 of 1998*** expanded provisions of this law that require a commitment agency to notify a victim of a defendant's release, transfer, death, escape, or recapture to make these provisions applicable to witnesses in cases involving crimes of violence.

Court Costs

Chapter 396 of 1995 increased court costs that certain defendants will have to pay when convicted of a crime. The Act created an additional funding mechanism for: (1) the Maryland Victims of Crime Fund; (2) the Criminal Injuries Compensation Fund; and (3) the Victim and Witness Protection and Relocation Program. ***Chapter 587 of 1996*** increased by $5 (to a total of $20) court costs imposed by the District Court in all criminal and traffic cases. This cost will be included in the amount a person pays on a traffic ticket when the person elects not to contest the ticket and simply pays the fine. This money will be dedicated to the State Aid for Police Protection Fund and two victim's funds.

Chapter 313 of 1997 codified a previously uncodified provision of law that was due to terminate providing a $5 additional court cost to be imposed on a person convicted of a crime or a motor vehicle violation that is punishable by confinement. The State Comptroller was required to deposit $2.50 of the increase into the Maryland Victims of Crime Fund and $2.50 into the Victim and Witness Protection and Relocation Fund.

Criminal Injuries Compensation Fund

Chapter 623 of 1996 specifically directed the Criminal Injuries Compensation Board to adopt procedures for the review and evaluation of claims and repeals statutory language governing the review and evaluation of claims.

The Act also added psychological or emotional injuries resulting from sexual assault or child abuse to those injuries for which the Board may make an award. It authorized the Board to negotiate a settlement with a health care provider for the medical and medically related expenses of a claimant.

Parole Releases

Chapter 362 of 1998 expanded the definition of "victim" in provisions of current law relating to the rights of victims with regard to parole release hearings to include victims of child abuse and designated representatives of disabled or minor victims in addition to victims of violent crime. The Act entitled these types of victims to: (1) request that a parole release hearing be open to the public; and (2) present oral testimony at a parole release hearing, if the victim has made a request for a hearing to be open to the public.

Plea Agreements and Sentence Reviews -- Prior Notification of Victim

Chapter 480 of 1998 required a State's Attorney to send a victim prior notice, if practicable, of the terms and conditions of a plea agreement. ***Chapter 367 of 1998*** required a judicial review panel to hold a hearing before changing a sentence. These Acts also required that: (1) a victim be given notice before any hearing to increase, modify, or reduce a sentence; and (2) before any change in the sentence, the victim or victim's representative be given the right to attend the proceeding and address the panel.

Presence at Trial

Chapter 479 of 1998 expanded current provisions that give victims and their representatives the right to be present at trial by making these provisions applicable to juvenile proceedings as well. In addition, the definition of "victim" was expanded to include the victim of any crime or delinquent act. ***Chapter 479*** gave a victim's representative the right to be present at a trial or juvenile delinquency hearing unless the court orders sequestration. The Act gave a victim the right to be present at a trial or juvenile delinquency hearing after initially testifying at the trial or hearing unless the court orders sequestration. Finally, the Act authorized a court to order sequestration of a victim or representative only after a determining, with special findings of fact on the record, that: (1) there is reason to believe that the victim will be recalled or the representative will be called to testify; and (2) the presence of the victim or representative would influence the victim's or representative's future testimony at the trial or adjudicatory hearing in a manner that would materially affect the defendant's right to a fair trial.

Transportation of Homicide Victims - State Payment

Chapter 202 of 1998 required that the State budget include the necessary appropriations to pay for the transportation of homicide victims from the site of the autopsy or examination to a location within the State designated by the victim's family.

SENTENCING

Maryland Commission on Sentencing Policy

Chapter 563 of 1996 established the Maryland Commission on Criminal Sentencing Policy to evaluate the State's sentencing and correctional laws and policies and make recommendations to the Governor and the General Assembly regarding the efficacy of existing sentencing guidelines and the option of adopting a new guideline system, the retention or elimination of parole, whether to increase minimum sentencing requirements, the amendment or elimination of good time credits, and other matters relating to State and local sentencing laws. The Act also established a number of objectives for the sentencing and correctional process to pursue, including truth in sentencing, reserving incarceration for career and violent offenders, reducing disparity in sentencing for similar crimes, preserving judicial discretion in sentencing, and ensuring the use of alternative sentencing options for nonviolent offenders.

Currently, Maryland law authorizes, but does not mandate, the use of judicial guidelines in setting sentences. The guidelines were developed in 1983 by the Sentencing Guidelines Advisory Board, which consists of judges, legislators, and other representatives of the criminal justice system.

Chapter 544 of 1997 extended for a year and 3 months to December 31, 1998 the termination and reporting date of the Maryland Commission on Criminal Sentencing Policy. ***Chapter 382 of 1998*** extended for six months, to July 1, 1999, the termination date only of the Maryland Commission on Criminal Sentencing Policy. The reporting date remains December 31, 1998.

ARREST WARRANT INSPECTION

Under prior law, unserved arrest warrants and charging documents were available for public inspection. There were concerns that individuals were searching these records and offering legal services to defendants based on warrants even before the defendants were aware that warrants have been issued for their arrest. This practice could have alerted

a defendant to the fact that an arrest warrant was forthcoming and lead to destruction of evidence, flight, or a violent confrontation with law enforcement personnel.

Chapter 332 of 1998 limited public inspection of an issued arrest warrant and the underlying charging document until: (1) the warrant has been served; or (2) 90 days have elapsed after the issuance of the warrant. However, under this legislation, certain law enforcement and court personnel retained the ability to inspect and use arrest warrant and charging document information as soon as issued. The Act also allowed the release of statistical information on arrest warrants and charging documents by State's Attorneys or other law enforcement personnel prior to the lapse of time designated in the legislation. The Act codified restrictions relating to the inspection of issued but unserved arrest warrants and charging documents that are consistent with recommendations of the Court of Appeals' Standing Committee on Rules of Practice and Procedure.

PART E
CRIMES, CORRECTION, AND PUBLIC SAFETY

JUVENILE LAW

During the 1995-1998 term, the General Assembly continued to focus on measures to address the juvenile delinquency problem in the State. In response to public concern over violent crime committed by juvenile offenders, in 1996 the General Assembly convened a juvenile justice summit to examine the nature and extent of juvenile delinquency in Maryland and to discover innovative solutions to the problems posed by juveniles. Legislation enacted during the term reflected a shift from protecting the juvenile from the consequences of criminal behavior to an overall approach that placed a greater emphasis on assuring public safety and offender accountability.

OFFENDER ACCOUNTABILITY

Balanced and Restorative Justice

This shift in the philosophy of the juvenile justice system is most clearly evidenced by ***Chapter 532 of 1997***, which changed the purpose of juvenile justice law to reflect the principles of balanced, restorative justice. Under the prior law, one of the principal purposes of the juvenile justice system was to remove from children committing delinquent acts the "taint of criminality" and the consequences of criminal behavior. ***Chapter 532*** altered the purposes of the juvenile justice system by providing that the fundamental purpose of juvenile justice is to ensure that the juvenile justice system incorporates the philosophy of restorative, victim-centered justice, and balances the principles of public safety, accountability, and competency and character development for children who have committed delinquent acts.

Open Hearings

In order to increase the accountability of juvenile offenders and of the juvenile justice system, the General Assembly enacted legislation to open certain juvenile delinquency proceedings to the public.

Prior to 1997, the juvenile court could exclude the general public from any juvenile proceeding and admit only those persons having a direct interest in the proceeding or their representatives.

Chapter 314 of 1997 required, except for good cause shown, a juvenile court to conduct in open court any proceeding involving a child alleged to have committed a delinquent act that would be a felony if committed by an adult. The Act also required, except for good cause shown, a juvenile court to announce, in open court, adjudications and dispositions in cases in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult.

Department of Juvenile Justice

Chapter 8 of 1995 reflected the State's commitment to bringing juvenile offenders to justice by changing the name of the Department of Juvenile Services to the Department of Juvenile Justice.

INTAKE, DETENTION, AND RESTITUTION

Chapter 8 of 1995 was one of the most significant juvenile justice proposals enacted during the early part of the term. The Act attempted to improve the juvenile justice system by expediting the adjudication of delinquent youth and ensuring that youthful offenders realize the seriousness of their actions. ***Chapter 8***contained several significant provisions:

Intake

Chapter 8 established time limits that required law enforcement officers to refer youth to State juvenile justice intake officers within 15 days after taking a child into custody. However, if the child is referred to a diversion program, the

law enforcement officer may file the complaint with an intake officer no later than 120 days after taking the child into custody.

Detention

In order to assure that youth are more quickly adjudicated and placed in appropriate programs, ***Chapter 8*** reduced the length of time that youth spend in detention centers awaiting a juvenile court hearing. ***Chapter 8*** imposed time restrictions on the juvenile justice process, including: (1) requiring that a disposition hearing be held within 14 days after the adjudicatory hearing if the child is detained; and (2) allowing detention time to be extended for increments of not more that 14 days, rather than 30 days.

Restitution

Chapter 8 doubled from $5,000 to $10,000 the amount of restitution that may be ordered in a juvenile delinquency case or in a case which the child is tried as an adult.

JUVENILE RECORDS

Generally, juvenile police records and court records must be kept confidential and may not be divulged except under certain narrow circumstances. The General Assembly passed three measures that provided exceptions to this general rule of confidentiality for specific, limited purposes.

Student Safety and Support Act

In order to enhance safety and security in schools, the General Assembly passed legislation to require law enforcement officials to notify local school systems when youth are arrested on the most serious charges. ***Chapters 111 and 112 of 1995*** required that, if a child in public school is arrested for a "reportable offense", the appropriate law enforcement agency must notify the local school superintendent (or a designee of the superintendent who is an administrator) within 24 hours or as soon as practicable. In addition, the State's Attorney must promptly notify the local school superintendent of the disposition of the reportable offense. The information divulged may be used only to provide appropriate educational programming and related services to the child and to maintain a safe and secure environment for students and school personnel.

Under the Acts, a "reportable offense" was defined as a crime of violence, a handgun offense, or carrying or wearing a concealed weapon.

Eligibility for Pretrial Release

Chapter 390 of 1997 authorized a judicial officer, counsel for the defendant, or the State's Attorney to obtain access to a juvenile court record of a youthful defendant who is charged in criminal court for the limited purpose of determining the defendant's eligibility for pretrial release. ***Chapter 390*** applied only to a court record concerning an adjudication of delinquency in juvenile court that occurred within three years of the date the individual is charged.

Juvenile Writs of Attachment

Chapters 464 and 465 of 1998 authorized state law enforcement agencies to include information concerning outstanding juvenile court ordered writs of attachment in their electronic information systems for the sole purpose of apprehending the juvenile named in the writ. For a further discussion of ***Chapters 464 and 465***, see the heading entitled "Juvenile Justice Acts of 1998" under this Subpart.

CHILDREN IN NEED OF ASSISTANCE

The General Assembly passed a number of measures designed to respond to the deficiencies in the juvenile court system affecting children in need of assistance and to reduce the time these children spend in foster care by expediting adoption or other permanent placement. For a detailed discussion of these initiatives, please see Part F - Courts and

Civil Proceedings, under the Subpart "Family Law".

UNDERAGE DRINKING

Adult Responsibility

Chapter 441 of 1996 prohibited an adult from knowingly and willfully allowing an individual under age 21 to actually possess or consume an alcoholic beverage at the residence or within the curtilage of the residence in which the adult resides and either owns or leases as a tenant. The prohibition does not apply if the adult and the underage individual are: (1) members of the same immediate family and the alcoholic beverage is possessed and consumed in a private residence, or within the curtilage of the residence; or (2) participants in a religious ceremony.

While it was illegal under the law prior to 1996 for any person to furnish alcoholic beverages to an individual under 21 years old, the Act closed a loophole which existed under the prior law when the alcohol was possessed or consumed by underage individuals in the adult's residence and the adult either did not "furnish" the alcohol or evidence was not available to prove the adult furnished the alcohol.

Drinking or Possessing Alcohol on School Property

Chapter 610 of 1996 made it mandatory for a juvenile court to order the Motor Vehicle Administration (MVA) to suspend the driving privileges of a child if the court finds the child violated the prohibition against drinking or possessing intoxicating beverages on school property. Prior to 1996, a juvenile court had the authority, but was not required, to order the MVA to suspend a child's driving privileges for drinking or possessing alcoholic beverages on school property.

False Age Identification Cards

Chapter 372 of 1996 prohibited a person under the age of 21 from possessing a card or document that falsely identifies the age of the individual under circumstances that reasonably indicate an intention to violate the prohibition against misrepresentation of age to obtain alcoholic beverages from a licensed seller. While the prior law prohibited a person from selling or offering to issue identification cards or documents with blank spaces for a person's age or birth date or with an incorrect age or date of birth for a person, and prohibited the duplication or reproduction of an identification card or license issued by the MVA, the prior law did not prohibit the possession of a false identification card.

SUSPENSION/REVOCATION OF DRIVING PRIVILEGES

Several measures were passed by the General Assembly during the 1995-1998 term to require the suspension or revocation of driving privileges for the commission of certain offenses. Some of these measures were aimed at deterring underage drinking (see discussion under the Heading "Underage Drinking" of this Subpart). Other measures were aimed at deterring auto theft and "joyriding", particularly by juveniles, and drunk and drugged driving by juveniles.

Theft Offenses

Chapter 393 of 1997 required the MVA to assess 12 points against an individual who is convicted of the unlawful taking of a motor vehicle, the unauthorized use of a motor vehicle, or taking or driving a vehicle without the consent of the owner. By statute, an assessment of 12 points triggers the issuance of a notice of revocation by the MVA.

Drunk or Drugged Driving Offenses

Chapter 451 of 1997 required the MVA to revoke the driving privilege of a child when a juvenile court adjudicates the child as delinquent or makes a finding that the child has committed a delinquent act without an adjudication of delinquency for driving while intoxicated per se or while under the influence of a controlled dangerous substance.

In addition, if the child is adjudicated delinquent or found to have committed a delinquent act without an adjudication

of delinquency for driving while under the influence of alcohol, drugs, or a combination of alcohol and drugs, the MVA is required to suspend the driving privilege of the child for 6 months. For a second offense, the MVA is required to suspend the driving privilege for one year.

JUVENILE JUSTICE ACTS OF 1998

Chapters 464 and 465 of 1998, the Juvenile Justice Acts of 1998, represent the culmination of the General Assembly's efforts this term to address the complex issues surrounding the juvenile delinquency problem.

Juvenile Court Jurisdiction

During the prior term, the General Assembly responded to a growing concern about the increasing number of juveniles who are involved in serious criminal activityby narrowing the original jurisdiction of the juvenile court. Chapter 641 of 1994 prohibited a juvenile court from exercising original jurisdiction over a case in which a child has been charged with: (1) a serious sexual offense; (2) a crime involving a firearm; or (3) certain other violent offenses. As a result of the 1994 law, with certain exceptions, these types of cases must now be tried in an adult criminal court. However, a criminal court may transfer the case back to the juvenile court if the transfer is believed to be in the best interests of the child or society and certain other conditions are met.

Chapters 464 and 465 of 1998 further altered the jurisdiction of the juvenile court by excluding from the court a child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed another felony. However, the criminal court is authorized to waive the case back to the juvenile court if waiver is in the best interests of the child or society.

Juvenile Records

By statute, police records concerning children are confidential and must be maintained separately from adult records.

Prior to 1998, because juvenile police records such as juvenile court ordered writs of attachment for failure to appear at a hearing could not be commingled with adult records and entered into the statewide law enforcement computer system, it was virtually impossible for law enforcement officials to learn that a juvenile was wanted in another jurisdiction.

To address this concern, ***Chapters 464 and 465 of 1998*** provided an exception to the general prohibition against the commingling of juvenile and adult records by authorizing state law enforcement agencies to include in their law enforcement computer information systems records concerning outstanding juvenile court ordered writs of attachment for the sole purpose of apprehending the juvenile named in the writ. Additionally, the Acts added the juvenile court's issuance or withdrawal of a writ of attachment to the list of reportable events that are required to be entered into the Criminal Justice Information System Central Repository.

Capital Bond Program

The Juvenile Justice Facilities Capital Program provides up to 50% of the cost of eligible capital improvements projects for private sector youth services agencies. ***Chapters 464 and 465 of 1998*** clarified that youth services bureaus and other private sector youth services providers that are under contract with the State, but not necessarily with the Department of Juvenile Justice, would be eligible to participate in the Department's capital program.

Commission on Juvenile Justice Jurisdiction

Chapters 464 and 465 of 1998 established a two-year Commission on Juvenile Justice Jurisdiction in the Department of Juvenile Justice. The purpose of the Commission is to:

(1) consider the impact of recent changes in juvenile court jurisdiction;

(2) study the effects of:

(i) existing and alternative sanction mechanisms;

(ii) incentives and systems of incentive;

(iii) job opportunities and job training programs and their effect on recidivism; and

(iv) education and special education services provided to youthful offenders;

(3) consider the impact of any changes in federal juvenile justice law or jurisdiction;

(4) recommend feasible strategies and avenues to limit juvenile crimes and delinquencies; and

(5) provide on an annual basis any recommendations for changes to the jurisdiction of the juvenile court.

The Commission must submit a report on the results of its investigation and study and any policy recommendations to the Governor and the General Assembly by September 30, 2000.

PART E
CRIMES, CORRECTION, AND PUBLIC SAFETY

PUBLIC SAFETY

FIREARMS

Maryland Gun Violence Act

Derived from the many recommendations of the Governor's Commission on Gun Violence, the Maryland Gun Violence Act of 1996, ***Chapters 561 and 562 of 1996,*** was aimed at reducing gun-related violent crime in Maryland. The Acts employed a two-fold approach to reducing gun-related violent crime. First, the Acts created several new crimes involving the use or possession of firearms, increased the penalties for several crimes relating to the use or possession of firearms, and authorized the courts and law enforcement authorities to take certain action regarding firearms in domestic violence situations. Second, the Acts made several substantive, as well as non-substantive, changes to the current law governing the sale, transfer, and possession of pistols, revolvers, and assault weapons (all included in the new term "regulated firearms").

Key provisions of the Acts are as follows:

- *One Gun Purchase in a 30-Day Period.*

The Acts limited, with exceptions for law enforcement officers, correctional facilities, licensed firearms dealers, and other appropriate circumstances, the purchase of regulated handguns (pistols and revolvers) and the assault weapons to one purchase in a 30-day period.

- *Multiple Sales in Excess of One in a 30-Day Period.*

The Acts allowed, on application to the State Police, purchases in excess of one in a 30-day period only if the purchase was for: (i) a private collection or collector series; (ii) a bulk purchase from an estate sale; (iii) taking advantage of a dealer's discounted price for a multiple purchase (but only two such simultaneous purchases would be allowed and the buyer is prohibited from purchasing another firearm during the following 30-day period); or (iv) other similar purposes.

- *Secondary or Private Sales of Guns.*

The Acts required sales between individuals to be transacted in the same way as were initial purchases from licensed gun dealers, i.e., a criminal history records check by the Maryland State Police and a 7-day waiting period.

- *Straw Purchases.*

The Acts prohibited, with exceptions for purchases for gift giving purposes for friends and family members, the purchase of regulated firearms through a "straw purchase" arrangement (that is, where someone who is likely to be approved by the State Police after submitting an application to a gun dealer to buy a regulated firearm takes possession of the weapon and then gives or sells it to someone else, often a person with a criminal background or a minor.)

- *Domestic Violence - Non-Ex Parte Civil Protective Orders.*

The Acts authorized a court, when both parties to the domestic violence situation were present before it or properly served and notified on a petition alleging and seeking relief from abuse (and, therefore, the proceeding is conducted on a *non-ex parte* basis), to issue a civil protective order that could include a provision that the respondent (the party alleged in the petition to have committed the abuse) surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order.

- *Domestic Violence - Temporary Removal of Firearm from Scene of Domestic Violence Incident.*

The Acts authorized a police officer to temporarily remove a firearm when responding to a domestic violence scene if the officer determined that there was probable cause that an act of domestic violence had occurred and observed a firearm at the scene.

- *Disarming a Police Officer or Correctional Officer.*

The Acts established a separate crime (felony) for any person who removed, or attempted to remove, a law enforcement officer or correctional officer's firearm. The penalty for the crime was a fine of up to $10,000 or imprisonment for up to 10 years or both.

- *Expediting the Application to Purchase Process.*

The Acts allowed a firearms dealer or law enforcement agency handling a gun purchase, rental, or transfer transaction to use a facsimile (FAX) machine to forward the application to the State Police without the need to send the purchaser's $10 application fee; instead, the State Police would later bill the dealer or law enforcement agency for the application fee.

- *Use of Inoperable Handgun in the Commission of a Crime of Violence.*

The Acts expanded the separate crime of the use of a handgun in the commission of a crime of violence by making it clear that it does not matter whether the gun used was operable or inoperable. The penalty remained: first offense - mandatory minimum 5 years imprisonment, but not more than 20 years; second offense - same penalty, but it must be served consecutively, not concurrently, with any other sentence imposed for the commission of the crime of violence itself.

- *Drug-Trafficking Crime and Firearms.*

The Acts expanded the felony of using a firearm during or in relation to any drug trafficking crime by making the law applicable to a person who possessed a firearm under sufficient circumstances to constitute a nexus to the drug trafficking crime.

- *Reckless Endangerment ("Drive-By" Shootings).*

The Acts provided that any person who recklessly discharged a firearm from a motor vehicle in such a way that it created a substantial risk of death or serious physical injury to another person was guilty of the misdemeanor of reckless endangerment and was subject to a fine of up to $5,000, imprisonment for up to 5 years, or both. Exceptions were provided for law enforcement officers and security guards in the performance of their duties.

Sales to Out-of-State Governmental Units and Law Enforcement Agencies

Chapter 607 of 1998 authorized any federally licensed gun manufacturer that was licensed as a regulated firearms dealer in the State of Maryland as of January 1, 1998, to manufacture in the State a handgun that is not on the handgun roster for direct sale to a unit of the federal government, governmental units outside the State of Maryland, or out-of-state law enforcement agencies.

LAW ENFORCEMENT

State Aid for Police Protection

Chapters 587 and 588 of 1996 changed the amount of the supplemental grant made by the State to subdivisions and qualifying municipalities under the State Aid for Police Protection Fund. The Acts increased the per capita amount paid to the counties from $2 to $2.50 and changed the allocation formula to a per capita basis. The Acts also added Baltimore City to the supplemental grant, allocating to the city 50 cents per capita. The Acts altered the municipal

sworn officer allocation, and increased the payment to each qualifying municipality from $900 to $1,200 for each sworn officer actually employed on a full-time basis.

Chapters 587 and 588 also increased the court costs in traffic cases in District Court from $15 to $20 and increased the court costs in criminal cases from $15 to $20. The Acts held constant the amount of the costs to be paid into the Law Enforcement and Correctional Training Fund from the increase in District Court costs by changing the proportion of court costs that must be paid into the Fund from one-third to one-fourth. Finally, the Acts required that $500,000 of the court costs collected by the District Court for traffic cases and criminal cases be paid to the Criminal Injuries Compensation Fund. An additional $125,000 would be dedicated to the new Victim and Witness Protection and Relocation Fund.

Law Enforcement Officers' Bill of Rights

The Law Enforcement Officers' Bill of Rights (LEOBR) is designed to guarantee certain procedural safeguards and employment protection to law enforcement officers. The LEOBR provides an officer's exclusive remedy in matters of departmental discipline.

In Sheriff of Baltimore City v. Thomas Abshire, 44 Md. App. 256 (1979), the Court of Special Appeals held that the Baltimore City Sheriff's Office is not within the sphere of the Law Enforcement Officers' Bill of Rights (LEOBR). ***Chapter 510 of 1997*** overruled that decision and made the LEOBR applicable to members of the Baltimore City Sheriff's Office.

Chapter 364 of 1998 provided that when a law enforcement officer is subject to interrogation by a law enforcement agency conducting an investigation of the officer, the counsel or other responsible representative of the law enforcement officer may:

(1) request a recess during the interrogation to consult with the officer;

(2) enter an objection to any question posed during the interrogation; and

(3) state on the record the reason for an objection outside the presence of the officer.

The Act clarified current law, which provided that at the request of any law enforcement officer under interrogation, the officer has the right to be represented by counsel or any other responsible representative of the officer's choosing who would be present and available for consultation at all times during the interrogation, unless waived by the officer. Prior law did not expressly authorize the counsel or representative of an officer to request a recess during the interrogation to consult with the officer or to object to or explain an objection to questions posed during the interrogation.

Chapter 535 of 1998 applied the provisions of the LEOBR to the police forces of the Department of Transportation and the police officers of the departments of: (1) Health and Mental Hygiene; (2) General Services; and (3) Labor, Licensing, and Regulation. In addition, full-time investigative and inspection assistants in the State Fire Marshal's Office became covered by the LEOBR.

CORRECTIONAL SERVICES

As the growth inmate populations for the State and local correctional systems continue to rise, the General Assembly has been faced with a variety of issues relating to the cost of housing inmates.

Home Detention Programs

Home detention is a type of confinement that is used for persons in pretrial status as well as those who have been convicted of a crime. It allows the person to continue to live in the person's residence and continue to work, but is designed to provide supervision over the person's activities. Electronic monitoring, usually by way of an anklet, is designed to ensure that the person is at home when not working. Monitoring is also undertaken in person or over the

telephone.

Under prior statutory provisions governing home detention programs, only the Maryland Commissioner of Correction was allowed to approve an inmate who was committed to the custody of the Commissioner for participation in the State home detention program. However, ***Chapter 606 of 1996*** allowed the Commissioner to designate an appropriate individual to approve an inmate's participation in the home detention program.

Private Home Detention Companies

Private home detention companies are nongovernmental entities providing detention and monitoring services. Until 1998, there was no State regulation of private home detention companies. Concern about private home detention companies has led to the enactment of ***Chapter 331 of 1998***. The Act allowed the Department of Public Safety and Correctional Services (DPSCS) to regulate private home detention companies. It also authorized a court, as a condition of a defendant's pretrial release, to require that the defendant be monitored by a private home detention monitoring agency. The Act created a framework for State regulation and licensing of private home detention monitoring agencies for both postconviction and pretrial release detainees.

Before an individual could begin working as a private home detention monitor under ***Chapter 331***, the individual was required to apply for a State and national criminal history records check and submit a set of fingerprints to the Criminal Justice Information System Central Repository of DPSCS. The Act included procedures under which an individual could contest the finding of a criminal history records check. The Act also provided provisions for the denial, suspension, and revocation of licenses, the monitoring duties of a private home detention monitoring agency, the procedures for notifying the court or the Division of Parole and Probation of a missing detainee, and penalties for violation of the Act. The Act required the Secretary of DPSCS to adopt regulations establishing minimum standards for monitoring equipment, minimum training and experience requirements, and minimum staffing requirements in relation to the number of defendants being monitored. Finally, ***Chapter 331*** required DPSCS to report to the Governor and the General Assembly on the cost of administering this licensure program by July 1, 2000.

Mandatory Supervision

Under prior statutory provisions governing mandatory supervision, an inmate was released from the State correctional system on "mandatory supervision" when the inmate had served the term of imprisonment to which the inmate was sentenced, minus any deduction of time earned through the application of diminution credits. ***Chapter 416 of 1997*** narrowed the scope of the current law by requiring release on mandatory supervision only if the inmate has serving a term of imprisonment of more than 12 months. The Act took effect on June 1, 1997, and applied to any individual in the custody of the Division of Correction on or after that date.

Prior to the enactment of ***Chapter 416***, local detention centers utilized an "expiration" concept. When a prisoner was released through good time credits under an expiration concept, the prisoner was not supervised and nor subject to incarceration on improper conduct. However, the State Division of Correction utilized "mandatory supervision". A prisoner released on mandatory supervision was supervised by the Division of Parole and Probation and was subject to incarceration if the terms of release were violated. Under the previous law, a person sentenced to a term of 12 months or less served the sentence in a local detention center, where the "expiration" concept applied. However, inmates serving 12 months or less in Baltimore City were in the custody of the State Division of Correction, which utilized "mandatory supervision". ***Chapter 416 of 1997*** was intended to provide equal treatment for all prisoners in the State serving sentences of 12 months or less.

Patuxent Institution

Patuxent Institution, a State correctional facility in Jessup, is part of the Department of Public Safety and Correctional Services (DPSCS). Unlike all other State correctional facilities, the Institution is not part of the Division of Correction. The Secretary of DPSCS appoints the Director, who administers the Institution. Patuxent Institution treats and rehabilitates eligible prisoners who are mentally disordered or physically impaired, including some chronic youthful offenders. The Institution offers medical, psychiatric, psychological, and social casework services, as well as academic, vocational, recreational, and religious services. Treatment also is provided for individuals on preparole and parole

status.

There was an effort to change the composition of Patuxent Institution from the existing mental health-based rehabilitation program to a program consistent with a contemporary remediation philosophy. ***Senate Bill 732/House Bill 1353 of 1998*** (both failed) would have altered inmate eligibility requirements, program selection, staff composition, and the Authority of the Board of Review at Patuxent Institution. The bills would have abolished the mental health program at the Institution and provided that all inmates in the current program would no longer retain eligible person status. In addition, the bills would have transferred the authority to grant parole to Patuxent inmates from the Patuxent Institution Board of Review to the Maryland Parole Commission.

Extrajurisdictional Arrest Authority

Chapter 14 of 1995 allowed the Commissioner of Correction to designate correctional officers employed in each facility under the jurisdiction of the Division of Correction of the Department of Public Safety and Correctional Services to have police arrest powers for individuals on the property of a facility under the jurisdiction of the Division. These correctional officers must meet the minimum qualifications required and satisfactorily complete the training prescribed by the Maryland Police Training Commission.

Chapter 575 of 1996 empowered correctional officers designated by the head administrative officer of a county or municipal correctional facility to arrest individuals on the property of the facility. Correctional officers empowered to make arrests by the Act must meet the minimum qualifications and satisfactorily complete the training required by the Maryland Police Training Commission. The Act specifically prohibited a sheriff who acts as the head administrative officer of a local correctional facility from designating correctional officers to make arrests. ***Chapter 504 of 1998***, however, repealed this prohibition and authorized a sheriff who is the head of a local correctional facility to designate correctional officers to make arrests.

Prison Construction Projects

Under the General Construction Loan of 1996 (the Capital Budget), the Department of Public Safety and Correctional Services was authorized a total of $17.2 million for prison construction projects. Approximately $13.7 million of the authorization completed projects approved in previous fiscal years, including prison renovation projects at the Maryland Correctional Institution in Hagerstown, Washington County, the Eastern Correctional Institution in Somerset County, and the Patuxent Institution in Howard County, as well as completing construction previously planned at the north compound at the Western Correctional Institution (WCI) in Cumberland, Allegany County. In addition, the Capital Budget of 1996 included funds for three new initiatives:

- $1 million to plan construction of an additional housing unit in the north compound at the Western Correctional Institution;
- $550,000 to design replacement housing at the Maryland Correctional Institution for Women in Anne Arundel County; and
- $1.9 million in special funds to begin planning the Public Safety Training Center in Carroll County.

As introduced by the Governor in 1996, the Capital Budget deleted all previously planned funding to increase prison capacity. This action was based on Executive Branch population projections that estimated that growth in the State prison population would slow considerably. However, the General Assembly, concerned that these projections underestimated growth in the prison population, added $1 million to the Western Correctional Institution authorization in the Capital Budget passed in the 1996 Session for a fifth housing unit in the north compound.

During the 1997 Session, significant prison construction projects funded through the Capital Budget included:

- $6.6 million for the first phase of a housing unit at the Maryland Correctional Institution for Women in Jessup; and

- $11.7 million to construct the fifth housing unit at the Western Correctional Institution in Cumberland.

In the 1998 Session, action on the State's capital program for prisons included $1.6 million for planning the construction of a 512-bed south compound at the Western Correctional Institution and $7.6 million to construct the second phase of replacement housing at the Maryland Correctional Institution for Women in Jessup.

PRISONER LITIGATION REFORM

The General Assembly, consistent with the federal Prison Litigation Reform Act, passed legislation that established numerous restrictions on civil actions filed by prisoners. ***Chapter 495 of 1997*** required a prisoner who files a civil action to pay all or a portion of the applicable filing fee, as determined by the court. Unless a waiver is granted by the court, the fee charged by the court must be at least 25% of the entire filing fee otherwise required for a civil action. In establishing the amount of the filing fee that must be paid by a prisoner, the court is required to consider: (1) the seriousness of the claim; (2) the likelihood of success; (3) the urgency of consideration; (4) the amount of funds available in any institutional account and any account outside of the institution; (5) the employment status of the prisoner and income from the employment; (6) the prisoner's financial obligations; and (7) the length of time that is likely to pass before the filing fee that is imposed will be paid.

Chapter 495 also required a prisoner to exhaust all administrative remedies for resolving a complaint or grievance before filing a civil action. When a prisoner files a civil action, the prisoner must attach to the initial complaint proof that the administrative remedies have been exhausted. The court must dismiss a civil action if the prisoner filing the action has not completely exhausted administrative remedies.

Chapter 495 further required the court to review a prisoner's initial complaint and identify cognizable claims before serving the complaint on the named defendants. The court must dismiss the civil action, or any part of the action, with or without prejudice, if it finds that the civil action: (1) is frivolous, malicious, or fails to state a claim for which relief can be granted; (2) seeks monetary damages from a defendant who is immune from such relief; or (3) is barred because the prisoner has not exhausted administrative remedies.

The prisoner litigation reform legislation required a court, when applicable, to include in its final order or judgment of a civil action a finding that the action was frivolous. If a prisoner has filed three or more civil actions that have been declared to be frivolous by a Maryland court or a federal court for a case originating in Maryland, the prisoner is prohibited from filing any further civil actions without leave of court. In addition, the court may prohibit the prisoner from pursuing more than one civil action at a time, regardless of jurisdiction.

Finally, ***Chapter 495 of 1997*** required any compensatory or punitive damages awarded to a prisoner in connection with a civil action be paid directly to satisfy any outstanding restitution order or child support order pending against the prisoner.

STATE FIRE MARSHAL

During the 1998 Session, several bills were introduced concerning the Office of the State Fire Marshal.

Extrajurisdictional Arrest Authority

Chapter 560 of 1998 authorized the State Fire Marshal and the Fire Marshal's assistants to make warrantless arrests without limitations as to jurisdiction if:

(1) they are participating in a joint investigation with officials from any other State, federal, or local law enforcement agency at least one of which shall have local jurisdiction;

(2) they are rendering assistance to a police officer;

(3) they are acting at the request of a local police officer or a State Police officer; or

(4) an emergency exists.

The Act further required that the State Fire Marshal and the Fire Marshal's assistants act in accordance with regulations adopted by their agency under these circumstances. Under the above circumstances, ***Chapter 560*** gave the State Fire Marshal and the assistants the same powers of arrest for criminal violations as those that are held by regular police officers. Finally, the Act made the Law Enforcement Officers' Bill of Rights and the laws relating to the Police Training Commission applicable to the State Fire Marshal and investigative and inspection assistants.

Prior to the enactment of this legislation, the State Fire Marshal and a full-time assistant had the power of making warrantless arrests only under more limited circumstances. They had authority to make warrantless arrests for offenses relating to fires, explosives, and interfering with investigations by the State Fire Marshal. ***Chapter 560 of 1998*** gave the same power to full-time investigative and inspection assistants of the Office of the State Fire Marshal. The full-time investigative and inspection assistants of the Office of the State Fire Marshal are already required to take police training required by the Maryland Police Training Commission. Testimony indicated that 36 persons would be included under the provisions of the Act. In 1997, these persons made 300 felony arrests.

Citation Authority in Lieu of Arrest

Chapter 146 of 1998 authorized a fire marshal to issue a criminal citation for the following misdemeanor offenses:

(1) discharging fireworks without a permit;

(2) possessing fireworks with intent to discharge or permitting the discharge of fireworks; and

(3) maintaining a fire hazard.

A fire marshal may issue a citation if: (1) the defendant furnishes satisfactory evidence of identity; and (2) the fire marshal has reasonable grounds to believe that the defendant will comply with the citation. The current penalty for fireworks' violations is a fine of not more than $250. The penalty for maintaining a fire hazard is a fine of not more than $1,000.

PART F
COURTS AND CIVIL PROCEEDINGS

JUDGES AND COURT ADMINISTRATION

COMMISSION ON JUDICIAL DISABILITIES

Chapter 113 of 1995 proposed an amendment to the Maryland Constitution to restructure the membership of the Commission on Judicial Disabilities ("Commission"). The amendment was ratified by the voters at the November 5, 1996 election.

The Commission on Judicial Disabilities was established by constitutional amendment in 1966. The Commission is empowered to investigate and conduct hearings on complaints against judges. If, after a hearing, the Commission decides by a majority vote that a judge should be retired, removed, censured, or publicly reprimanded, it recommends disciplinary action to the Court of Appeals. The Court may order disciplinary action against the judge that is more or less severe than that recommended by the Commission. In addition, the Commission has the power to issue a private reprimand or a warning.

The Commission had performed its work in relative obscurity until two cases brought the Commission into the public spotlight. In 1993, Baltimore County Circuit Court Judge Thomas J. Bollinger made sympathetic comments, then gave probation before judgment to a 44 year old man who had raped an intoxicated 18 year old employee. In November 1994, the Commission issued a private reprimand, which Judge Bollinger agreed to make public. In October 1994, Baltimore County Circuit Court Judge Robert E. Cahill, Sr. made sympathetic comments as he sentenced a defendant to 18 months on work release for killing his unfaithful wife. Complaints filed with the Commission against Judge Cahill were dismissed in 1996.

Critics of the Commission contended that the disciplinary process took too long and that the Commission was unaccountable to the public. They pointed out that since its inception, the Commission had only removed three judges from office.

Chapter 113 expanded the Commission membership from seven to eleven members and required Senate confirmation for appointees to the Commission. The Act reduced the number of members who are judges from four to three, with one judge representing the appellate courts, one representing the circuit courts, and one representing the District Court.

The Act increased the number of attorney members from two to three and altered the experience requirement for the Commission members who are attorneys by lowering the number of years each attorney must have been engaged in the practice of law in the State from at least 15 to at least 7 years.

The number of members representing the general public was increased from one to five. A public member was prohibited by the Act from having a financial relationship with or receiving compensation from a judge or a person admitted to practice law in the State.

Chapter 113 also specified that the composition of the Commission should reflect the race, gender, and geographic diversity of the population of the State.

Under the Act, a member may not serve more than two 4-year terms or for more than a total of 10 years if appointed to fill a vacancy.

The constitutional amendment was complemented by changes to the Maryland Rules of Procedure adopted by the Court of Appeals in 1995. The amendments to the rules provided for an investigative counsel to investigate all complaints not frivolous on their face. Any preliminary investigation undertaken by investigative counsel is required to be completed within 60 days. Another important change affected the confidentiality rules. Under the new rules, the Commission's adjudicatory proceedings are open to the public once formal charges of misconduct are filed and served on the judge.

JUDICIAL COMPENSATION

Under current law, the Judicial Compensation Commission is required to review judges' salaries at least every 2 years and to make recommendations to the Governor and General Assembly at least every 4 years.

The salary recommendations made by the Commission are introduced as a joint resolution in each House of the General Assembly. The General Assembly may amend the joint resolution to decrease any of the recommendations, but may not increase the recommended salaries. If the General Assembly fails to adopt or amend the joint resolution with 50 days after its introduction, the salaries recommended by the Commission apply. If the joint resolution is adopted or amended within 50 days after its introduction, the salaries so provided apply. If the General Assembly rejects any or all of the Commission's recommendations, the salaries of the judges affected remain unchanged.

In 1996, the Judicial Compensation Commission recommended increases in judicial salaries ranging from 2.9% to 9.1%. Those recommendations were contained in ***Joint Resolution 1 of 1996***, which was amended and passed by the General Assembly within 50 days after introduction. The General Assembly adopted the 2.9% increase recommended for the Chief Judge of the Court of Appeals, but limited all other judicial salary increases to 3%.

In 1997, the Judicial Compensation Commission recommended that judicial salaries be increased by $9,000 annually. Those recommendations were contained in ***Joint Resolution 4 of 1997***. The General Assembly amended the resolution, however, to maintain judicial salaries at their existing levels.

In 1998, the Judicial Compensation Commission recommended that judicial salaries be increased by $11,275 annually. Those recommendations were contained in ***Senate Joint Resolution 2/House Joint Resolution 2*** (both failed). Because the joint resolutions were not adopted or amended by both chambers, the Commission's recommended salaries will go into effect on July 1, 1998.

The current salaries of the judges and the increases proposed by the Commission which will go into effect on July 1, 1998 are as follows:

	Current	**New Salary July 1, 1998**	**Percent Increase July 1, 1998**
Court of Appeals			
 Chief Judge	$124,500	$135,775	 9.06%
 Associate Judge	 107,300	 118,575	10.51%
Court of Special Appeals			
 Chief Judge	$103,000	$114,275	10.95%
 Associate Judge	 100,300	 111,575	11.24%
Circuit Court	$ 96,500	$107,775	11.68%
District Court			
 Chief Judge	$100,300	$111,575	11.24%
 Associate Judge	 89,200	 100,475	12.64%

CREATION OF JUDGESHIPS

During this four-year term, the General Assembly authorized 20 new judgeships. Twelve of these positions were circuit court judgeships, bringing the total number of judgeships in the circuit courts to 143 as of October 1, 1998. Eight new positions were authorized for the District Court, bringing the total number of judgeships in that system to 106 as of October 1, 1998.

In January 1979, the Chief Judge of the Court of Appeals began an annual procedure of formally certifying to the General Assembly the need for additional judges in the State. This certification process was suggested by the Legislative Policy Committee prior to the 1979 Session of the General Assembly. The annual certification is prepared

after a statistical analysis of the workload and performance of the circuit courts and the District Court of Maryland and consideration of the comments of the circuit administrative judges and the Chief Judge of the District Court. Until 1996, there had never been any additional judgeships created outside of the certification process.

1995 Session

During the first session of this term, the General Assembly authorized the creation of one additional circuit court judgeship for Montgomery County **(*Ch. 506/95*)**. In light of the Judiciary's other needs and the uncertain financial situation confronting the State, the Chief Judge had limited his requests for FY 1996 to full-year funding for that one judgeship. Although a statistical need was indicated for new circuit court judgeships in Carroll, Prince George's, St. Mary's and Washington counties, the availability of adequate space, as well as other factors precluded moving forward on new judgeships for those counties.

1996 Session

During the 1996 Session, the General Assembly authorized two additional District Court judgeships requested by the Chief Judge for fiscal 1997 -- one for Anne Arundel County and one for Baltimore City. **(*Ch. 15/96*)**.

The General Assembly also broke with precedent by creating 4 new judgeships in the Circuit Court for Baltimore City that had not been requested by the Chief Judge. **(*Ch. 148/96*)**.

1997 Session

Chapter 337 of 1997 increased, by one each, the number of judges authorized for the circuit courts for Anne Arundel, Baltimore, Montgomery, and Prince George's Counties and increased the number of judges authorized for Districts 5 and 8 of the District Court (Prince George's and Baltimore Counties).

1998 Session

For fiscal 1999, the Judiciary certified the need for five additional circuit court judges, and six additional District Court judges, but submitted legislation, ***Senate Bill 167/House Bill 259*** (both failed), requesting only one new District Court judge to sit in the new Baltimore City community court. The Baltimore City community court judgeship and most of the other judgeships certified by the Chief Judge were incorporated into ***Chapter 370 of 1998***, which created four new District Court judgeships: two in Baltimore City, one in Montgomery County, and one in Howard County. That Act also created three new circuit court judgeships: two in Prince George's County and one in St. Mary's County.

COMMUNITY COURT

During the 1998 Session, the General Assembly endorsed the adoption of a community court to be located in the downtown district of Baltimore City at 33 South Gay Street. Modeled after the Midtown Community Court in New York City, the Baltimore City community court is a public/private cooperative effort that seeks innovative approaches to reducing nuisance crimes like aggressive panhandling, vandalism, and prostitution in the downtown business district. The community court is intended to provide defendants with swift and visible justice (with most cases to be adjudicated on the day of arrest and most sentences involving community service), and to exploit the "moment of crisis" in offenders' lives by channeling them into the social service system where they can receive help for problems such as substance abuse, homelessness, and illness.

To support the community court, the fiscal 1999 budget included general fund appropriations to the District Court, the Office of the Public Defender, and the Department of Public Safety and Correctional Services in the aggregate amount of $1.9 million. The fiscal 1999 appropriation included funding for 47 new personnel assigned to community court operations. The City of Baltimore and various private sources will provide additional fiscal 1999 funding approximating $7.2 million. The General Assembly adopted restrictive budget language that will withhold all State funding for the community court until such time that: (1) the Department of Budget and Management documents the level and extent of actual private sector funding; (2) a signed memorandum of understanding evidencing the funding commitments from Baltimore City, the greater Baltimore Committee, and private sector sources has been provided;

and (3) comprehensive detailed plans have been provided to the budget committees for the implementation of the Baltimore City downtown community court.

COMMISSION ON THE FUTURE OF MARYLAND COURTS

Chapter 561 of 1995established a 31-member Commission on the Future of Maryland Courts charged with recommending ways to:

(1) coordinate and promote fair and efficient criminal justice and public safety systems and to create innovative and effective mechanisms to deal with crimes by juveniles;

(2) incorporate modern court administrative practices designed to reduce the cost and to improve the efficiency of the judicial system, such as differentiated case management systems and appropriate dispute resolution of civil cases;

(3) consider more expeditiously and more promptly resolve family-related cases on a priority basis, with a special focus on providing court-related social services to provide for the legal needs of families and children;

(4) ensure that the selection and evaluation of judges, prosecutors, clerks, and other public officials in the justice system is conducted fairly, based on merit, and designed to encourage diversity;

(5) protect the jury system and preserve its independence; and

(6) provide for the appropriate funding of the court system and related agencies.

The Commission on the Future of Maryland Courts completed its study and submitted its final report on December 15, 1996. The Commission developed 27 recommendations, many of which would require legislation, including constitutional amendments to implement; however, no significant implementing legislation was introduced during this four-year term.

CIRCUIT COURTS -- FISCAL ASSISTANCE

Senate Bill 197/House Bill 968 of 1995 (both failed) would have implemented the recommendations of the Governor's Commission to Study State Assumption of the Circuit Courts. The Commission was charged with exploring and making recommendations for mechanisms by which the State could assume the funding and management of the circuit courts.

Because of the potential costs, the Commission did not recommend that the State assume full financial responsibility for the operation of the circuit courts. However, the Commission did find that several areas of expenditure are more appropriately considered State responsibilities and, accordingly, recommended that the State pay rent for office space occupied by the clerks of the circuit courts and reimburse the counties for juror compensation, interpreter services, and courtroom security. In addition, the Commission recommended the establishment of State master positions.

Two of these recommendations were adopted in 1998, however. ***Chapter 771 of 1998*** required the State to provide funding to the circuit courts for interpreter services and juror fees. The Act established a State juror per diem of $5, and required each county to supplement this per diem so that total juror payment does not fall below the amount required of the county prior to the October 1, 1998 effective date of the Act, unless it is modified by local ordinance. The Act also required the State to provide the funding for interpreter services in the circuit courts. In addition, the Administrative Office of the Courts must report to the General Assembly on the use of judicial masters in the circuit courts, the standards and qualifications for court interpreters, and the process of juror selection and assignment in each circuit court.

CIVIL COURT FEES -- MARYLAND LEGAL SERVICES CORPORATION FUND

Chapter 765 of 1998 required that the District Court of Maryland and the circuit courts assess and collect a surcharge

on civil cases filed in the courts. For civil cases filed in circuit court, the surcharge may not exceed $10 per case. For civil cases filed in the District Court, the surcharge may not exceed $2 per case. The surcharge will be deposited into a special nonlapsing fund established under the bill, the Maryland Legal Services Corporation Fund and dedicated to the Maryland Legal Services Corporation (MSLC) for civil legal services to indigent persons. The surcharges are expected to generate approximately $2.8 million beginning in fiscal 1999.

The Act also required the existing funding sources for the MLSC (i.e., interest on lawyers' trust accounts and unclaimed property funds) to be dedicated to the Fund and made subject to the annual budget process.

LAWYERS -- SOLICITATION OF CLIENTS

Chapter 669 of 1996 prohibited a lawyer, directly or through an agent, from sending a written communication to a prospective client for the purpose of obtaining professional employment if the communication concerns:

(1) an action for personal injury or wrongful death, or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or the person's relative, unless the accident or disaster occurred more than 30 days before the date the communication is mailed; or

(2) a criminal prosecution, or a prosecution of a traffic offense that carries a period of incarceration, involving the person to whom the communication is addressed or the person's relative, unless the charging document was filed more than 30 days before the date the communication is mailed.

A person who violates this prohibition is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

The Act was modeled after a similar rule concerning targeted written solicitation in civil cases that was adopted in Florida and upheld by the Supreme Court.

The restrictions on targeted solicitation of clients by written communication that were enacted in 1996 were expanded by **Chapter *489 of 1998*** to include solicitation using other forms of communication, including audio and video recordings, computer on-line transmissions, facsimiles, and telephone calls. The 1998 Act also repealed the provision of the 1996 Act prohibiting targeted solicitation of potential clients for 30 days after the charging document is filed in criminal prosecutions or prosecutions for jailable traffic offenses, which was found unconstitutional on First Amendment grounds by the United States Court of Appeals for the Fourth Circuit. Ficker v. Curran, 950 F. Supp. 123 (D. Md. 1996), aff'd, 119 F. 3d 1150 (4th Cir. 1997).

Chapter 478 of 1998placed further restrictions on targeted solicitations by lawyers in civil and criminal cases, in order to prevent confusing and misleading communications from being sent to accident victims and criminal defendants. A communication must include the free standing words "This is an advertisement" in a prominent place at the beginning and end of each communication and on the outside of the envelope, if any. A targeted communication may not be in the form of, or include, legal pleadings or legal documents. The Act also prohibited a targeted communication from revealing to others on the envelope (or otherwise) the nature of the prospective client's legal matter. The Act also required that copies of the targeted communications be filed with the Bar Counsel.

Chapter 332 of 1998 prohibited the inspection of court records concerning arrest warrants issued, but not yet served on the defendants named in the warrants. The prohibition was intended to prevent attorneys and others from inspecting these court records in order to send targeted communications to the defendants. For further discussion, see Part E - "Crimes, Corrections, and Public Safety" under the Subpart "Criminal Procedure".

PART F
COURTS AND CIVIL PROCEEDINGS

CIVIL ACTIONS AND PROCEDURES

MANUFACTURERS OF TOBACCO PRODUCTS - STATE CLAIMS

One of the most controversial measures that the General Assembly considered during the 1998 Session concerned litigation against tobacco manufacturers by the State for the costs incurred in treating victims of smoking-related illnesses through the Medical Assistance Program (Medicaid). ***Chapter 122 of 1998*** was proposed by the Attorney General to improve the State's chances of prevailing in its lawsuit against tobacco manufacturers.

On May 1, 1996, the State of Maryland filed suit in the Circuit Court for Baltimore City against a number of manufacturers of tobacco products for monetary damages, civil penalties, declaratory and injunctive relief, and restitution. The State's suit was similar to civil suits filed by the attorneys general of 39 states and Puerto Rico and several local governments. Cases brought by Mississippi, Florida, Texas, and Minnesota have been settled. The complaint in Maryland's suit alleged that over many years, the State has paid $3 billion in Medicaid payments for smoking-related health care costs. In addition, the State is seeking $10 billion in punitive damages.

On May 21, 1997, the Circuit Court for Baltimore City dismissed all of the State's common law counts, holding that the remedy of subrogation is the exclusive remedy available to the State in seeking to recover reimbursement for funds expended through the Medicaid Program for the smoking-related illnesses of Program recipients.

In effect overturning the Baltimore City Circuit Court ruling, ***Chapter 122 of 1998*** clarified that any action brought under the Medical Assistance Program subrogation statute is <u>not</u> exclusive and is independent of and in addition to any right, remedy, or cause of action available to the State or any State agency or individual. This provision of the Act was not limited to suits against tobacco manufacturers, but the clarification allowed the State to maintain a direct cause of action against the tobacco manufacturers, rather than relying on a subrogation claim in which the State would "stand in the shoes" of individual smokers against whom the tobacco manufacturers could raise the defenses of contributory negligence and assumption of risk.

The Act further established that in a State action against a tobacco manufacturer, causation and the amount of Medicaid expenditures attributable to the use of a tobacco product may be proved or disproved by evidence of statistical analysis. Proof of the causation or the amount of expenditures for particular individuals is not needed.

"Manufacturer of a tobacco product" was defined in the Act to mean a designer, producer, or processor of a tobacco product engaged in the marketing or promotion of a tobacco product. The term, however, did not include a grower, buyer, dealer, distributor, or wholesaler of leaf tobacco or a retailer, distributor, or wholesaler of a tobacco product. "Tobacco product" was defined to mean cigarettes or smokeless tobacco.

The Act applied to any case pending or filed on or after the July 1, 1998, effective date, but did not apply to any case for which a final judgment had been rendered and for which appeals, if any, had been exhausted.

Chapter 122 of 1998 also contained a provision stating that the Law Offices of Peter G. Angelos and the Attorney General agreed that the contract between those parties for the provision of legal services in connection with the State's litigation against the tobacco industry, dated March 27, 1996, be modified to reduce the fee for legal services from 25% to 12.5% of any funds recovered. The Act also expressly stated that it did not prohibit or limit the application of Rule 1.5 of the Maryland Lawyers' Rules of Professional Conduct, which requires legal fees to be reasonable and sets forth several factors to be considered in determining the reasonableness of a fee.

Finally, the Act contained a statement of intent of the General Assembly that a portion of any recovery that the State may receive in the State's suit against tobacco manufacturers be allocated to a program to be established to offset any losses suffered by Maryland tobacco farmers.

HEALTH CARE MALPRACTICE CLAIMS

Chapter 582 of 1995 allowed any party to waive arbitration before the Health Claims Arbitration Office (HCAO) by filing a written election with the Director of the HCAO. Under the Act, a waiver of arbitration may not be filed later than 60 days after all defendants have filed their certificates of qualified experts. The Act was prospective only and did not apply to claims filed before October 1, 1995.

The then current law allowed only a mutual waiver of arbitration. The Act allowed waiver by any party if the HCAO does not provide the best forum for a resolution of the party's claim.

The Act maintained the requirement of certificates of qualified experts. Under the Act, the claimant is required to file the certificate of qualified expert with the Director of the HCAO before waiving arbitration and serve the election on all parties.

Chapter 582 of 1995 also maintained other valuable features of the HCAO process, such as ensuring that notices of claims are forwarded to the State Board of Physician Quality Assurance and to the Medical and Chirurgical Faculty of Maryland and requiring the trier of fact (jury or judge) to itemize by category and amount any damages assessed for medical expenses, rehabilitation costs, and loss of earnings.

Some litigants before the HCAO are satisfied with having their cases decided in that forum because the HCAO may provide for a fairly quick resolution of their claims. However, for many litigants, the requirement of arbitration added significant cost and delay to the resolution of claims. Sixty-five percent of all awards made by the HCAO were appealed to the circuit courts. Before enactment of the HCAO in 1976, only 9% of all medical malpractice cases went to trial. By 1995, 23% of all cases filed went to trial. These cases could take years to resolve and the cost of conducting a hearing in the HCAO could add $20,000 to $40,000 to the cost of litigation. The costs affected both claimants and health care providers.

WRONGFUL DEATH

Chapter 318 of 1997 stemmed from a study by the Task Force to Examine Maryland's Crime Victims' Rights Laws during the 1996 Interim which recommended revisions to the wrongful death statute. The most significant changes made by the Act are as follows:

Noneconomic Damages -- Secondary Claimants

Chapter 318 established that a beneficiary may be entitled to noneconomic damages in a wrongful death action for the death of a married adult child or the death of the parent of an adult child. Thirty states have similar laws.

To calculate the amount of noneconomic damages that are recoverable if a jury awards an amount to two or more beneficiaries that exceeds the statutory cap on noneconomic damages, the Act categorized a deceased spouse, minor child, or parent of a minor child as "primary claimants" and categorized a deceased adult child or a deceased parent of an adult child as "secondary claimants".

If the amount of noneconomic damages awarded to the primary claimants exceeds the statutory cap on noneconomic damages, each individual award to a primary beneficiary must be reduced proportionately to the total award of all of the primary claimants so that the total award conforms to the cap.

Secondary claimants may receive noneconomic damages only if the noneconomic damages awarded to primary claimants do not exceed the cap. The court must enter an award to any primary claimant as directed by the verdict and reduce, if necessary, each individual award of all of the secondary claimants so that the total award conforms to the limitation.

Economic Damages -- Substantially Dependent Standard

Chapter 318 of 1997 also provided that if there is no wrongful death claimant who is a spouse, parent, or child of the

deceased, then a person who is related to the deceased by blood or marriage may recover damages if the person was "substantially" (instead of "wholly") dependent on the deceased. This provision of the Act allowed recovery, for example, for the death of a grandparent caring for a grandchild who received some financial support from another source, such as social security benefits, but who was substantially dependent on the deceased grandparent.

Statute of Limitations -- Tolling

Additionally, ***Chapter 318*** conformed the statute of limitations for a wrongful death action to the statute of limitations for other negligence actions. The Act provided that the statute of limitations is tolled until a child's minority or other legal disability is removed. Under the then current law, courts had interpreted the time period to file a wrongful death action to be a condition precedent and not merely a limitations period. The Act allowed the same extension of time for wrongful death actions that was previously provided for other actions subject to a statute of limitations and reversed the case of Waddell v. Kirkpatrick, 331 Md. 52 (1993) which held the tolling statute did not apply to an action brought under the wrongful death statute.

MARYLAND TORT CLAIMS ACT

Under the Maryland Tort Claims Act, the sovereign immunity of the State is waived up to a limit of $100,000 per claimant. State personnel are immune from liability in tort for an act or omission within the scope of their public duties if made without malice or gross negligence, even if the damages exceed the limits of the State's waiver.

Notice Requirement

Chapter 437 of 1995 increased from 180 days to 1 year the period of time within which a claimant under the Maryland Tort Claims Act is required to submit a written claim.

Under the prior law, before instituting an action under the Maryland Tort Claims Act, a party was required to first submit a written claim to the Treasurer or a designee of the Treasurer within 180 days after the injury to person or property that was the basis of the claim. If the claim was denied, the claimant could then institute an action in court within 3 years after the cause of action arose.

Limit on State's Liability

Chapter 437 also established a statutory limit on the State's liability under the Maryland Tort Claims Act of $100,000 per individual claim. This part of the Act was effective July 1, 1996 and applied only prospectively, in order to allow the Treasurer to adjust the premium rates for the State Insurance Trust Fund.

Prior to 1985, the limits on the State's liability under the Maryland Tort Claims Act were $100,000 per individual claim and $500,000 per total claims arising from the same occurrence. In 1985, the Act was amended to delete the statutory limits and substitute language providing that the sovereign immunity of the State was waived to the extent of insurance coverage under the State Insurance Program. The limit from 1985 to 1995, which was established by budget language, was $50,000 per claimant with no cap on total claims arising out of the same incident. Tort claims for incidents and occurrences resulting in death or after July 1, 1994 were subject to a limit of $75,000.

State Personnel

Chapter 535 of 1997 added the following officials and employees to the definition of "State personnel" under the Maryland Tort Claims Act:

(1) a State's Attorney, or an employee of a State's Attorney's office;

(2) a member of a Board of Liquor License Commissioners, or an employee of a Board;

(3) a member of a Board of Supervisors of Elections, or an employee of a Board;

(4) a judge of a circuit court, or an employee of a circuit court; and

(5) a judge of an orphans' court, or an employee of an orphans' court.

Except for circuit court judges, the officials and employees affected by this Act had not been covered by either the Maryland Tort Claims Act or the Local Government Tort Claims Act.

Until 1989, the officials listed above were protected by the provisions of the Maryland Tort Claims Act because they were individuals who exercised a part of the sovereignty of the State "with or without compensation" and, as such, were included in the definition of "State personnel" under the Tort Claims Act. However, an amendment to the statute (Chapter 413 of 1989), proposed by the Office of the State Treasurer, deleted the phrase "with or" from this portion of the definition. According to a 1993 Opinion of the Attorney General, "the result of the deletion was to exclude from the Maryland Tort Claims Act such locally compensated officials as sheriffs and State's Attorneys....". 78 Opinions of the Attorney General (1993).

Chapter 535 reversed the effect of the provision enacted in 1989 and also provided coverage to the employees of these largely "county-funded" State offices.

EVIDENCE

Records of Health Care Providers

Chapter 554 of 1996 made a medical, dental, or hospital writing or record that documents a medical or dental condition, opinion, or treatment, or the billing for medical, dental, or hospital expenses admissible in a civil action in the District Court to prove the existence of the condition, the opinion, the necessity and providing of treatment, or the amount, fairness, and reasonableness of the charges, as the case may be, without first authenticating the document through the testimony of a physician, dentist, or hospital employee as either the maker or custodian of the writing or record.

The Act required a party intending to introduce a writing or record without a physician's, dentist's, or hospital employee's testimony to file with the clerk of the District Court and serve on all other parties in accordance with the Maryland Rules notice of that intent and a copy of the document at least 30 days before the trial. If a party received a notice and intended to introduce another writing or record, that party was required under the Act to file and serve a notice of intent and copy of the document at least 15 days before trial.

Chapter 554 applied to cases filed on or after October 1, 1996 based on claims for: (1) damages for personal injury; (2) medical, hospital, or disability benefits under PIP (personal injury protection) coverage; (3) first party motor vehicle medical payments under uninsured motorist coverage; and (4) first party health insurance.

Chapter 443 of 1997 expanded the law enacted in 1996 to apply to circuit court proceedings transferred from the District Court.

The 1997 Act also doubled the amount of time before trial by which each party who intends to introduce this kind of evidence must file with the clerk and serve on other parties a notice of intent and a copy of the writing or record. The Act required a party to do so at least 60 days before trial (rather than 30 days) and required the other party, who receives the notice and who intends to introduce another writing or record, to do so at least 30 days before trial (rather than 15 days).

In 1998, the law was further expanded to include the records and writings of additional health care providers. ***Chapter 698 of 1998*** applied the existing law covering a medical, dental, or hospital writing or record to the records or writings of osteopaths, optometrists, chiropractors, nurses, psychologists, licensed certified social workers-clinical, and physical therapists.

Paid Bills

Chapter 442 of 1997 allowed the authenticity of a bill for goods and services provided and the fairness and reasonableness of the charges to be proved, without the testimony of the provider of the goods or services, by admission into evidence of the paid bill.

The paid bill is admissible under the Act on testimony by the party, or any other person with personal knowledge, identifying the original bill or an authenticated copy, and:

(1) identifying the provider of the goods or services;

(2) explaining the circumstances surrounding the receipt of the bill;

(3) describing the goods or services provided;

(4) stating that the goods or services were provided in connection with the event giving rise to the action; and

(5) stating that the bill was paid.

Under the Act, a paid bill is admissible only if, at least 60 days before the trial, the party who intends to introduce the bill files with the clerk of the court and serves on all other parties notice of the party's intent to introduce the bill without the testimony of the provider of the goods or services and a copy of the bill.

Chapter 442 did not apply to expert testimony regarding a health condition or the necessity and providing of health care. The Act applied only to a civil case in the District Court or a civil case transferred from the District Court to a circuit court and applied only prospectively to cases filed on or after October 1, 1997.

Slayer's Rule

Chapters 335 and 336 of 1998 established that after all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of a decedent:

(1) is admissible in a subsequent civil proceeding in which the common law slayer's rule is raised as an issue; and

(2) conclusively establishes that the convicted individual feloniously and intentionally killed the decedent.

Maryland recognizes a common law "slayer's rule" which prohibits a person who feloniously and intentionally kills another from sharing in the distribution of the decedent's estate and collecting any proceeds under the decedent's life insurance policy. See Ford v. Ford, 307 Md. 105, 512 A.2d 389 (1986). In addition, with respect to jointly held property, a felonious and intentional killing severs the cotenancy and a constructive trust is required to be imposed upon one-half of the property held by the killer in favor of the heirs of the victim. See Pannone v. McLaughlin, 37 Md. App. 395 (1977).

Chapters 335 and 336 of 1998 were prompted by the case of James G. Finneyfrock, who was convicted of murdering his parents and subsequently sought to share with his sister the proceeds of the insurance policy on the life of his father. The Acts were intended to eliminate the time and expense of a civil trial to disinherit a convicted murderer.

IMMUNITY FROM LIABILITY

Legislative Immunity

Chapter 558 of 1997 conferred immunity from civil liability on members of the General Assembly or another state legislature for any act or omission within the scope of their public duties when making a communication on behalf of a constituent or, in good faith, providing a constituent service.

"Constituent service" was defined in the Act to include intervention for individuals or entities that have requests of, or grievances against, any public or private entity or individual. The term does not include the operation of a motor

vehicle or other conveyance or an act or omission that constitutes a criminal offense. The Act provided that a member who makes a communication on behalf of a constituent is not civilly liable for defamation unless the communication is false and made with knowledge of or in reckless disregard of its falsity. The Act also allowed an immediate appeal to the Court of Appeals from any order by a circuit court denying legislative immunity. The Act did not supersede or constitute a waiver of any other constitutional, statutory, or common law privileges or immunities of a member.

Under Article 10 of the Maryland Declaration of Rights and Article III, Section 18 of the Maryland Constitution -- collectively known as the Speech and Debate Clauses -- members of the General Assembly are protected against civil suit or criminal prosecution for words they speak, votes they cast, or other legislative acts they perform that are an integral part of the legislative process. See Blondes v. State, 16 Md. App. 165 (1972). The immunity conferred by the Speech and Debate Clauses is absolute, i.e., it is conferred without regard to the legislator's purpose or motive or the reasonableness of the legislator's conduct. The existing immunity protected even malicious or bad faith acts and provided a privilege that relieved a member of the General Assembly from the burdens of litigation, i.e., appearance, discovery, depositions, and testifying. However, case law took a limited view of what constitutes a "legislative" act or function protected by this immunity. According to the Office of the Attorney General, case law excluded constituent communications and talking to the media from the immunity protection.

Chapter 558 extended additional statutory immunity to members of the General Assembly and other state legislatures to cover communications and good faith activities of a legislator on behalf of a constituent. This additional statutory immunity protects activities and functions commonly performed on behalf of constituents that were not covered by the existing immunities afforded to members of the General Assembly. In order to be protected by this Act, a legislator's activity must relate to a service or communication on behalf of a constituent. The Act did not apply to purely political or election-related activities.

Agricultural Nuisance Suits

Chapter 386 of 1998 strengthened the existing "right to farm" law that protected farmers and their agricultural operations from private nuisance suits if those operations are conducted in compliance with federal, State, or local health, environmental, zoning, and permit requirements and are not conducted in a negligent manner.

The definition of an "agricultural operation" was expanded to include additional types of protected activities and products. Specifically, the Act defined "agricultural operation" to mean an operation for the processing of agricultural crops or on-farm production, harvesting, or marketing of any agricultural, horticultural, silvicultural, aquacultural, or apicultural product that has been grown, raised, or cultivated by the farmer.

The Act also established that if an agricultural operation has been under way for at least 1 year and if the operation is in compliance with all governmental health, environmental, zoning, and permit requirements and is not conducted in a negligent manner, then the operation, including any resulting noise, dust, odors, or insects, cannot be held liable in a public or private nuisance action or in a private action claiming that the operation interferes with the use and enjoyment of other property, whether public or private. An existing requirement that any change in an operation be under way for at least 1 year before it may be protected from nuisance actions was eliminated.

Employers -- Disclosure of Information about Employees

Chapter 469 of 1996 provided immunity from liability for an employer acting in good faith who discloses any information about the job performance or reason for termination of employment of a current or former employee: (1) to a prospective employer, at the request of the prospective employer or the employee, or (2) to a government authority, as requested or required by law.

The Act also established that an employer who discloses any employee information is presumed to be acting in good faith, unless it is shown by clear and convincing evidence that the employer acted with actual malice toward the employee or intentionally or recklessly disclosed false information about the employee.

An employer who makes a statement relating to the job performance of a current or former employee may be subject to a lawsuit for defamation, including libel or slander, or intentional infliction of emotional distress. ***Chapter 469*** was

intended to provide additional protection to an employer who in good faith discloses information about the job performance or the reason for termination of employment.

Miscellaneous Immunity from Liability Enactments

During the 1995-1998 term, the General Assembly also enacted legislation to protect sport shooting ranges from private nuisance suits ***(Ch. 665/97)***; limit the liability of professional engineers and architects who perform voluntary professional services at disaster sites ***(Ch. 227/97*** and ***(Ch. 374/98)***; grant immunity from criminal or civil liability to emergency medical services personnel who, in good faith, do not act in accordance with a "do not resuscitate order" ***(Ch. 195/97)***; protect from civil liability landowners who allow their property to be used by persons who participate in or observe historical re-enactments, such as Civil War battles, as part of an educational or cultural program ***(Ch. 215/98)***; and grant immunity from civil liability to persons who, acting in good faith, provide information about a veterinarian to the State Board of Veterinary Medical Examiners or otherwise participate in its activities ***(Ch. 243/98)***.

CERTIFICATES OF MERIT -- LICENSED PROFESSIONALS

Chapter 452 of 1998 required persons who file claims against certain licensed professionals to file a certificate of a qualified expert in the same profession attesting that the defendant failed to meet professional standards of care.

The Act applied to civil actions originally filed in circuit court (including an original claim, cross-claim, or third-party claim) based on the alleged negligent act or omission of a licensed professional in rendering professional services for others. The Act covered licensed architects, interior designers, landscape architects, professional engineers, land surveyors, and property line surveyors. An action against one of these professionals is required to be dismissed, without prejudice, unless the claimant obtains and files with the circuit court a certificate from a qualified expert stating that the defendant failed to meet professional standards of care.

However, upon written request by the claimant and a finding of good cause, a circuit court may modify or waive the requirement to file a certificate. The Act also provided that, on written request by the claimant, the defendant must produce documentary evidence that is reasonably necessary in order to obtain a certificate of a qualified expert.

DISTRICT COURT CIVIL JURISDICTION

Chapter 673 of 1998 increased the monetary limit on the civil jurisdiction of the District Court to include any disputes in contract or tort or matters of attachment before judgment where the amount in controversy does not exceed $25,000, exclusive of prejudgment or postjudgment interest, costs, and attorney fees. Under existing law, the civil jurisdictional limit of the District Court was $20,000, exclusive of prejudgment or postjudgment interest, costs, and attorney fees.

CIVIL JURY TRIALS

Chapter 322 of 1998 proposed a constitutional amendment to increase the amount in controversy necessary in a civil proceeding in order for the right of trial by jury to attach from an amount exceeding $5,000 to an amount exceeding $10,000. The amendment was intended to expedite trials of cases filed originally in the District Court involving disputes of $10,000 or less by allowing the District Court to retain jurisdiction rather than allowing a party to delay the trial and increase the expenses of litigation by requesting a jury trial.

The constitutional amendment is subject to voter approval at the November, 1998 general election.

LIABILITY OF INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS (HMOS)

A number of bills introduced in the 1998 Session attempted in several ways to make health maintenance organizations (HMOs) and other carriers accountable for their decisions regarding the health care services they provide.

Chapter 112 of 1998 established grievance and complaint procedures for consumers who are refused or denied preauthorization for health care services and establish a certification requirement for medical directors of HMOs.

The Act established a complaint process for consumers who are dissatisfied with an adverse decision made by a private review agent, carrier, or health care provider acting on behalf of a carrier or a grievance decision made by a carrier. The Act also created a 24-hour emergency procedure for filing an internal grievance at the carrier level and with the Insurance Commissioner, and a 30-day period for all other cases. For a more extensive discussion of this Act, please see Part H - "Business and Economic Issues"under the "Health Insurance" subheading of the subpart "Insurance".

House Bill 1030 (failed) would have entitled an insured to recover costs, expenses, and interest at double the 6% legal rate on all costs and expenses incurred by the insured in an action between an insured and an insurer over coverage or payment for a covered loss.

House Bill 78 (failed) would have made an HMO liable in a civil action for any damages arising out of the HMO's failure to approve a covered service or benefit if the service or benefit was recommended by a provider that has a contract with the HMO to provide health care services to its enrollees or subscribers.

House Bill 1020 (failed) would have allowed an enrollee of a health benefit plan to bring a health care malpractice action against a medical director of a health care carrier if the enrollee's injury or death was proximately caused wholly or partly by the failure of the carrier to provide or approve a covered service. The bill would have required that an enrollee name the medical director of a carrier and not the carrier itself as the party defendant in the suit. However, the carrier would have indemnified the medical director for any judgment against the director unless the director had contravened the carrier's established procedures and protocol.

COMPARATIVE NEGLIGENCE

In each of the last 3 sessions of the 1995-1998 term, attempts to change Maryland from a contributory negligence state to a comparative negligence state were unsuccessful.

The latest version of such legislation, ***Senate Bill 618 of 1998*** (failed) would have established comparative negligence as the method for awarding damages in negligence actions, prohibited contributory negligence of the claimant from barring all recovery, and altered the rule of joint and several liability, except in certain categories of cases. Specifically, the bill would have provided that in an action for damages based on negligence resulting in death or injury to person or property, the contributory negligence of the plaintiff or, in a wrongful death action, the contributory negligence of the decedent does not bar recovery if the contributory negligence was less than the combined negligence of:

(1) the persons against whom recovery is sought; and

(2) all persons with whom the plaintiff has entered into a release, covenant not to sue, settlement, or similar agreement.

Damages would have been diminished under the bill in proportion to the percentage of negligence attributable to the plaintiff or, in a wrongful death action, the decedent.

PART F
COURTS AND CIVIL PROCEEDINGS

FAMILY LAW

DOMESTIC VIOLENCE

During the 1995-1998 term, the General Assembly devoted considerable attention to the problem of domestic violence, as is evidenced by the long list of successful legislation designed to strengthen the laws that protect victims of family violence.

In 1995, the General Assembly enacted ***Chapters 9 and 10***, comprehensive measures intended to ensure that Maryland would be eligible for federal funds under the Violence Against Women Act (VAWA), Title IV of the federal Violent Crime Control and Law Enforcement Act of 1994. Also in 1995, the Maryland Attorney General and the Lieutenant Governor created the Family Violence Council, in an effort to prevent and reduce family violence and to break the cycle of violence between generations. The Council brought together the leaders of the various systems that respond to family violence to analyze the problems, devise comprehensive solutions, and serve as agents of change to implement the solutions. After a year of work, including holding public hearings in four regions of the State, the Council issued its report and recommendations. All but one of the Council's recommendations were enacted by the General Assembly in the 1997 and 1998 Sessions.

Temporary Ex Parte Orders and Protective Orders

- *Filing Fees and Costs*

Chapters 9 and 10 of 1995 prohibited a person who files a petition for relief from abuse under the domestic violence subtitle of the Family Law Article from being required to pay a filing fee or costs for the issuance or service of: (1) a temporary ex parte order; (2) a protective order; or (3) a witness subpoena. The Acts did not, however, prohibit the court from assessing costs against the respondent in a proceeding for relief from abuse.

- *Entry of Orders in MILES*

Chapters 9 and 10 of 1995 required temporary ex parte orders and protective orders issued under the domestic violence subtitle of the Family Law Article to be entered in the Maryland Interagency Law Enforcement System (MILES). The Acts also authorized any judge or any law enforcement agency or officer to access the system to determine the status of any outstanding temporary ex parte order or protective order issued by a Maryland court.

- *Mutual Protective Orders*

Chapters 9 and 10 of 1995 also provided that, in a proceeding for relief from abuse, a protective order may be issued only to a person who has filed a petition. If both parties have filed a petition, the court may issue mutual protective orders if the court finds by clear and convincing evidence that mutual abuse has occurred and if the court makes a detailed finding of fact that both parties acted primarily as aggressors and that neither party acted primarily in self-defense.

- *Relief Granted*

1. Emergency Family Maintenance

Chapter 537 of 1995 clarified that a court, when issuing a protective order that includes an award of emergency family maintenance, is authorized to include an immediate withholding order on the earnings of the abuser in accordance with the established procedures for earnings withholding for child and spousal support.

2. Surrender of Firearms

Certain provisions of the Maryland Gun Violence Act of 1996, ***Chapters 561 and 562 of 1996***, also expanded the relief available to victims of domestic violence. First, the Acts authorized a court, when granting relief to a victim of domestic violence under a protective order, to order the alleged abuser to surrender to law enforcement authorities any firearm in the abuser's possession for the duration of the protective order. The Acts also provided that, when responding to the scene of an alleged act of domestic violence, a law enforcement officer must remove a firearm from the premises if: (1) the law enforcement officer has probable cause to believe that an act of domestic violence has occurred; and (2) the law enforcement officer has observed the firearm on the premises during the response. For a more detailed discussion of ***Chapters 561 and 562 of 1996***, see Part E - Crimes, Correction, and Public Safety, under the Subpart "Public Safety".

3. Definition of "Residence"

Under the current statute governing domestic violence proceedings, as part of a temporary ex parte order or a protective order, a court may order an abuser to refrain from entering the "residence" of a person eligible for relief.

According to the Family Violence Council, some law enforcement officers were interpreting that statutory language to permit an abuser to enter the yard or property around the residence. ***Chapter 307 of 1997*** defined "residence" to include the yard, grounds, outbuildings, and common areas surrounding the residence.

4. Duration of Protective Order

Chapter 307 of 1997 extended the duration of a protective order from 200 days to up to 12 months. Additionally, the Act authorized the court that issued the protective order to extend the term of the protective order for 6 additional months, after notice and a hearing.

The Family Violence Council found that 200 days was an insufficient amount of time for a victim of domestic violence to escape from an abusive relationship and establish a safe life.

- *Service of Ex Parte Order*

A law enforcement officer must personally serve a temporary ex parte order on an alleged abuser. Under the law prior to 1997, a copy of a protective order was required to be personally served on the abuser either in open court or, by a law enforcement officer, constable, or sheriff. Additionally, a copy of the protective order was also required to be sent to the last known address of the abuser by first class mail.

According to the Family Violence Council, because the protective order cannot be enforced until served on the abuser, the requirement that the abuser be personally served twice, both at the ex parte and protective order stages of a domestic violence proceeding, meant that many abusers were able to violate the orders with impunity by willfully evading service. ***Chapter 307 of 1997*** altered the prior law by requiring that a copy of the protective order be served on the abuser either in open court, or, if the abuser is not present at the protective order hearing, by first class mail to the abuser's last known address. The temporary ex parte order must contain notice to the abuser of the possible consequences of failure to appear at the protective order hearing.

- *Enforcement*

1. Mandatory Arrest for Violation of Order

Chapters 9 and 10 of 1995 made it mandatory for a police officer to arrest and take into custody a person whom the officer has probable cause to believe is in violation of a temporary ex parte order or protective order issued under the domestic violence subtitle of the Family Law Article. Under the prior law, an officer was authorized, but not required, to arrest with or without a warrant a person whom the officer had probable cause to believe was in violation of a domestic violence order.

2.Penalties for Violation of Order

Under the law prior to 1995, a person who failed to comply with the provisions of an ex parte order or protective order that order the person to refrain from further abuse or threats of abuse, to refrain from contacting the victim, to vacate the family home, or to stay away from the victim's place of employment, school, or temporary residence, was guilty of a misdemeanor subject to a fine not exceeding $500 or imprisonment not exceeding 60 days or both.

Chapters 9 and 10 of 1995 increased the maximum term of imprisonment for failure to comply with a domestic violence order to 90 days.

This law was subsequently amended by ***Chapter 685 of 1998***, which increased, from $500 to $1,000, the maximum fine that may be imposed on a person convicted for a first offense. The Act also increased from $500 to $2,500, the maximum fine, and from 90 days to 1 year, the maximum term of imprisonment that may be imposed for a second or subsequent offense. The result of the enhanced penalties in ***Chapter 685*** changed the violation of a domestic violence order from an offense over which the District Court had exclusive original jurisdiction to an offense over which the District Court has concurrent jurisdiction with the circuit court. Additionally, because the term of imprisonment is increased to a period of over 90 days for a second or subsequent offense under the Act, the defendant would have the right to demand a jury trial.

3.Enforcement of Out-of-State Orders

Chapter 615 of 1996 expanded the protections available to victims of domestic violence by requiring a court to give full faith and credit to a protective order issued in another state or by an Indian tribal court. In addition, ***Chapter 615*** required a law enforcement officer to arrest and take into custody a person whom the officer has probable cause to believe is in violation of a protective order issued in another state or by an Indian tribal court if: (1) the out-of-state order is filed with the clerk of the District Court or the clerk of a circuit court; or (2) the person seeking the assistance of the law enforcement officer displays or presents the law enforcement officer with an authenticated (i.e., certified) copy of the order.

The Act also allowed out-of-state orders that are registered with a Maryland court to be entered in the Maryland Interagency Law Enforcement System (MILES) in the same manner as Maryland orders are entered.

Warrantless Arrest

In 1994, the General Assembly enacted legislation that changed the time frame within which a report must be made to the police before a police officer may make a warrantless arrest for alleged domestic violence. (***Chapter 728 of 1994***). The law prior to 1994 authorized a police officer to arrest a person without a warrant if certain conditions precedent were met, including the requirement that a report must have been made to the police within two hours of the occurrence of the alleged incident. ***Chapter 728*** changed this time frame to twelve hours.

The time period was increased again this term to forty-eight hours by ***Chapters 9 and 10 of 1995.***

Chapters 9 and 10 further provided that if a police officer has probable cause to believe that mutual battery occurred and a warrantless arrest is necessary, the officer shall consider whether one of the parties acted in self-defense when making the determination whether to arrest the person whom the officer believes to be the primary aggressor.

Duties of Law Enforcement Officers

Research by the Family Violence Council indicated that many law enforcement officers, when accompanying an alleged victim of domestic abuse to the family home to allow the victim to remove clothing and personal effects, questioned their authority under the law prior to 1997 to allow the victim to remove medicines or medical devices. Additionally, the Council found that many abusers were refusing to allow the alleged victim to take clothing and personal effects because the abuser argued that the abuser paid for the items.

In response to these concerns, ***Chapter 316 of 1997*** clarified that when a law enforcement officer accompanies an

alleged victim of domestic abuse to the family home so that the victim may remove clothing and personal effects, the personal effects that may be removed include any medicine or medical devices of the victim and of any child in the care of the victim. Additionally, the Act established that the victim is authorized to remove the victim's or child's clothing or personal effects, regardless of who paid for the items.

Spousal Privilege

- *Compelling Testimony*

The law prior to 1995 permitted the spouse of a person on trial for a crime to be compelled to testify as an adverse witness if the charge involved assault and battery in which the spouse was a victim and:

(1) the person on trial was charged with assault and battery of the spouse within 1 year of the current charge; and

(2) the spouse was sworn to testify at the previous trial and refused to testify.

Chapters 9 and 10 of 1995 removed the restriction that the previous charge must have occurred within 1 year of the current charge.

- *Record of Assertion*

Chapter 308 of 1997 established that if the spouse of a person on trial for assault in any degree in which the spouse was a victim is sworn to testify at the trial and refuses to testify on the basis of the provisions of Maryland's spousal privilege law, the clerk of the court is required to make a record of that refusal. The separate record of the refusal is not subject to expungement.

The work of the Family Violence Council revealed that in some cases where the privilege had been asserted, the charges had been expunged and therefore no record existed to show that there had been a previous refusal to testify.

Manslaughter - Spousal Adultery

Chapter 317 of 1997 established that the discovery of one's spouse engaged in sexual intercourse does not constitute legally adequate provocation for the purpose of mitigating murder to voluntary manslaughter. For a more detailed discussion of ***Chapter 317***, please see Part E- Crimes, Correction, and Public Safety, under the Subpart "Criminal Law".

Grounds for Absolute Divorce

The proposal that captured most of the attention in the domestic violence arena during the 1997 Session was an unsuccessful measure that would have added additional grounds for an absolute divorce without a waiting period, based on acts of domestic violence (***Senate Bill 160/House Bill 677***). Opponents of the failed legislation cited problems with the broad definition of "abuse" in the bill as introduced, and expressed concerns about the potential for false allegations and the decline of the importance of the institution of marriage in the State.

Chapters 349 and 350 of 1998 reflected a compromise on the issue by narrowing the grounds constituting domestic violence to mirror current grounds in the limited divorce statute and by imposing a condition precedent regarding reconciliation by the parties. ***Chapters 349 and 350*** authorized a party to file immediately for an absolute divorce based on the grounds of cruelty of treatment or excessively vicious conduct, if there is no reasonable expectation of reconciliation.

CHILD SUPPORT ENFORCEMENT

As part of welfare reform and in response to federal mandates, the General Assembly passed legislation in 1995, 1996, and 1997 designed to enhance child support enforcement in Maryland.

Child Support Enforcement Privatization Pilot Program

- *Pilot Program*

Chapter 491 of 1995, which was primarily a welfare reform measure, established within the Department of Human Resources a four-year Child Support Enforcement Privatization Pilot Program for Baltimore City and Queen Anne's County.

Under the pilot program, the Secretary of the Department of Human Resources is authorized to enter into contracts with private companies to privatize all aspects of child support enforcement functions of the Department, including: (1) locating absent parents; (2) establishing paternity; (3) establishing support orders; (4) collecting and disbursing support payments; (5) reviewing and modifying child support orders; and (6) except for legal representation and as otherwise provided by law, enforcing support obligations. The private contractors are to be reimbursed a percentage of the total amount of child support they collect.

Chapter 491 required the transfer of all aspects of child support enforcement in Baltimore City and Queen Anne's County to one or more private contractors by July 1, 1996. Lockheed Martin IMS was selected as the private contractor for the programs in these two counties.

- *Demonstration Site*

Chapter 491 of 1995 also required the Secretary of the Department of Human Resources to establish a child support enforcement demonstration site in one unnamed jurisdiction to compete against the privatized contractor in the privatization pilot program described above. The Act required the Department to report to the Legislative Policy Committee of the General Assembly before January 1, 1996 on the selection of the site for the demonstration pilot. Washington County was designated as the demonstration site to compete with the privatized jurisdictions of Baltimore City and Queen Anne's County.

Suspension of Licenses

Chapter 491 of 1995 required the Child Support Enforcement Administration (the Administration) of the Department of Human Resources to notify the Motor Vehicle Administration (MVA) of an obligor who is 60 days or more in arrears in making child support payments. When notified, the MVA must suspend the obligor's driver's license or privilege to drive in the State. However, the MVA may issue a work-restricted license or work-restricted privilege to drive.

Before notifying the MVA, however, the Administration must give the obligor written notice of the proposed action and a reasonable opportunity to contest the information. The Administration may not send any information to the MVA if the Administration reaches an agreement with the obligor regarding a scheduled payment of the arrearage or a court issues an order for a scheduled payment and the obligor is complying with the agreement or court order.

The MVA is required to reinstate the license of an obligor who pays the arrearage in full or demonstrates good faith by paying the ordered amount of support for six consecutive months.

Chapter 609 of 1997 extended provisions similar to those described above in ***Chapter 491 of 1995*** to professional licenses. ***Chapter 609*** authorized the Administration to notify the MVA to suspend or deny a business, occupational, or professional license of an obligor who is more than 120 days in arrears under the most recent child support order.

Establishment of Paternity

Chapter 248 of 1995 was intended to address the Court of Appeals decision in Tandra S. v. Tyrone W., 336 Md. 303, 648 A.2d 439 (1994), which held that a circuit court has no authority to set aside an enrolled paternity judgment except upon a showing of "fraud, mistake, or irregularity", even if a post-judgment blood test excludes the individual named in the order as the father or if the mother committed perjury in the original action. The 1995 Act authorized a court to modify or set aside a declaration of paternity if a blood or genetic test establishes the definite exclusion of the

individual named as the father in the order. However, a declaration of paternity may not be modified or set aside if the individual acknowledged paternity knowing he was not the father.

Chapter 609 of 1997 contained several provisions related to the establishment of paternity in order to enhance child support collection. For a more detailed discussion of that measure, please see the subheading entitled "Enforcement Procedures" under this heading.

Child Support Reinvestment Fund

Chapter 490 of 1995 established a Child Support Reinvestment Fund within the Child Support Enforcement Administration. The Fund is a special, nonlapsing fund that consists of up to 70% of the federal performance incentive dollars received by the Department of Human Resources in a fiscal year. However, the Fund may not receive more than $5 million in federal performance incentive dollars in any fiscal year and the Fund balance may not exceed $5 million at any time.

The Fund is to be used for: (1) expanding the privatization of child support enforcement services; (2) improving and expanding the Administration's automation capabilities; and (3) expanding the Administration's public awareness campaign.

Uniform Interstate Family Support Act

Chapter 667 of 1996 repealed the Maryland Uniform Reciprocal Enforcement of Support Act and established the Maryland Uniform Interstate Family Support Act as the new legal framework to settle interstate jurisdictional disputes concerning the enforcement of child and family support awards.

For more than 40 years, the Uniform Reciprocal Enforcement of Support Act (URESA), which was adopted by every state, governed the processing and enforcement of interstate support orders in Maryland. However, a major weakness of URESA was that it was unable to prevent one state from modifying a child support order of another state. In order to deal with the problems of multiple modifications and to increase the overall efficiency of interstate child support cases, the National Conference of Commissioners on Uniform State Laws drafted a new uniform act to govern these cases, called the Uniform Interstate Family Support Act (UIFSA). ***Chapter 667*** is Maryland's version of UIFSA. ***Chapter 667*** contained substantially all of the of the provisions of UIFSA, with several differences.

Chapter 609 of 1997 subsequently amended the Maryland Uniform Interstate Family Support Act to incorporate provisions of the model act not adopted by Maryland in 1996 and amendments to the model act since its adoption in Maryland.

Enforcement Procedures

Chapter 609 of 1997 made a number of changes to State law to bring Maryland into substantial compliance with federal child support enforcement requirements as enacted by HR 3734, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Failure to have implemented the necessary requirements under the federal law might have jeopardized Maryland's Temporary Assistance for Needy Families block grant. The most significant changes to State law included the following:

- Express authorization for a putative father to file an action to establish his paternity of a child;
- Elimination of an alleged father's right to a jury trial in a paternity action;
- Establishment of a provision that an affidavit of parentage constitutes a legal finding of paternity, rather than a rebuttable presumption;
- Authorization for a legal finding of paternity established by affidavit to be set aside only if it is rescinded within 60 days or, after the expiration of the 60-day period, the party challenging it proves that the affidavit was executed because of fraud, duress, or a material mistake of fact;

- Authorization of the Child Support Enforcement Administration (the Administration) to request a mother, child, and alleged father to submit to blood or genetic tests to determine paternity;

- Provision for the admissibility of written statements concerning the cost of a blood or genetic test and records relating to the cost of the mother's medical and hospital expenses and the child's neonatal expenses in evidence in a paternity action without the presence of the custodian of the records; and provision that the statement or record constitutes prima facie evidence of the amount of expenses incurred (subject to a party's right to subpoena the custodian at least 10 days before trial);

- Requirement of the court in a paternity action to pass a temporary child support order if the laboratory report of a blood or genetic test establishes a statistical probability of paternity of at least 99% and the putative father has the ability to pay;

- Requirement of financial institutions to provide information concerning obligors who are in arrears in paying child support to the Child Support Enforcement Administration (the Administration) and authorizing the Administration to enter into agreements with these entities to conduct quarterly database matches;

- Authorization of the Administration to direct an obligor to make support payments through a support enforcement agency;

- Authorization of the Administration to issue subpoenas to compel the production of documents and other tangible items;

- Authorization of the suspension or denial of business, occupational, and professional licenses of obligors who are more than 120 days in arrears or of individuals who fail to comply with an administrative subpoena;

- Authorization of the Administration to serve an earnings withholding order on an obligor's employer;

- Establishment of provision that unpaid child support due under an order requiring payments through a support enforcement agency constitutes a lien on all real and personal property of the obligor and establishment of procedures for enforcement of child support liens;

- Amendment of the Maryland Uniform Interstate Family Support Act to incorporate: (1) provisions of the model act not adopted by Maryland in 1996; and (2) amendments to the model act since its adoption in Maryland;

- Requirement of public service companies and energy providers to provide specified information to the Administration pursuant to an administrative subpoena;

- Amendment of the State new hire reporting law to require reporting of additional employment information required for the National New Hire Registry; and

- Requirement of the Child Support Enforcement Administration to establish a State disbursement unit for collection and disbursement of support payments in specified cases.

CHILDREN IN NEED OF ASSISTANCE - TERMINATION OF PARENTAL RIGHTS - ADOPTION

The General Assembly sought during the 1995-1998 term to reduce the time children in need of assistance spend in foster care or other temporary out-of-home placement by achieving reunification, adoption, or other permanent placement in a more timely manner.

Juvenile Court - Practice and Procedure

- *Governor's Commission on Adoption*

In 1995, the Governor's Commission on Adoption was created and charged with recommending changes in laws,

policies, and practices to expedite lengthy adoption and permanency planning processes for children placed in foster care. The Commission found that problems with the court structure in Maryland included courts not being able to comply with the required time frame for a decision on the termination of parental rights, the termination of parental rights not being viewed as a priority by many judges, and a lack of continuity when child welfare proceedings for one child were held in two different courts. In light of these findings, the Commission recommended changes to the existing law, some of which were enacted during the 1996 Session.

1. Review Hearings

Petitions alleging that a child is in need of assistance are filed in juvenile court. Upon a finding that a child is a child in need of assistance, as part of the disposition, the juvenile court may commit the child to the custody or under the guardianship of a local department of social services or a public or licensed private agency. If the child is committed to an individual or to a public or private agency or institution, the court may require the custodian to file periodic written progress reports, with recommendations for further supervision, treatment, or rehabilitation.

Chapters 595 and 596 of 1996 required the juvenile court, within 10 months of a child in need of assistance disposition concerning a child, to hold a hearing for the purpose of reviewing the implementation of a permanency placement plan. At this hearing, the Acts required the court to make determinations regarding the future status of a child in placement, including whether the child should be returned home, whether termination of parental rights and adoption should be sought, or whether the child should be continued in placement on a permanent or long-term basis. If the court determines the child should be continued in placement, the court is required to hold a review hearing every 6 months until a permanent placement is made or until commitment of the child is rescinded.

Provisions of this law were subsequently amended by two measures enacted during the 1998 Session. ***Chapter 539 of 1998*** required the juvenile court to hold a permanency planning hearing no later than 11 months after a child enters an out-of-home placement, or within 30 days after the court determines that reasonable efforts to reunify the child with the child's parents or guardian are not required based on a finding that certain aggravated circumstances exist. ***Chapter 621 of 1998*** mandated the court's consideration of any written report of a local foster care review board at any hearing to review the implementation of the child's permanency plan.

2. Juvenile Court Jurisdiction

Prior to 1996, all termination of parental rights hearings and subsequent adoption proceedings were held in equity court. In order to facilitate the speedy and efficient resolution of termination of parental rights cases and provide for continuity in child welfare proceedings, ***Chapters 595 and 596 of 1996*** expanded the juvenile court's original jurisdiction to include all termination of parental rights proceedings and subsequent adoption proceedings with respect to any child who is under the jurisdiction of the juvenile court and previously has been adjudicated a child in need of assistance. This provision did not apply in Montgomery County, however, where juvenile court proceedings are held in the District Court.

Chapter 496 of 1997 subsequently granted the District Court in Montgomery County, sitting as the juvenile court, the same powers conferred on the juvenile courts in every other jurisdiction over termination of parental rights and adoption proceedings in child in need of assistance cases.

- *Child in Need of Assistance Disposition Hearings*

A child in need of assistance proceeding is bifurcated into an adjudicatory hearing and a disposition hearing. The juvenile court first conducts an adjudicatory hearing to determine if the allegations in the petition are true. If the allegations are sustained, the court conducts a separate disposition hearing to determine whether the child needs the court's assistance (i.e., whether the child should be declared a child in need of assistance) and, if so, the nature of the guidance, treatment, rehabilitation, or other assistance that the child requires.

The law prior to 1995 required the disposition hearing to be held no later than 30 days after the conclusion of the adjudicatory hearing.

Chapter 425 of 1995 eliminated the time lag between the two stages of a child in need of assistance proceeding by requiring that the disposition hearing be held on the same day as the adjudicatory hearing, unless: (1) the court or a party moves that the disposition hearing be delayed; and (2) the court finds that there is good cause to delay the disposition hearing to a subsequent day.

Shelter Care

A child taken into custody by a local department of social services may be placed by the department in emergency shelter care under certain circumstances. If the child is not released, the intake officer or the official who authorized shelter care must immediately file a petition in court to request continued shelter care. Shelter care may not be ordered for more than 30 days unless an adjudicatory hearing is held.

Chapter 637 of 1995 was an emergency bill that allowed for an extension of shelter care for a child in need of assistance for a period of not more than 30 days if the juvenile court finds after a hearing held as part of the adjudication that continued shelter care is necessary to provide for the safety of the child.

Parental Responsibility

- *Permanency Plans*

Chapter 11 of 1995 amended the Juvenile Causes Subtitle of the Courts Article to specify that one of its purposes is to hold parents of children found to be in need of assistance responsible, where possible, for remedying the circumstances that required the court's intervention.

Under the Act, in a child in need of assistance case, if the disposition includes removal of the child from the home, the court is required to issue an order:

(1) making specific findings of fact as to the circumstances that caused the need for the removal; and

(2) informing the parents that the permanency plan of reunification may be changed to another permanency plan which may include the filing of a petition for termination of parental rights if the parents have not made significant progress to remedy the circumstances that caused the need for the removal as specified in the court order and the parents are unwilling or unable to give the child proper care and attention within a reasonable period of time.

Additionally, the Act included provisions that required the court in each child in need of assistance hearing to inquire into and make findings of fact on the record regarding the identity and current address of each parent and to inform the parents present of available processes and procedures for establishing paternity if not yet established.

- *Changes of Address*

Under the law prior to 1995, the parent of a child who was the subject of a child in need of assistance hearing was only required to notify the juvenile court of any changes in the parent's address. A termination of parental rights notice was required to be sent to the address listed with the juvenile court or at any other address identified after reasonable good faith efforts to locate the parent.

In order to relieve social services agencies from the responsibility of conducting lengthy searches for missing parents who fail to keep authorities advised of their current location, ***Chapter 177 of 1995*** required each parent of a child who is the subject of a child in need of assistance proceeding to notify the local department of social services as well as the juvenile court of a change in address.

The Act further provided that if the parent was present at the child in need of assistance hearing and notified by the juvenile court of the parent's responsibility to keep the juvenile court and the local department of social services advised of an address change, then notice of a termination of parental rights petition may be served on the parent by certified mail or private process at: (1) the latest address listed in juvenile court records; (2) the latest address listed in the records of the local department of social services; or (3) at any other address listed in the records of the juvenile

court or local DSS within 6 months before the filing of the petition. If the parent was not present at the child in need of assistance hearing and notified of the change in address requirements, then notice is required to be served on the parent at the latest address, if any, listed in juvenile court records or at any other address for the parent identified after reasonable good faith efforts to locate the parent.

Drug-Addicted Babies

Chapters 367 and 368 of 1997 created a presumption that a child is not receiving ordinary and proper care and attention for purposes of determining whether the child is a child in need of assistance, if the child was born addicted to or dependent on cocaine, heroin, or a derivative thereof, or was born with a significant presence of cocaine, heroin, or a derivative thereof in the child's blood as evidenced by toxicology or other appropriate tests.

Additionally, the Acts provided that one of the factors that a court must consider in determining whether to terminate parental rights is whether the child was born addicted to drugs and the parent refused admission into a drug treatment program or failed to fully participate in a drug treatment program. The Acts also required the Department of Human Resources, in cooperation with the Department of Health and Mental Hygiene, to develop intervention systems serving 300 families in at least four counties that include drug treatment for mothers of children born drug exposed and supportive services for the family of the child.

Foster Care and Kinship Care

Recognizing the importance of the extended family in the life of a child removed from a parent's custody, ***Chapter 546 of 1995*** required the Social Services Administration of the Department of Human Resources to establish a kinship care program. The Act required a local department of social services, as a first priority, to attempt to place a child in need of an out-of-home placement with a kinship parent.

Under ***Chapter 546***, "kinship parent" was defined as an individual related by blood or marriage within four degrees of consanguinity or affinity, as determined in accordance with the civil law rule, to a child who is in the care, custody, or guardianship of the local department and with whom the child is placed for temporary or long-term care other than adoption.

This law was amended again in 1996 to expand the definition of "kinship parent" to mean an individual who is related by blood or marriage within five degrees of consanguinity. (***Ch. 285/96***). Relatives within the fifth degree of consanguinity include great-great-great grandparents, great-great aunts and uncles, great-great nieces and nephews, and second cousins.

Children in Out-of-Home Placements

Prompted by the requirements of the federal Adoption and Safe Families Act of 1997 (P.L. 105-89), ***Chapter 539 of 1998*** was intended to make it easier to remove children from abusive families and speed up their adoptions. Failure to have implemented the necessary measures under the federal law might have jeopardized Maryland's federal Title IV-E (foster care and adoption) funding. The Act made a number of changes to the State's laws governing termination of parental rights and adoption for children in state custody and in out-of-home placements to bring Maryland into compliance with the federal mandates. The most significant changes to State law included the following:

- Declaring a legislative finding that the purpose of State adoption and guardianship law is to provide children with stable homes that protect their safety and health;

- Clarifying that a child's safety and health are the primary concerns of a local department of social services in making "reasonable efforts" to preserve and reunify families: (1) prior to the placement of a child in an out-of-home placement in order to prevent or eliminate the need for removing the child from the child's home; and (2) to make it possible for a child to safely return to the child's home;

- Requiring a court to consider certain aggravating circumstances before the court determines whether to terminate parental rights or is required to waive the obligation of a local department to provide reunification services to the

natural parent. These aggravating circumstances are evidence that a natural parent has: (1) subjected the child to torture, chronic abuse, or sexual abuse, or chronic and life-threatening neglect; (2) been convicted of a crime of violence against the child, the other natural parent of the child, another child of the natural parent, or any person who resides in the household of the natural parent; or (3) involuntarily lost parental rights of a sibling of the child;

- Requiring, with certain exceptions, a local department of social services to which a child is committed to file a petition for termination of parental rights or join a termination of parental rights action that has been filed if: (1) the child has been in an out-of-home placement for 15 of the most recent 22 months; (2) the court finds that the child has been abandoned; or (3) the natural parent has been convicted of a crime of violence against the child, the other natural parent of the child, another child of the natural parent, or any person who resides in the household of the natural parent;

- Requiring a court, in determining whether it is in the best interest of a child to terminate a natural parent's rights as to a child and grant an adoption or guardianship with the right to consent to adoption, to give primary consideration to the safety and health of the child; and

- Expediting permanency planning hearings for children in out-of-home placements by requiring the juvenile court to conduct the hearing within 30 days after a determination is made that reasonable efforts to reunify the child with the natural parent are not required.

Independent Adoptions

Under Maryland law, independent adoptions are those in which the arrangement for the adoption is not made by a child placement agency. Prior to 1995, a court was authorized to grant an independent adoption, without the consent of the natural parent, to a stepparent, relative, or other individual who exercised care or custody of a child for at least six months if the court found by clear and convincing evidence that: (1) it is in the best interest of the child to terminate the natural parent's rights as to the child; (2) the child has been out of the custody of the natural parent for at least 1 year; (3) the child has developed significant feelings toward and emotional ties with the petitioner; and (4) the natural parent: (i) has not maintained meaningful contact with the child during the time the petitioner has had custody despite the opportunity to do so; (ii) has repeatedly failed to contribute to the physical care and support of the child although financially able to do so; or (iii) has been convicted of child abuse of the child.

Chapters 608 and 609 of 1995 authorized a court to terminate the parental rights of a natural parent who is convicted of a crime of violence against the other natural parent of the child and sentenced to an unsuspended term of imprisonment for at least 10 years, if the requirements specified in items (1) through (3) above have been satisfied.

This law was subsequently amended by ***Chapter 629 of 1998***, which further expanded the list of factors in a termination of parental rights consideration under item (4) above to include the conviction of the natural parent of : (1) child abuse of another child of the natural parent; or (2) a crime of violence against the child, the other natural parent of the child, another child of the natural parent, or any other person who resides in the household of the natural parent. The Act also required a court to consider whether the natural parent has subjected the child to torture, chronic abuse, or sexual abuse, or chronic and life-threatening neglect, or whether the natural parent has involuntarily lost parental rights of a sibling of the child. Additionally, the court must give primary consideration to the safety and health of the child in determining whether it is in the best interest of the child to grant the adoption.

ADOPTION - ACCESS TO RECORDS AND INFORMATION

Generally, adoption records are closed in Maryland. The original birth certificate and court records of an adopted individual are under seal and are not open to inspection by any person, except upon court order. However, adopted individuals, natural parents, and siblings may register with the Mutual Consent Voluntary Adoption Registry in the Social Services Administration to exchange identifying information.

In 1993, the General Assembly enacted a law that provided that an adopted individual who petitions the court to open part of a court record or adoption agency record containing medical information is not required to make any particular

showing of need for the medical information.

Chapter 290 of 1995 broadened the scope of this law by requiring the court or a child placement agency to provide at the request of an adopted individual or birth parent of an adopted adult any medical or nonidentifying information (i.e., any information that does not reveal the location or identity of an individual) contained in its adoption records without a showing of need for the information.

Chapter 679 of 1998 further expanded access to adoption records and information by providing for contact between adopted individuals and biological parents of adopted individuals through a confidential intermediary within the Social Services Administration. For adoptions finalized after the year 2000, the Act authorized adopted individuals and biological parents to apply to the Secretary of Health and Mental Hygiene to receive a copy of birth and adoption records under seal, unless a disclosure veto has been filed prohibiting the disclosure of any information contained in a record that relates to the individual who filed the veto.

CHILD ABUSE AND NEGLECT

Confidentiality Requirements

Each local department of social services for a county is required to make a thorough investigation of any report of suspected child abuse or neglect. Except under limited circumstances, all reports and records of a local department concerning child abuse and neglect are confidential.

Chapter 430 of 1996 expanded the list of persons to whom confidential child abuse and neglect records may be disclosed to include:

(1) The director of a licensed child care facility or child placement agency for the purpose of carrying out appropriate personnel actions following a report of suspected child abuse or neglect alleged to have been committed by an employee of the facility or agency and involving a child who is currently or who was previously under that facility or agency's care; and

(2) Local or state officials responsible for the administration of child care licensing and regulation when necessary to carry out their official functions.

Chapter 430 also provided that these records may be disclosed under an order of an administrative law judge, if the request for disclosure concerns a case pending before the Office of Administrative Hearings, and provisions are made to comply with confidentiality laws and to protect the identity of any person whose life or safety is likely to be endangered by the disclosure.

Chapters 405 and 406 of 1998 further relaxed the laws that protect the confidentiality of reports and records of child abuse and neglect to authorize a director of a local department of social services or the Secretary of Human Resources to disclose information concerning child abuse or neglect if the director or the Secretary determines that: (1) the disclosure is not contrary to the best interests of the child; (2) the alleged abuser or neglector has been charged with a crime related to a report of abuse or neglect; and (3) the child has died or suffered a serious physical injury.

Admissibility of Out-of-Court Statements

Each session of this four year term, legislation was introduced to either expand or eliminate the categories of individuals who may offer hearsay statements concerning alleged abuse of child victims in court proceedings.

Under the law prior to 1998, a court was authorized to admit into evidence in certain juvenile court or criminal proceedings an out of court statement, to prove the truth of the matter asserted in the statement, made by a child victim under the age of 12 years if the statement was made to and was offered in court by one of the following individuals in a professional capacity: a licensed physician, a licensed psychologist, a licensed social worker, or a teacher.

Chapters 638 and 639 of 1998 allowed the admission into evidence of out of court statements of a child victim that

were made to and are offered by a nurse, or by a principal, vice principal, or school counselor at a public or private preschool, elementary school, or secondary school. Additionally, the Acts repealed the requirement that the out of court statement be made to and be offered by a physician, psychologist, or social worker who is licensed, and authorized any of these individuals to testify as long as they were lawfully acting in the course of their professions when the statements were made.

CRIMINAL BACKGROUND INVESTIGATIONS

Currently, employers and employees of certain child care facilities and certain other individuals who work with, care for, or reside with children are required to obtain a criminal history records check.

Chapter 298 of 1995 expanded the list of individuals required to obtain a criminal background check to include all adults in a foster care home, child care home, or home of an individual seeking to adopt a child through a local department of social services.

Chapter 19 of 1996 updated the policies and procedures for criminal history records checks for individuals who work with or care for children by:

- expanding the information that must be included in a printed statement of a criminal history records check to include a "probation before judgment" disposition;
- requiring the Department of Public Safety and Correctional Services (the Department) to update criminal history records checks for employers of and volunteers at child care facilities, adults who reside in foster care or child care homes, and individuals seeking to adopt;
- requiring the Department to adopt regulations that require agencies that license, register, approve, or certify child care facilities to verify periodically the continuing licensure of a facility; and
- eliminating the prior requirement that an employee required to obtain a criminal history records check pay a fee and submit a separate application for each employer or prospective employer if the records check was made during the 180 days immediately before a written request for submission to an additional employer is received.

CHILD ABDUCTION

Prior to 1995, of all the statutes in the country concerning child abduction by relatives, Maryland's child abduction statute, which was applicable only to children younger than 12, protected the smallest class.

Chapter 227 of 1995 increased, from under 12 years to under 16 years, the age of a child to whom provisions of law prohibiting abduction by a relative apply.

CHILD CUSTODY AND VISITATION

Consideration of Abuse

Chapter 12 of 1995 changed the law to require, rather than allowed, a court to consider, when deciding custody or visitation issues, evidence of abuse by a party against: (1) the other parent of the party's child; (2) the party's spouse; or (3) any child residing within the party's household, including a child other than the child who is the subject of the custody or visitation proceeding.

Under the law prior to 1995, a court could consider domestic violence as a factor in determining the welfare and best interests of the child in a custody or visitation proceeding, but a court was not required to do so.

Notification Prior to Relocation

Chapter 232 of 1995 expressly allowed a court in a custody or visitation proceeding to require either party to give 45 days' notice to the court, the other party, or both of the intent to relocate the permanent residence of the party or the

child.

The Act, however, required a court to waive the notice requirement on a showing that notice would expose the child or either party to abuse or for any other good cause.

If either party is required to relocate in less than 45 days, the court may consider as a defense to any action brought for a violation of the notice requirement that: (1) the relocation was necessary due to financial or other extenuating circumstances; and (2) the required notice was given within a reasonable time after learning of the necessity to relocate.

The Act allowed the court to consider any violation of the notice requirement as a factor in determining the merits of any subsequent proceeding involving custody or visitation.

DIVORCE

Educational Seminar

Chapter 323 of 1997 authorized a court, prior to granting a decree of divorce in an action in which issues of child support, custody, or visitation are raised, to require all parties to participate in an educational seminar designed to educate parents about the effects, and to minimize the disruption, of a divorce on the lives of their children.

The Act required the Court of Appeals to adopt rules to implement this requirement, including rules that: (1) provide for the content of the seminar; (2) require the successful completion of the seminar by all parties to the action within a certain time after the service of the original complaint upon the defendant; (3) establish sanctions for failure to successfully complete the seminar; (4) establish a fee for the seminar and allow a waiver of the fee under appropriate circumstances; and (5) establish criteria for exemption from the seminar requirement, except in cases where there is evidence of domestic violence or child abuse or neglect.

Grounds for Absolute Divorce

Chapter 639 of 1998 added two new grounds for absolute divorce without a waiting period based on acts of domestic violence. The Act authorized a party to file for absolute divorce on the grounds of: (1) cruelty of treatment; or (2) excessively vicious conduct. For a more detailed discussion of this enactment, please see the "Domestic Violence" heading of this subpart.

FAMILY COURT

Background

In 1993 legislation was introduced that would have implemented the recommendations of the Governor's Task Force on Family Law and the Advisory Council on Family Legal Needs of Low Income Persons, both of which recommended the establishment of an independent Family Court. Both groups found that the current legal system was fragmented and inefficient in the way it dealt with family issues and that families were not being well served by the system. Because of fiscal constraints, it was felt that the establishment of a separate court was not feasible; however, the 1993 enactment took a step forward toward the goal of improving the way in which family, domestic, and juvenile matters were treated in the judicial system by authorizing the Chief Judge of the Court of Appeals to establish a Family Division in each circuit court to handle exclusively those matters.

The 1993 legislation required the Chief Judge to develop an implementation plan for a Family Division in each circuit court, where feasible, and to report to the Governor and the General Assembly by December 15. The Chief Judge appointed a Review Committee to assist him in carrying out the mandates of the legislation. The Review Committee concluded that in the circuit courts with fewer than four judges, there was no need for, and no advantage to a Family Division, and that the usefulness and advantage of a Family Division in the three circuit courts with four judges was, at best inconclusive. The Committee further found that in the five remaining circuit courts (Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George's counties) a Family Division would be feasible if additional

judges and support personnel were available.

Legislative Activity, 1995-1998

In the 1995, 1996, and 1997 Sessions, legislation to mandate the establishment of a family division in the circuit courts of the five largest jurisdictions in the State was unsuccessful. However, the General Assembly appropriated $140,000 in the budget for fiscal 1997 for the establishment of a pilot program for a family division in the Circuit Court for Baltimore City.

On January 13, 1998, the Court of Appeals adopted Maryland Rule 16-204, which established family divisions in the circuit courts in Baltimore City and Baltimore, Anne Arundel, Montgomery, and Prince George's counties. The divisions are intended to expedite family law matters and provide a full complement of family support services in the matters assigned to the family divisions, which include: dissolution of marriage; child custody and visitation; alimony, spousal support, and child support; termination and establishment of the parent-child relationship; criminal nonsupport and desertion; name changes; guardianship; involuntary admission to State facilities; family legal-medical issues; actions involving domestic violence; and certain juvenile cases.

The fiscal 1999 budget includes $4.3 million in General Fund direct grants and 24 additional personnel to support the creation of the family divisions. Prior to the establishment of official family divisions, financial support for family services came in the form of a direct State grant appropriation of $1.5 million allocated among 20 of the State's 24 circuit courts. This appropriation will continue in fiscal 1999 as part of the overall expansion of the Family Law Services program, bringing the total fiscal 1999 funding for the family divisions to $5.8 million.

PART F
COURTS AND CIVIL PROCEEDINGS

HUMAN RELATIONS

DISCRIMINATION IN EMPLOYMENT - REMEDIES

Efforts this past term to resolve two major issues pertaining to the State's employment discrimination law were not successful.

Under current law, the Maryland Human Relations Commission (Commission) does not have jurisdiction in employment discrimination cases over "small employers"; i.e., employers with less than 15 employees. In Molesworth v. Brandon (1996), the Maryland Court of Appeals held that an at-will employee of an employer with less than 15 employees has a common law cause of action for wrongful discharge. The Court held that small employers are merely excluded from the administrative process of the Maryland Human Relations Commission law, but not from the public policy underlying the law. The effect of the Molesworth case is that small employers are exposed to greater liability in wrongful discharge cases than large employers. First, employees of small businesses may assert their claims in State court without first filing a claim with the Commission, as employees of large businesses are required to do under the Fair Employment Practices Act. Second, employees of small businesses may recover compensatory damages in the courts while employees of the larger businesses may only be awarded back pay in the administrative process. Third, employees of small businesses have a longer statute of limitations under which to file a common law claim.

In a related issue, for many years the Maryland Human Relations Commission has sought to enhance the remedies that it may award under State law to victims of proven employment discrimination. Currently, in appropriate circumstances the Commission may award injunctive relief; however, the only monetary remedy that the Commission may award a victim of employment discrimination is back pay -- a remedy that may not be pertinent or adequate in many employment discrimination cases.

Several bills were introduced in the 1996, 1997, and 1998 Sessions to address the Molesworth decision, but all failed.

RELIGIOUS FREEDOM

During the 1998 Session, the General Assembly considered, but was unable to resolve, major legislation to address religious freedom.

In Employment Division v. Smith (1990), the United States Supreme Court held that states may prohibit or regulate conduct of general applicability even if the prohibition incidentally interferes with a person's religious practices unless it can be shown that the law was motivated by a desire to interfere with religion. In Smith, the Supreme Court held that two members of the Native American Church were not exempt from a law prohibiting the use of peyote on religious freedom grounds.

In response to the Smith decision, the United States Congress passed the 1993 Religious Freedom Restoration Act (RFRA), which provided that governments may not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability unless it demonstrates that application of the burden to the person is in furtherance of a compelling state interest and is the least restrictive means of furthering that compelling state interest.

In Flores v. City of Boerne (1997), a decision by a local zoning authority to deny a church a building expansion permit was challenged under RFRA. The United States Supreme Court held that RFRA exceeded the power of Congress and was, therefore, unconstitutional. Maryland and many other states have responded to the Flores decision by introducing RFRA-like legislation at the state level of government.

Senate Bill 515/House Bill 1041 of 1998 (both withdrawn) essentially would have reimposed the "pre-Smith standard" with regard to matters involving religious freedom in that government would have been prohibited from substantially

burdening a person's religious exercise, even if the burden resulted from governmental action of general applicability, unless the governmental authority demonstrated that the application of the burden to the person was the least restrictive means of achieving a compelling governmental interest.

In addition, ***Senate Joint Resolution 11/House Joint Resolution 13 of 1998*** (both withdrawn) would have urged the United States Congress to enact and the United States President to sign legislation that would undo the effect of Employment Division v. Smith and City of Boerne v. Flores, and that would restore the religious-liberty guarantee of the United States Constitution to its fullest capacity.

PART F
COURTS AND CIVIL PROCEEDINGS

REAL PROPERTY

CONDOMINIUMS, HOMEOWNERS ASSOCIATIONS, AND COOPERATIVES

Rights and Restrictions

Chapters 440 and 564 of 1998 expanded and clarified the ability of unit owners in condominiums and lot owners in homeowners associations to participate in the internal governance of their common interest communities. The Acts made three major changes.

- *Meeting Rights*

The Acts authorized unit and lot owners to assemble to discuss the operation of the condominium or homeowners association in any common elements or areas that the governing body of the condominium or homeowners association uses for scheduled meetings, subject to reasonable rules adopted by the governing body.

- *Right to Comment*

The Acts required a governing body of a condominium or homeowners association to provide a designated period of time during a meeting held at least once a year to allow unit owners or lot owners an opportunity to comment on any matter relating to the condominium or homeowners association. For all other meetings, the unit and lot owners' comments may be limited to the topics on the meeting agenda. The governing body may adopt reasonable rules governing these comment periods at meetings.

- *Right to Distribute Information and Circulate Petitions*

The Acts prohibited a recorded covenant or restriction, a provision in a declaration, or a provision of the bylaws or rules of a condominium or homeowners association from preventing a unit or lot owner from distributing information or circulating petitions to other owners regarding the operation of the common interest development in any place or manner in which the governing body distributes written information or materials to unit and lot owners. However, reasonable restrictions as to the time of distribution may be adopted. For purposes of determining the manner in which a governing body distributes information, the door-to-door distribution of information regarding assessments and meeting notices may not be considered.

Political Signs

Chapter 439 of 1998 prohibited common interest developments from placing unlimited restrictions on the display of signs on behalf of candidates or slates of candidates for public office or signs that advertise the support or defeat of a question submitted to the voters in accordance with State election laws. Specifically, the Act allowed common interest developments to restrict such signs in the common elements or areas of the community, impose any restrictions that are in accordance with federal, State, or local law, and in the absence of local laws on the matter, limit the display of the signs to no more than 30 days before and 7 days after a primary election, general election, or vote on a ballot question.

No-Impact Home-Based Businesses

Chapter 341 of 1998 provided that a general prohibition or restriction on commercial or business activity in a condominium, homeowners association, or cooperative housing corporation may not be construed to prohibit or restrict a "no-impact home-based business". However, the common interest development may expressly prohibit no-impact home-based businesses, if the prohibition is approved by a simple majority of the total eligible voters. Such a prohibition may also be eliminated by a simple majority. "No-impact home-based business" was defined under the Act

to mean a business that: (1) is consistent with the residential character of the dwelling unit; (2) is subordinate to the residential use of the unit and requires no external modifications that detract from the residential appearance of the unit; (3) uses no equipment or process that creates noise, vibration, glare, fumes, odors, or interference detectable by neighbors or, in the case of condominiums and homeowners associations, that causes an increase in common expenses; and (4) does not involve the use, storage, or disposal of a hazardous material.

A common interest development may opt out of the provisions of the Act by adopting procedures, prior to July 1, 1999, for the regulation or prohibition of no-impact home-based businesses.

CONSTRUCTION INDUSTRY

Money Held in Trust for Subcontractors

In 1987, the General Assembly passed the construction trust statute in order to protect subcontractors from dishonest practices by general contractors and other subcontractors for whom they might work.

That law required that any moneys paid under certain construction contracts by an owner to a contractor, or by the owner or contractor to a subcontractor for work done or materials furnished, or both, for or about a building by any subcontractor, be held in trust for purposes of paying those subcontractors. An officer, director, or employee of a trustee contractor or subcontractor could be held personally liable if, with intent to defraud, the officer, director, or employee retained or used the moneys held in trust for any purpose other than to pay those subcontractors for whom the moneys are held. In Ferguson Trenching v. Kiehne, 329 Md. 169 (1993), the Court of Appeals held that an officer, director, or employee of a trustee contractor or subcontractor was not a trustee with respect to these funds.

Chapter 436 of 1995 legislatively overturned this decision by: (1) imposing trustee status, for the purpose of paying money to subcontractors who did work or furnished materials for or about a building, on an officer, director, or managing agent of a contractor or subcontractor who has direction or control of money held in trust by a contractor or subcontractor for the subcontractors who are entitled to it; and (2) eliminating the requirement that intent to defraud be proven before an officer, director, or employee who retains or uses trust moneys for any purpose other than to pay the subcontractors may be held liable. The Act provided that any officer, director, or managing agent of a contractor or subcontractor who knowingly retains or uses the moneys held in trust may be held personally liable.

The Act also limited to managing agents the type of employees of a contractor or subcontractor who may be held personally liable for retaining or using trust money for any purpose other than to pay the subcontractors. "Managing agent" was defined under the Act to mean an employee of a contractor or subcontractor who is responsible for the direction over or control of money held in trust by the contractor or subcontractor.

Mechanics' Liens

The mechanics' lien law is designed to encourage construction by ensuring that those who contribute to a project are compensated for their efforts. Maryland's law was originally enacted in 1791 (the first such law in the country) in order to encourage the building of the District of Columbia.

- *Threshold Value*

Under the then current law, a mechanics' lien could be established only if a general contract for building repair, improvement, or rebuilding increased the value of the building by at least 25%. If this threshold was met, a contractor or subcontractor could claim a lien. ***Chapter 435 of 1996*** decreased the threshold value. Under this Act, if a building is repaired, rebuilt, or improved to the extent of 15% of its value, the building is subject to the establishment of a lien for the payment of all debts contracted for work done and materials furnished for or about the building.

- *Leased Equipment*

A lien may be established for work done for or about a building or materials supplied for or about a building. Prior to 1995, the law specified that work or materials included the drilling and installation of wells to supply water, sodding,

seeding, or planting of nursery products, and the grading, filling, landscaping, and paving of the premises. In a Court of Appeals decision, Giles and Ransome, Inc. v. First National Realty, 238 Md. 203 (1964), it was held that the rental of equipment without a mechanic to operate it was not a lienable item under the Maryland mechanics' lien laws. ***Chapter 440 of 1996*** overturned this decision by adding to the list of specified work or materials, the leasing of equipment, with or without a contractor.

- *Notice*

Chapter 377 of 1996 increased from 90 to 120 the number of days within which a subcontractor doing work or furnishing materials or both for a single family dwelling or other building must give notice to the owner of the subcontractor's intention to claim a lien in order to be eligible for a mechanics' lien.

New and Custom Homes

Chapter 569 of 1995 made several changes in provisions of law relating to deposits on new homes and the Custom Home Protection Act.

- *Deposits on New Homes*

Chapter 569 made it a felony to willfully and knowingly fail to obtain a corporate surety bond or irrevocable letter of credit or to hold sums of money in an escrow account under the existing law relating to deposits on new homes. (Under the then current law, no level of intent was required in order to be held in violation of these provisions.) A person convicted of violating this provision was required under the 1995 Act to make restitution to the purchaser (previously not a penalty) and was made subject to a fine not exceeding $10,000 (up from the previous maximum of $5,000) or imprisonment of up to 15 years (up from the previous maximum of 6 months) or both. Additionally, the Act established that any failure to comply with the provisions of law concerning deposits on new homes is an unfair or deceptive trade practice under the Consumer Protection Act and is subject to the provisions of that Act (except for the criminal misdemeanor penalties).

Chapter 569 of 1995 also required the Division of Consumer Protection in the Office of the Attorney General to develop and make available a standard new home disclosure form that advises purchasers of their rights under the law relating to deposits on new homes. The new home disclosure form must be provided to the purchaser by the vendor or builder prior to the execution of any contract for the sale of a new home, and the vendor or builder must obtain the purchaser's signature certifying that the purchaser received the disclosure form.

- *Custom Home Protection Act*

Chapter 569 also made changes to the Custom Home Protection Act. Specifically, it: (1) clarified that withdrawals from an escrow account may only be made in accordance with the draw schedule; (2) removed the requirement that a buyer make a written request in order for the custom home contract to identify primary subcontractors who will be working on the custom home; and (3) removed the requirement that a buyer make a written request to the vendor or builder in order to be provided, within 30 days after each progress payment, with a report concerning the payment of subcontractors, materialmen, and suppliers.

The Act required a custom home contract to include information concerning progress payments. The Act also made more explicit the disclosure statement concerning the exposure that a buyer has to a mechanic's lien unless the builder pays each subcontractor, materialman, or supplier.

Chapter 569 also added penalties to the Custom Home Protection Act. Under the then current law, a person convicted of violating the Custom Home Protection Act was guilty of a misdemeanor and subject to a fine of up to $1,000 or imprisonment not exceeding 1 year or both. The Act made it a felony to willfully and knowingly: (1) fail to obtain and maintain a corporate surety bond; (2) fail to hold sums of money in an escrow account; (3) fail to make a specified disclosure required under the Act; or (4) commit a breach of the trust established for the consideration received for a custom home. A person convicted under these provisions must make restitution to the purchaser and is subject to a fine

not exceeding $10,000 or imprisonment not exceeding 15 years or both.

RESIDENTIAL REAL PROPERTY SALES

First Time Home Buyers - Recordation and Transfer Taxes

Chapter 123 of 1995 was intended to reduce high closing costs for first time home buyers in this State. Among other things, the Act required sellers of improved residential real property to first-time Maryland home buyers who will occupy the property as a principal residence to pay the local transfer and recordation tax, unless the two parties expressly agree otherwise.

In addition, the Act required the seller of improved residential real property to a first-time home buyer who will occupy the property as a principal residence to pay the entire amount of State transfer tax.

For a detailed discussion of this Act see Part B - Taxes, under the Subpart "Recordation and Transfer Taxes".

Disclosure and Disclaimer Requirements

In 1993, the General Assembly passed a law that required a seller of single family residential real property to complete and deliver to each buyer either: (1) a residential property condition disclosure statement; or (2) a disclaimer statement. ***Chapter 384 of 1995*** made a number of clarifying and substantive changes to the 1993 legislation.

- *Applicability of Law*

Chapter 384 of 1995 limited the scope of the disclaimer/disclosure law by making it applicable only to single family residential real property improved by four or fewer single family units. The Act further clarified that the disclosure/disclaimer statement requirements do not apply to: (1) the initial sale of single family residential real property for which a certificate of occupancy has been issued within 1 year before the vendor and purchaser enter into a contract of sale; (2) a sale by a lender or an affiliate or subsidiary of a lender that acquired the real property by foreclosure or deed in lieu of foreclosure; and (3) a sale of unimproved real property.

- *Forms*

Chapter 384 of 1995 required the State Real Estate Commission to develop by regulation a single standardized form that includes both a disclosure and a disclaimer statement.

The Act also required that the disclosure form contain a notice to prospective purchasers that: (1) disclosure by the seller is not a substitute for an inspection by an independent home inspection company, and that the purchaser may wish to obtain such an inspection; and (2) the information contained in the disclosure is not a warranty by the vendor as to the condition of the property of which the vendor has no actual knowledge or other conditions of which the vendor has no actual knowledge.

- *Effect of Disclosure Statements*

The Act provided that a disclosure statement does not constitute a warranty by the vendor as to the condition of the property or as to conditions of which the vendor has no actual knowledge.

- *Rescission of Contract*

Chapter 384 of 1995 provided that the purchaser's right to rescind a contract terminates 5 days after applying for a mortgage, if the lender discloses when the purchaser applies for a mortgage that the right to rescind terminates at the end of the 5- day period. Previously, the right to rescind terminated when the purchaser applied for a mortgage, if the lender had disclosed in writing at or before the time application was made that the right to rescind terminated on submission of the application.

The Act also repealed a provision of the then current law which provided that a disclosure statement delivered later than 3 days after the seller enters into a contract of sale with the purchaser rendered the contract void.

FORECLOSURE SALES

Pre-1995 law required the holder of an interest who was foreclosing under it to give the record owner and certain other interest holders notice of the sale. ***Chapter 580 of 1995*** made a number of changes to the notice requirements for a sale in an action to foreclose a mortgage or a deed of trust in order to conform Maryland law with recently enunciated constitutional requirements.

Person Required to Give Notice

Chapter 580 of 1995 required the person authorized to make a sale to give notice of a foreclosure sale, rather than the holder of a superior recorded mortgage or deed of trust as was required under prior law.

Persons Entitled to Receive Notice

- *Record Owner*

Chapter 580 of 1995 provided that a person authorized to make a sale is not required to notify a record owner whose address is not reasonably ascertainable. "Record owner" was defined under the Act to mean a person holding record title to property as of the later of: (1) 30 days before the date on which a foreclosure sale of the property is actually held; and (2) the date on which an action to foreclose the mortgage or deed of trust is filed.

- *Subordinate Interest Holders*

The 1995 Act also required a person authorized to make a sale to give notice to the holder of any subordinate interest of any proposed sale unless: (1) the existence of such a mortgage is not reasonably ascertainable; (2) the identity or address of the holder of such a mortgage, deed of trust, or other interest is not reasonably ascertainable; or (3) the subordinate interest is created, recorded, or filed after the later of 30 days before the date on which the foreclosure sale was actually held or the date the action to foreclose the mortgage or deed of trust was filed. Under the then current law, the holder of a superior recorded mortgage or deed of trust was required to give written notice of any proposed foreclosure sale to a record owner and to holders of recorded or filed interests.

Failure to Provide Proof of Notice

Chapter 580 of 1995 repealed provisions of law that provided that if proof of notice of the sale to the record owner or to the holder of a subordinate interest was filed before final ratification of the sale, failure of the record owner or subordinate interest holder to receive the notice did not invalidate the sale.

Statute of Limitations

Finally, ***Chapter 580 of 1995*** provided that, for both a record owner and the holder of a subordinate interest, the right to file an action for failure by the person authorized to make a foreclosure sale to comply with specified notice provisions expires 3 years after the date of the order ratifying the foreclosure sale.

LANDLORD AND TENANT -- SUMMARY EJECTMENT

Prior to 1996, a tenant ordered by the court to surrender premises for failure to pay rent had only 2 days to either appeal the judgment to circuit court or yield possession of the premises. ***Chapter 586 of 1996*** increased from 2 days to 4 days the period of time to appeal or yield possession, thereby giving tenants more time to seek legal advice when necessary. The Act also increased from 2 to 4 the number of days after which a tenant ordered to surrender premises may be ejected from the property.

LEAD PAINT

Several bills affecting the State's Lead Poisoning Prevention Program (LPPP) were enacted by the General Assembly during the 1997 Session.

Chapter 714 of 1997 provided that the owner of residential rental property may comply with rent escrow law provisions by meeting the risk reduction standards of the LPPP. Under the prior law, a rental property tenant was authorized to place the tenant's rent payments in escrow until the property owner eliminated lead-based paint in the dwelling unit. This Act altered the rent escrow requirements by allowing the owner to comply by meeting the risk reduction standards of the LPPP, as opposed to completely eliminating lead-based paint.

Chapter 124 of 1997 amended the definition of "affected property" in the Insurance Code. The effect of changing the definition was to require insurers to provide coverage on a unit-by-unit basis in multi-unit properties as each unit meets the risk reduction standards. Previously, insurers could withhold coverage until every unit in a multi-unit dwelling met the risk reduction standards.

Chapter 616 of 1997 delayed a number of deadlines and other significant dates under the LPPP, in view of the fact that the regulations implementing the program did not go into effect until February 24, 1996.

For a more in-depth discussion of these Acts, and other Acts affecting the Lead Poisoning Prevention Program, see Part K - Natural Resources, Environment, and Agriculture, under the Subpart "Environment".

RECORDATION

Before 1996, in every jurisdiction in the State, upon a sale or transfer of property, the person offering the deed or instrument for transfer was required to mail or deliver a statement to the Department of Assessments and Taxation of any building and improvement on the property granted. The Department then transferred the property on the assessment records and provided an endorsement of the transfer on the deed or instrument if there was a certificate of a collecting agent that all taxes, assessments, and charges had been paid. Next, the endorsed deed or instrument was taken to the clerk of the circuit court, who was then authorized to record the deed or instrument in the land records. This procedure remains in effect in 14 of the 24 jurisdictions in the State.

However, ***Chapter 413 of 1996*** changed the order of the process in Harford County so that the Department of Assessments and Taxation is at the end of the recordation process, rather than at the beginning, in order to speed up the recording of instruments in the land records. The Act was intended to establish a pilot program in Harford County before expanding this process statewide. The following year, this alternative process was adopted for Baltimore, Cecil, Charles, Dorchester, Washington, and Worcester counties ***(Chs. 581 and 582/97)*** and, in 1998, Howard ***(Ch. 45/98)***, Montgomery ***(Ch. 63/98)***, and St. Mary's ***(Ch. 78/98)*** counties were added.

COMMUNITY ASSOCIATIONS -- STANDING

Under current law, an individual may seek redress for a public nuisance if that person has sustained a special degree of damage beyond that of the general public. However, prior to 1996, most community associations in the State did not have standing in court to represent their members unless the association owned property that was adversely affected by an offending situation or behavior.

Chapter 455 of 1996 authorized a community association in Baltimore City to seek injunctive and other equitable relief in circuit court from a nuisance upon showing that applicable notice requirements have been satisfied and that the nuisance has not been abated. Relief may not be provided unless the community association has filed a bond with the court conditioned to answer to the adverse party for any costs incurred as a result of the suit, including reasonable attorneys' fees, if the complaint is determined to be in bad faith or without substantial justification. ***Chapters 454 and 482 of 1997*** granted similar standing to community associations in Prince George's and Baltimore counties, respectively.

PART F
COURTS AND CIVIL PROCEEDINGS

ESTATES AND TRUSTS

ESTATES

Probate Reform

The principal accomplishment of the General Assembly in the area of Estates and Trusts during the 1995-1998 term was the enactment of probate reform legislation. ***Chapters 596 and 693 of 1997*** were the results of efforts by the Maryland Registers of Wills Association and the Estates and Trusts Section of the Maryland State Bar Association to streamline and simplify the probate process in Maryland. Some of the more significant changes made by these Acts are discussed below.

- *Modified Administration*

Chapter 596 of 1997 created an alternative method of estate administration. The Act authorized a personal representative of an estate to file an election for "modified administration" within 3 months from the date of appointment if:

(1) all residuary legatees of a testate decedent (i.e., a person who dies with a will) and the heirs at law of an intestate decedent (i.e., a person who dies without a will); are limited to the personal representative and the surviving spouse and children of the decedent;

(2) the estate is solvent and sufficient assets exist to satisfy all testamentary gifts;

(3) a verified final report under modified administration is filed within 10 months from the date that the personal representative is appointed;

(4) final distribution of the estate can occur within 12 months from the date that the personal representative is appointed; and

(5) all residuary legatees of a testate decedent and the heirs at law of an intestate decedent consent to a modified administration.

In most cases, an estate that would qualify for modified administration would proceed otherwise under administrative probate. In most estates under administrative probate, the personal representative is required to file an inventory not later than 3 months after the date of appointment of the personal representative and an accounting not later than 9 months after the date of appointment. No strict deadlines exist for the distribution of estate property or the closing of the estate under administrative probate, unless ordered by a judge.

Chapter 596 of 1997 eliminated the inventory and accounting requirements and replaced them with a verified final report under modified administration, unless a formal inventory and accounting is requested by an interested person. The Act required that a verified final report under modified administration be filed by the personal representative not later than 10 months from the date that the personal representative is appointed and that all property of an estate under modified administration be distributed not later than 12 months from the date that the personal representative is appointed. An estate under modified administration must close not later than 13 months from the date that the personal representative is appointed.

- *Estate Valuation*

Chapter 693 of 1997 replaced the previous gross value method of valuation for a small estate with fair market value less debts secured by the estate property to the extent that insurance benefits are not payable to the lien holder or

secured party for the secured debt. The Act also added a new provision that allows most real and leasehold property to be valued at its most recent assessed value, instead of obtaining an appraisal of the fair market value.

- *Commissions and Attorney's Fees*

Under the prior law, a personal representative's commission and an attorney's fees were required to be approved by the court. ***Chapter 693 of 1997*** authorized, without court approval, the payment of commissions to personal representatives and fees to attorneys if:

(1) each creditor with an open claim and all interested persons consent in writing;

(2) the combined sum of the payments of commissions and attorney's fees does not exceed 9% for a small estate or $1,800 plus 3.6% of the excess over $20,000 for a regular estate; and

(3) the signed consent form states the amounts of the payments filed with the register of wills.

- *Funeral Expenses*

Chapter 693 of 1997 increased from $3,500 to $5,000 the statutory allowance for funeral expenses for circumstances in which there is either no will or no provision of a will that grants greater authority to a personal representative.

- *Inheritance Tax*

Under the prior law, the inheritance tax did not apply to the receipt of property that passed from a decedent to any one person if the total value of the property did not exceed $150. ***Chapter 693 of 1997*** increased the monetary limit to $1,000.

The Act also exempted income accrued on probate assets after the decedent's death from the application of the inheritance tax.

Estate Administration -- Value of Motor Vehicles

In 1998, the General Assembly further simplified the administration of decedents' estates with the enactment of ***Chapter 714,*** which authorized a personal representative to value a motor vehicle in a decedent's estate on the basis of the average value of the motor vehicle set forth in the National Automobile Dealers' Association Official Used Car Guide or any substantially similar price guide designated by the register of wills.

TRUSTS -- RULE AGAINST PERPETUITIES

Chapter 694 of 1998 exempted from the common-law rule against perpetuities a trust in which the governing instrument states that the rule against perpetuities does not apply to the trust and under which the trustee, or other person to whom the power is properly granted or delegated, has the power under the governing instrument, applicable statute, or common law to sell, lease, or mortgage property for any period of time beyond the period of the rule against perpetuities. The Act applies to all trusts created by will or inter vivos agreement executed or amended on or after October 1, 1998, and to all trusts created by exercise of a power of appointment granted under instruments executed or amended on or after October 1, 1998.

The rule against perpetuities is a restriction on the creation of future interests. Under the rule against perpetuities at common law, an interest or estate within its scope is not good unless it must vest, if at all, not later than 21 years, plus the period of gestation, after some life or lives in being at the time of the creation of the interest or estate. See Ringgold v. Carvel, 196 Md. 262 (1950); Ryan v. Ward, 192 Md. 342 (1949).

Chapter 694 of 1998 was intended to facilitate the creation of perpetual dynasty trusts in Maryland. A perpetual dynasty trust is a trust that descends to a person's future generations, and can be used as an estate planning tool to minimize federal estate taxes. Because there is a $1 million exemption from the 55% federal generation skipping tax,

placing that amount in a perpetual dynasty trust can generate significant assets for future generations without being depleted by taxes. However, due to the rule against perpetuities, all trusts in Maryland generally must terminate between 80 to 110 years after creation. Several other states, including Delaware, had modified the rule against perpetuities in order to permit the creation of perpetual dynasty trusts.

POWERS OF ATTORNEY -- DURABILITY

Chapter 619 of 1997 established that when a principal designates another person as an attorney in fact or agent by a power of attorney, the power of attorney is presumed to be a durable power of attorney unless otherwise provided by its terms.

"Durable power of attorney" was defined in the Act as a power of attorney by which a principal designates another person as an attorney in fact or agent, and the authority is exercisable notwithstanding the principal's subsequent disability or incapacity.

Chapter 619 of 1997 applies only prospectively and may not be applied or interpreted to have any effect on or application to any power of attorney in effect before its January 1, 2000 effective date.

Under current law, unless a power of attorney contains language expressly stating that it is effective during the principal's disability or incapacity, the power of attorney is presumed to terminate automatically when the principal becomes disabled. ***Chapter 619*** reversed that presumption. Under the Act, a power of attorney remains effective during the principal's subsequent disability or incapacity, unless the power of attorney expressly provides otherwise.

PROTECTION OF MINORS -- PROPERTY

The Uniform Transfers to Minors Act

Chapter 387 of 1995 amended the Maryland Uniform Transfers to Minors Act to raise from 18 to 21 the age at which a minor is entitled to receive certain property held by a custodian. The Act required a custodian to transfer to a minor at the age of 21 years property held by the custodian as the result of an irrevocable transfer from a personal representative trustee or conservator.

Recovery by Minor in Tort -- Investment of Funds

Under current law, if a minor recovers a net sum of $2,000 or more as a result of a tort action, the money must be paid to a trustee. Prior to 1995, the trustee could invest the proceeds only in general obligations of or obligations guaranteed by the United States or this State, or other obligations of the United States, this State, political subdivisions of this State, municipalities in the State, and other public agencies or authorities in the State that are rated in one of the two highest rating categories by a nationally recognized credit rating agency. In 1995 and 1997, the General Assembly enacted legislation to expand the investment options for this type of trust.

- *Money Market Funds*

Chapter 445 of 1995 allowed a trustee for a minor who recovered in a tort action to invest the proceeds in certain money market funds if the investment did not exceed 25% of trust assets at the time of investment. Specifically, the Act permitted a trustee to invest the proceeds in an open-end management investment company or investment trust that is registered under, and meets the criteria of a money market fund specified in, the Federal Investment Company Act of 1940 and related regulations. Under the federal rules, a money market fund must meet certain risk limiting conditions regarding the maturity, quality, and diversification of its portfolio.

- *Stock Mutual Funds*

Chapter 664 of 1997 authorized a trustee for a minor who recovered in tort to invest or reinvest the proceeds of the check in an open end management investment company or investment trust that is registered under the Federal Investment Company Act and that in a prospectus filed with the Securities and Exchange Commission, states as a

principal investment objective long-term growth or capital appreciation through investments in equity securities.

The Act also provided that investments in money market funds, stock mutual funds or any combination of these funds may not exceed 30% of trust assets at the time of the investment.

Appointment of Guardian of Property

Chapter 642 of 1997 authorized a court to appoint a guardian of the property of a minor on whose behalf a recovery in tort is sought or has been obtained if the court determines that the appointment is in the best interest of the minor. The Act specified that when a minor recovers a net sum of $2,000 or more in a tort action, the funds must be paid directly to the guardian, if one has been appointed by a court.

Guardianship may be advantageous particularly in the case of a severely disabled minor who will have extensive needs throughout life. Guardianship of the property of a minor allows a guardian broader discretion to invest, and prior court approval of disbursements is not be required. However, a guardian of the property of a minor is subject to court supervision and is required to file annual accounts detailing investments and expenditures. Broader investment discretion may enable the guardian of the property to keep pace with inflation and the elimination of the requirement of prior court approval for frequent disbursements in such cases may reduce the costs of administration.

Some orphans' court and circuit court judges had concluded that a tort recovery for a severely disabled minor could be held by a guardian of the property of the minor. However, other judges held that because of the mandatory language of the minor's tort recovery statute, only a trust could be used to hold a recovery for a minor. ***Chapter 642 of 1997*** was intended to clarify that a guardianship can be used to hold a tort recovery for a minor, if the court finds it to be in the minor's best interest.

PART G
TRANSPORTATION AND MOTOR VEHICLES

TRANSPORTATION

WOODROW WILSON BRIDGE AND TUNNEL COMPACT

The Woodrow Wilson Bridge spans the Potomac River, linking the suburbs of Maryland with Virginia. While the Wilson Bridge was built to accommodate approximately 75,000 daily vehicle crossings when it opened in 1961, the number of vehicle crossings has more than doubled since that time. This increased burden threatens the viability of the bridge, which now has a projected life span of seven to nine years.

During the 1995 Session, the General Assembly began considering options to address these problems by enacting the first version of the Woodrow Wilson Bridge and Tunnel Compact ***(Chapter 494)***, an interstate compact between Maryland and Virginia. The legislation proposed transferring the ownership of the bridge from the federal government to a newly created regional authority. This authority would also construct and operate a new Potomac River crossing according to the design selected by the Woodrow Wilson Bridge Coordinating Committee, a federally-established panel of federal, state, and local officials.

Chapter 599 of 1996 amended the compact to include the District of Columbia as a signatory and to seek an increase in the level of federal funding for the project. In addition, the legislation prohibited the authority from assuming ownership of the bridge or any duties under the compact until all signatories (Maryland, Virginia, and the District of Columbia) have agreed to the Compact and the federal government has committed to fully funding the costs of planning, designing, and constructing a replacement crossing, as well as the costs of maintaining the existing bridge while a replacement is being built. While the federal role in financing the full project remains unresolved, in May 1998 the U.S. Congress completed action on the reauthorization of the Intermodal Surface Transportation Efficiency Act which will provide $900 million in initial federal support for the Woodrow Wilson Bridge replacement project over the next six years. The total cost for the replacement bridge is estimated to be at least $1.6 billion.

TRANSPORTATION FINANCING

Highway User Revenue Distribution

The Gasoline and Motor Vehicle Revenue Account consists of a portion of revenues from motor fuel taxes, titling taxes, vehicle registration fees, and corporate income taxes. The Transportation Trust Fund receives 70% of these revenues and the counties and Baltimore City share the remaining 30%. ***Chapter 163 of 1996***altered the formula for distributing highway user revenues to the counties and Baltimore City. Beginning in fiscal 1998, the formula change reduced Baltimore City's share from one-half of the local 30% share to the greater of 11.5% of the total Gasoline and Motor Vehicle Revenue Account or $157.5 million. After payment is made to Baltimore City, the balance of the local 30% share is distributed among the counties and municipalities. ***Chapter 163*** also established a formula that provides future increases in Baltimore's payment based on the growth of the Account's revenues.

As the formula change significantly reduced Baltimore City's share of highway user revenues, the General Assembly sought to offset Baltimore City's revenue loss by:

- arranging for a payment in lieu of taxes to Baltimore City on property owned by the Maryland Port Administration;
- distributing to Baltimore City $5 from each security interest filing fee collected; and
- altering the calculation of County Income Disparity Grants.

Mass Transit Farebox Recovery Requirement

Current law requires the Mass Transit Administration (MTA) to recover at least 50% of its operating costs from fares and other operating revenues. ***Chapter 655 of 1996***authorized the MTA to exempt from the 50% farebox recovery requirement new light rail transit service and new mass transit bus service that has been in operation for less than 18 months. MTA's expenditures on such costs are capped at 1% of the total operating budget in fiscal 1997 and 2% of the total operating budget in fiscal 1998 and 1999.

The legislation also required the Maryland Department of Transportation (MDOT) to fund 100% of the operating costs for the Washington Metropolitan Area Transit Authority (WMATA) mass transit bus and rail services that have been in operation for less than 18 months. In addition, ***Chapter 655*** allowed the MTA to count the value of monthly transportation passes provided to qualified participants in State-sponsored medical or social services programs as revenue for farebox recovery purposes. This legislation sunsets June 30, 1999.

Mass Transit Funding

During the 1998 Session, the General Assembly enacted legislation requiring the State to assume certain local financial obligations of the Washington Metropolitan Area Transportation Authority (WMATA) system. Similar legislation was considered during prior sessions but was not passed. ***Chapter 357 of 1998*** required the State to assume 100% of Maryland's share of WMATA's capital equipment costs and ***Chapter 358 of 1998*** required the State to assume 100% of the debt service allocated to Maryland for purposes of retiring the revenue bonds issued to finance portions of the Metrorail construction. The State currently funds 100% of the cost of Metrorail construction and disabled access enhancement and 75% of the remaining portion of capital costs and debt service. Montgomery and Prince George's counties fund the remaining 25%. When ***Chapter 357 and Chapter 358*** take effect July 1, 1999, Transportation Trust Fund expenditures will increase by approximately $7.2 million annually beginning in fiscal 2000.

Paratransit Services

Chapter 687 of 1996 required the Maryland Department of Transportation to provide annual grants of up to $4 million for paratransit service provided by local governments in compliance with the federal Americans with Disabilities Act. The Act terminates on June 30, 1999.

URBAN HIGHWAYS

Sidewalks, Bicycle Paths, and Lighting

Chapter 571 of 1997 required the State to fund bicycle pathways constructed as part of a State Highway Administration (SHA) project or a State Neighborhood Business Development project. If a bicycle pathway is constructed at the request of a local government and is not part of an ongoing SHA urban highway project, the funding responsibility would be shared equally by the State and the local government.

The Act also specified that local governments must maintain all sidewalks and bicycle paths located adjacent to urban highways. However, the Act authorized SHA to reimburse local governments for the cost of reconstructing sidewalks or bicycle paths that have deteriorated beyond the point at which repair is practical. This reimbursement is limited to the availability of Transportation Trust Funds and may not exceed $2 million annually through fiscal 2001. *Chapter 571* also required the State to maintain all nighttime lighting facilities that the SHA constructed adjacent to urban highways.

PORT OF BALTIMORE

Dredging

Chapter 574 of 1997 prohibited the disposition of dredge spoil from the Baltimore Harbor and its approach channels at the Hart-Miller Island Dredged Material Containment Facility after January 1, 2010, or sooner if specified height limits are reached. The legislation also required the Department of Transportation and the Department of Natural Resources, in consultation with the Baltimore County government, to hold at least two public meetings to receive public comment regarding the development of the Hart-Miller facility as a wildlife habitat and passive recreation area. For a more

complete discussion of this issue, see Part K - "Natural Resources, Environment, and Agriculture", under the Subpart "Environment".

PART G
TRANSPORTATION AND MOTOR VEHICLES

MOTOR VEHICLES

ACCESS TO MOTOR VEHICLE ADMINISTRATION RECORDS

Background

In 1994, in response to a number of cases in which personal information was obtained through motor vehicle records and then used to stalk and harm individuals, Congress enacted the Driver's Privacy Protection Act as part of the Violent Crime Control and Law Enforcement Act. The states were given a three-year opportunity to provide for protection of drivers' personal information held by state motor vehicle departments under threat of civil penalties.

In 1996, the General Assembly considered legislation that would have brought Maryland into compliance with federal law, but was unable to resolve differences over the right to public access versus privacy concerns (***Senate Bill 538*** (failed)). In 1997, under potential threat of federal sanctions, the law governing access to Motor Vehicle Administration records was modified.

1997 Legislation

Chapters 338 and 339 of 1997 established detailed requirements governing the release of personal information held by the Motor Vehicle Administration, bringing Maryland into timely compliance with the federal law.

- *Personal Information*

Personal information, as defined in ***Chapters 338 and 339***, is information that identifies an individual, including an individual's address, driver's license number or other identification number, medical or disability information, name, photograph or computer generated image, Social Security number, or telephone number. However, personal information does not include for purposes of the Acts an individual's driver status, driving offenses, five digit zip code, or information on vehicular accidents.

- *Disclosure of Personal Information*

Chapters 338 and 339 required the Motor Vehicle Administration to give a person who is applying for or renewing a driver's license, certificate of title, registration, or identification card the option to prohibit the disclosure of personal information sought through a request for an individual motor vehicle record or through inclusion in lists of information sought for surveys, marketing, and solicitation purposes. An individual may also contact the Motor Vehicle Administration at any other time to prohibit disclosure of their personal information, but the Motor Vehicle Administration was not required to notify individuals of this right. Failure of an individual to protect his or her personal records means that the public will continue to have full access, consistent with prior law. However, records are no longer available for telephone solicitations by persons encouraging the purchase or rental of, or investment in, property, goods, or services. Notwithstanding the right to protect one's personal information, the Acts require disclosure of personal information for specified purposes including governmental, law enforcement, insurance, research, and public safety purposes, and for limited use by businesses. Disclosure is allowed for the purpose of notifying an owner of a towed or impounded vehicle. Disclosure is also permitted with the consent of the individual to whom the information pertains.

- *Regulations*

Chapters 338 and 339 of 1997 require the Motor Vehicle Administration to adopt regulations for implementation and enforcement of the Acts, including regulations for securing a person's waiver of privacy rights when an applicant requests personal information that the custodian is not otherwise authorized to disclose. Furthermore, the Motor

Vehicle Administration is authorized to develop methods for monitoring compliance.

1998 Legislation

During the first six months after the 1997 Acts took effect on September 1, 1997, approximately 650,000 of Maryland's 3.4 million drivers had requested that their personal information held by the Motor Vehicle Administration be blocked from public access. However, intense public interest in this issue, prompted in large part by a misunderstanding of Maryland's long-standing policy of treating motor vehicle records as public information, resulted in legislation being introduced during the 1998 Session to further restrict access to Motor Vehicle Administration records.

Senate Bill 159/House Bill 354 and ***House Bill 329 of 1998*** (all failed) would have amended the law to prohibit the Motor Vehicle Administration from disclosing personal information without the written consent of the person in interest. This prohibition would have applied to both requests for individual records and requests for lists of information for purposes of surveys, marketing, and solicitations. ***Senate Bill 159/House Bill 354*** also would have created a new subset of personal information called "sensitive personal information", defined as the social security number of a person and information regarding the person's physical characteristics, medical condition, or disabilities. Sensitive personal information could not have been disclosed under the bills unless the person in interest expressly authorized disclosure of the information. ***House Bill 329*** did not define sensitive personal information as a separate classification of personal information.

Due apparently to increased media attention, the number of individuals requesting that their personal information be protected peaked during the 1998 Session. Since then, the number of new requests has declined. As of June 1, 1998, the Motor Vehicle Administration has received approximately 770,000 requests from individuals requesting that the records be protected from disclosure.

DRIVER LICENSES

Graduated Licensing System

- *Background*

When Maryland first enacted a graduated licensing system in 1978, it started a national trend by requiring young drivers to complete a provisional licensing period. Today, a majority of the states have some form of graduated licensing. Nevertheless, accident rates among new drivers remain staggering and the leading cause of death for 15 to 20 year olds is traffic accidents. For 16 year olds, driver error accounts for a majority of fatal crashes.

In April 1997, the Motor Vehicle Administrator appointed a Graduated Licensing Initiative Work Group with the goal of establishing a licensing system that would better protect new drivers. The resulting legislation, ***Chapter 483 of 1998***, incorporated a modified version of the proposal that the work group had recommended. ***Chapter 483*** established a new graduated driver licensing system intended to enhance driver safety. The Act also established a pilot program to more accurately evaluate the driving skills of new drivers seeking a driver's license. In order to provide for implementation of the Act, the policy changes were delayed until July 1, 1999. The specific changes resulting from the Act are as follows.

- *Learner's Permit*

Chapter 483 modified the length of time that an individual must possess a learner's permit before being eligible for a provisional license. A new driver will be required to hold a learner's permit for a minimum of four months, rather than 14 days, to be eligible to obtain a license. All new drivers will be required to take a driver education course, not just new drivers under the age of 18. In addition, when taking a skills exam for a driver's license, a new driver will need to submit a completed skills log book, signed by a supervising driver, and documenting that the new driver as experienced an adequate level of practice.

- *Provisional License*

The Motor Vehicle Administration is prohibited under ***Chapter 483 of 1998*** from issuing a provisional license to an individual who has not reached the age of 16 years, one month. All new drivers are subject to a minimum 18-month provisional licensing period. (Restrictions on hours during which new drivers may drive continue to end at 18 years of age.) Should an individual with a provisional license be convicted of a moving violation, the 18-month clock begins anew. ***Chapter 483*** also established new sanctions for provisional drivers who are convicted of moving violations. For a first offense, the Motor Vehicle Administration will require the driver to participate in a driver improvement program. For a second offense, the driver's license may be suspended up to 30 days. For a third offense, the license may be suspended or revoked for up to 180 days. The earliest that a new driver will be eligible to move from a provisional license to a regular driver's license is when the driver reaches the age of 17 years, seven months.

- *Driver Education*

As noted above, ***Chapter 483 of 1998*** required that every new driver participate in a driver education program. Working with the Department of Education and the driving school industry, the Motor Vehicle Administration is required to adopt a standardized driver education curriculum and a certification process for driving instructors. The Act maintains the minimum 30 hours of classroom instruction requirement, but requires a minimum of six hours of highway (rather than laboratory) instruction.

- *Driver Testing*

Chapter 483 established a pilot program under which the Motor Vehicle Administration is to implement, in at least one jurisdiction in the State, an on-road test in place of the current skills test and compare the results of the two types of tests in terms of their ability to evaluate driving skills. The Act grants the Motor Vehicle Administration discretion to do this on its own or under contract with a private entity. On or before January 1, 2001, the Motor Vehicle Administration is required to report to the General Assembly on the results of the pilot program and its recommendations regarding the testing of new drivers.

- *Implementation*

As noted above, the new requirements under ***Chapter 483 of 1998*** take effect July 1, 1999. However, anyone with a learner's permit or provisional license issued before that date would continue to be governed by law currently in effect.

Motor Cycle Licenses

Chapter 40 of 1997 authorized the Motor Vehicle Administration to waive the motorcycle learner's permit and licensing skills test for an applicant who successfully completes the Motor Vehicle Administration's approved basic motorcycle safety course. In fiscal 1996, the passing rate for the licensing skills test by individuals who completed the safety course was 94%, compared to 58% for applicants who had not completed the course. The effect of ***Chapter 40*** will be to not only reduce the number of tests that the Motor Vehicle Administration needs to administer, but also to encourage more individuals seeking a motorcycle license to enroll in an approved safety course.

Vision Standards

- *Background*

During the 1996 Session, the House of Delegates considered legislation that would have created a new limited vision license as an alternative to the bioptic telescopic lens program that was scheduled to terminate June 30, 1996 (***House Bill 1102/1996*** (failed)). The Motor Vehicle Administration and its medical advisory group felt that the bioptic telescopic lens program was not the ideal solution for many individuals with limited vision and that an alternative approach would better serve a larger population while enhancing driver safety. Because of concerns over the alternative proposal by certain groups, a decision was made to extend the termination date for the bioptic telescopic lens program for an additional three years (***Chapter 108 of 1996***) and ask the Motor Vehicle Administration to form a work group consisting of interested citizens and medical specialists to study the issue over the 1996 Interim.

- *Low Vision License*

Chapter 346 of 1997 reflected the results of the work group's deliberations. The Act modernized the vision standards for driver licenses under the Maryland Vehicle Law, closed the bioptic telescopic lens program to those not licensed under the program on or before September 30, 1997, and established a new low vision license.

For an *unrestricted license*, an individual must have:

(1) at least 20/40 vision in each eye with a continuous field of vision of at least 140 degrees; and

(2) binocular vision.

For a *restricted license*, an individual must have:

(1) at least 20/40 vision in one eye; and

(2) a continuous visual field of at least 110 degrees, with at least 35 degrees lateral to the midline of each side.

A restricted license must be endorsed "outside mirrors each side" and is subject to additional restrictions imposed by the Motor Vehicle Administration.

An individual who does not qualify for a restricted license may still qualify for a *restricted noncommercial driver's license* if the individual has:

(1) at least 20/70 vision in one eye; and

(2) a continuous field of vision of at least 110 degrees, with at least 35 degrees lateral to the midline of each side.

A license issued under this standard also must be endorsed "outside mirrors each side" and is subject to additional restrictions. Under previous law, an individual with this vision level would be restricted to daylight driving only. Under ***Chapter 346***, an individual in this range may qualify for nighttime driving. However, this provision will be abrogated September 30, 2002, allowing a five-year period during which the Motor Vehicle Administration can evaluate the results of this change. For a restricted license under either category, the Motor Vehicle Administration may require a report by the applicant's licensed ophthalmologist or optometrist for evaluation by the Medical Advisory Board.

- *Limited Vision License*

Chapter 346 of 1997 also established a new limited vision license which replaces the bioptic lens program which was closed to new participants under the Act. For this restricted Class C noncommercial license, an individual must have at least 20/100 vision in one eye and a continuous field of vision of at least 110 degrees, with at least 35 degrees lateral to the midline of each side. To qualify under this provision, an individual must be recommended for consideration for licensure by an optometrist or ophthalmologist and complete a driver's training course. The Motor Vehicle Administration must refer an application for licensure under this standard to its Medical Advisory Board. Unless approval can be granted on the documentation before it, the Medical Advisory Board must offer the applicant an opportunity to appear before the Board for presentation of medical evidence. A limited vision license must be endorsed "outside mirrors each side" and "daylight driving only" and is subject to additional restrictions that may be imposed by the Motor Vehicle Administration. Potential restrictions include the types of highways where the individual may drive, the maximum speed limits under which driving is allowed, and maximum driving distances. After one year, the licensee may apply to the Motor Vehicle Administration to eliminate the daylight driving only restriction. However, additional testing and driver instruction is required for night-time driving and the licensee must have not committed a traffic infraction or been involved in a traffic accident where the licensee was at fault during the previous year.

The limited vision licensing provision was also made subject to terminate after five years in order to give the Motor Vehicle Administration time to study the effects of the new limited vision license.

DRUNK AND DRUGGED DRIVING

Background

Since enacting the administrative per se statute in 1989, the General Assembly has faced a number of major initiative to increase the penalties imposed on those who drive while under the influence of drugs and alcohol or to otherwise combat drunken driving. In addition, the issue of the use of a driver's license to obtain alcohol has been a major concern. In 1991, suspensions were authorized for individuals under the age of 21 who use their own, or any forged license in order to obtain alcohol. In 1991 and 1994, bills passed that increased the penalties for subsequent offenses of the laws prohibiting driving while intoxicated (DWI) and driving while under the influence (DUI). In 1994, the General Assembly dramatically altered the status of the law, so that a person may now be compelled to submit to a test for blood alcohol concentration if the person is involved in an accident that results in a life threatening injury to another person and the driver is detained by a police officer who has reasonable grounds to believe that the person is driving DWI or DUI. Under prior law, such a compulsory test could only be ordered in the event the accident resulted in the death of another person. Attention to DWI and DUI issues continued throughout the 1995-1998 term.

Homicide or Life Threatening Injuries

Chapter 427 of 1996 expanded the provisions of law relating to homicide by motor vehicle or vessel while intoxicated or while under the influence of alcohol. The Act increased the maximum fine for homicide by motor vehicle or vessel while intoxicated from $3,000 to $5,000. The maximum imprisonment for homicide by motor vehicle or vessel while under the influence of alcohol was increased from one year to three years and the maximum fine increased from $1,000 to $5,000.

In addition, ***Chapter 427*** established new offenses relating to causing the death of another by motor vehicle or vessel while under the influence of drugs or a controlled dangerous substance. Both offenses are misdemeanors and both carry sentences of imprisonment for not more than three years, a fine of not more than $5,000, or both. The Act prohibits a person charged with homicide while under the influence of drugs from claiming as a defense that the person was entitled to use the drug, combination of drugs, or combination of one or more drugs and alcohol, unless the person was unaware that the drug or combination would make the person incapable of safely driving, operating, or controlling a motor vehicle. ***Chapter 427*** also established new offenses relating to causing a life threatening injury by motor vehicle or vessel while intoxicated or intoxicated per se, or under the influence of alcohol, drugs, or a controlled dangerous substance. All of these offenses are misdemeanors and carry sentences with a maximum of two or three years imprisonment and fines of not more than $3,000 to $5,000.

Finally, ***Chapter 427*** required the Motor Vehicle Administration to assess 12 points against a person who is convicted of committing any type of life threatening injury by motor vehicle or vessel. Twelve points triggers the automatic revocation of the individual's driver's license or privilege.

Ignition Interlock System Program

Prior to October 1, 1996, only a court could impose the use of an ignition interlock system as a sentence or a condition of probation for driving while intoxicated or while under the influence of alcohol. An ignition interlock system requires drivers to breathe into a machine that tests their alcohol level before their car will start. ***Chapter 648 of 1996*** expanded the use of ignition interlock systems by authorizing the Motor Vehicle Administration to establish an ignition interlock system program and to establish protocols, standards, and fees for the program through regulations. The Act specified that an individual whose license is suspended or revoked for driving while intoxicated or under the influence of alcohol or for an accumulation of points for driving while intoxicated or under the influence of alcohol may be a participant in the ignition interlock system program.

Chapter 648 authorized the Motor Vehicle Administration to apply the following increased suspension periods for driving under the influence of alcohol or drugs or for a suspension issued in lieu of a revocation for driving while

intoxicated as part of the ignition interlock system program: for a first conviction, a suspension of not more than six months; for a second conviction that occurs at least five years after the date of the first conviction, a suspension of not more than nine months; for a second conviction that occurs within five years after the date of the first conviction or for a third conviction, a suspension of not more than 12 months; and for a fourth or subsequent conviction, a suspension of not more than 24 months. However, the Act encouraged offenders to participate in the ignition interlock system program by providing that participants may have their suspension periods reduced as follows: for a first conviction, up to 15 days, provided the ignition interlock system is maintained for up to five months; for a second conviction that occurs at least five years after the date of the first conviction, a suspension period of up to 30 days, provided the ignition interlock system is maintained for up to nine months; for a second conviction that occurs within five years after the date of the first conviction or for a third conviction, a suspension period of up to 45 days, provided the ignition interlock system is maintained for up to 12 months; and for a fourth or subsequent conviction, a suspension period of six months, provided the ignition interlock system is maintained for up to 24 months.

During the 1998 Session, the Ignition Interlock System Program was expanded. ***Chapter 526 of 1998*** authorized the Motor Vehicle Administration to require an individual under the age of 21 who is convicted of drunk or drugged driving offenses to participate in the program for up to three years. The Act also authorized the Motor Vehicle Administration to impose an ignition interlock license restriction in conjunction with an alcohol restriction on any individual who is a repeat offender, convicted within a five-year period of any combination of two or more violations of DWI, DUI, or driving under the influence of alcohol and drugs. The Motor Vehicle Administration may allow a participant to operate a motor vehicle without the system in the course of the person's employment. The Act allowed modification of a suspension or issuance of a restrictive license under the administrative per se statute, subject to participation in the ignition interlock system program. ***Chapter 526*** also required the Motor Vehicle Administration to adopt regulations establishing minimum standards for the certification of approved service providers who install and service ignition interlock devices, including a requirement that they maintain and provide records for inspection by the State, and prohibited certain actions intended to circumvent the protections of the program.

Impoundment of Motor Vehicles

Chapter 261 of 1997 authorized a court, as a sentence, part of a sentence, or condition of probation, to order the impoundment or immobilization of a solely-owned vehicle driven by the owner while the owner's license is suspended or revoked for certain drugged and drunk driving offenses. The impoundment or immobilization may not exceed 180 days. Among the factors that a court may consider in determining whether to order an impoundment or immobilization of a vehicle is whether the vehicle is the primary means of transportation available for the use of the individual's immediate family. The actual impoundment or immobilization would be conducted by a police department. The Act made provisions for costs and protected the rights of lienholders and others who may have an interest in the motor vehicle.

Intoxication Per Se

- *1995 Session*

After many years of unsuccessful introduction, ***Chapter 498 of 1995*** made it a misdemeanor for a person to drive or attempt to drive while "intoxicated per se". "Intoxicated per se" means a blood alcohol concentration of 0.10 or more as measured by grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath as determined at the time of testing. ***Chapter 498*** imposed the same penalties for this offense as that imposed on a person who is convicted of driving while intoxicated, and provide that a person who causes a death by driving a motor vehicle or vessel while intoxicated per se is guilty of "homicide by motor vehicle or vessel while intoxicated per se".

- *Subsequent actions*

Although bills pertaining to intoxicated per se statute were introduced during the 1997 Session, this issue generated considerable attention during the 1998 Session. ***Senate Bill 160/House Bill 361 of 1998*** (both failed) would have reduced the alcohol concentration required for a determination that an individual was driving while "intoxicated per se" from a level of 0.10 grams to 0.08 grams of alcohol per 100 milliliters of blood or per 210 liters of breath at the time

of testing. The bills also would have reduced the alcohol concentration that constitutes prima facie evidence that an individual was driving under the influence of alcohol from a level between 0.07 and 0.10 to a level between 0.06 and 0.08.

Efforts to condition a portion of federal highway funding for a state on enactment by the state of a 0.08 standard for intoxication as part of the recently enacted federal six-year transportation plan ("TEA 21") were unsuccessful. However, Congress did include $500 million in incentive grants for states adopting the 0.08% blood alcohol content standard. It is expected that this issue will continue to generate significant interest in future legislative sessions.

Suspension Modification and Restrictive Licenses - Ability to Attend School

Chapter 448 of 1998 repealed a requirement that, in addition to other requirements, a licensee be under the age of 21 years in order to qualify for modification of a driver's license suspension or issuance of a restrictive license to allow the licensee to attend school. The Act applies to a license suspension imposed for driving while intoxicated per se (*i.e.* with a blood alcohol concentration of 0.10 or more grams of alcohol per 100 milliliters of blood).

Transporting a Minor while Intoxicated - Increased Penalties

Chapter 150 of 1995 enhanced the penalties for drunk and drugged driving while transporting a minor. If the person is convicted of driving while intoxicated, the person is subject to the following penalties: for a first offense, a fine of not more than $2,000 or imprisonment for not more than 2 years or both; for a second offense, a fine of not more than $3,000 or imprisonment for not more than 3 years or both; and for a third or subsequent offense, a fine of not more than $4,000 or imprisonment for not more than 4 years or both. If a person is convicted of driving while under the influence of alcohol or drugs, the person is subject to the following penalties: for a first offense, a fine of not more than $1,000 or imprisonment for not more than six months or both; and for a second or subsequent offense, a fine of not more than $2,000 or imprisonment for not more than one year or both. ***Chapter 150*** specified that any prior offense relating to DWI or DUI that involves the transportation of a minor is a prior conviction for the purpose of determining second or subsequent offender penalties under the Act.

RULES OF THE ROAD

Aggressive Driving

With more traffic on the highways and increased concern about aggressive driving or "road rage", numerous bills were considered during the 1998 Session that would have established new offenses targeting aggressive drivers or increasing penalties in an effort to further deter aggressive driving. Although no bills specifically targeting aggressive drivers were enacted, the issue of aggressive driving will no doubt continue to receive significant attention in future legislative sessions.

Avoidance of Traffic Signal by Crossing Private Property

Under the provisions of ***Chapter 536 of 1995***, an individual who drives across private property to avoid a traffic control device located at an intersection commits a criminal offense under the Maryland Vehicle Law. Under the prepayment fine schedule adopted by the Chief Judge of the District Court, the violation normally carries a $70 fine. (The Maryland Vehicle Law allows a maximum fine of $500.) In addition, a conviction results in assessment of one point on the individual's driving record or three points if the violation contributed to an accident.

Child Safety Seat and Seat Belt Use

- *Passengers Under 16 Years of Age*

Generally, a person transporting a child under the age of four or weighing 40 pounds or less in a passenger vehicle, 3/4 ton or lighter truck, or a multipurpose vehicle is required to secure the child in a child safety seat. Before October 1, 1996, other children who were under 10 years of age must have been either secured in a child safety seat or in a properly fastened seat belt or combination seat belt-shoulder harness. In addition, an occupant under 16 years of age

riding in an outboard front seat was required to wear a seat belt in a passenger vehicle, truck, tractor, multipurpose vehicle, and Class P passenger bus vehicle.

Chapters 401 and 402 of 1996 expanded the law to require any passenger under the age of 16 riding in the types of vehicles described above to be secured in a child safety seat or seat belt. However, in the case of buses, tractors, or trucks exceeding 3/4 ton, consistent with previous law, the seat belt/safety seat requirements only apply if the vehicle is required to be equipped with seat belts under federal motor vehicle safety standards. The Acts also clarified requirements applicable to child safety seats and required that the child be secured in accordance with the child safety seat and vehicle manufacturers' instructions.

- *Enforcement of Seat Belt Laws*

Before October 1, 1997, a police officer was permitted to enforce the mandatory seat belt law only as a secondary action when the officer detained a driver suspected of violating another law. ***Chapter 309 and 310 of 1997*** authorized a police officer to enforce the mandatory seat belt law as a primary action.

It was estimated that 70% of people on Maryland's highways regularly wore seat belts in 1996. Primary enforcement is expected to increase this rate by 15%. The National Highway Traffic Safety Administration estimates that primary enforcement in Maryland may save as many as 62 lives a year and prevent 1,297 serious injuries.

Pickup Trucks

Chapter 462 of 1996 prohibited an individual from driving a Class E truck with a manufacturer's rated capacity of 3/4 ton or less on a highway in the State with a passenger under the age of 16 in the unenclosed bed of the truck. The prohibition does not apply to a vehicle traveling under 25 miles per hour or to the transportation of employees to or from a work site by their employer. Nor does it apply to an individual engaged in farm operations. However, these exceptions may not be construed as eliminating the applicability of seat belt requirements under the Maryland Vehicle Law.

School Zones

Children crossing highways while walking to or from school is a constant safety concern for both State and local authorities. ***Chapter 391 of 1998*** provided that a person who is convicted of speeding in a school zone is subject to a fine double the amount that would otherwise apply. The doubled fines will apply only if the school zone is posted with a sign that indicates that fines are doubled while warning lights are activated and if the lights are operating at the time the violation occurs. The Act authorized the State Highway Administration to establish school zones on State highways. Local authorities are authorized under the Act to establish school zones on their local highways or request the State Highway Administration to do so. Should a local authority ask the State Highway Administration to establish a school zone on a local highway, the local government would be responsible for reimbursing the State Highway Administration for its costs. In any school zone where a school crossing guard is posted to assist students in crossing a highway, the Act required that the maximum speed limit during posted hours not exceed 35 mph.

65 mph Speed Limit

- *Background*

In 1974, Congress responded to the oil embargo by requiring states to adopt 55 mph as an emergency conservation measure. In 1987, the federal government returned to the states the ability to restore a speed limit of 65 mph under certain circumstances. Enforcement was tied to the availability of federal highway funding.

Speeding on Maryland's rural interstates had reached the point where, in many locations, 9 out of 10 drivers were exceeding 55 mph. These rural highways were designed for speeds of up to 70 mph and the evidence suggested that the artificially low speed limit contributed to a disregard for speed limits and other traffic laws. Speed per se generally is not a contributing cause of accidents. Relative speed (*i.e.*, the speed that a vehicle is traveling relative to the other vehicles on the highway) often is a contributing cause of accidents. Drivers typically regulate speed based on

conditions and comfort, rather than posted speeds. The Maryland Department of Transportation did not believe that raising posted speed limits would cause a corresponding jump in vehicle speeds. Rather, it believed that speed limits that are based on sound traffic engineering principals would be respected by the majority of drivers.

- *1995 Legislation*

Effective July 1, 1995, the State Highway Administration was authorized under ***Chapter 493 of 1995*** to establish a speed limit of more than 55 mph, but not more than 65 mph, on certain roads that are situated in rural areas of the State. This option was only available on a highway that was either an interstate highway or an expressway that met strict engineering requirements contained in federal law.

In order to enforce the new 65 mph speed limit, ***Chapter 493*** established the following point schedule:

Offense	Points
Speeding in excess of 65 mph	1
Speeding in excess of 65 mph by 10 mph or more	2
Speeding in excess of 65 mph by 20 mph or more	5

- *Subsequent Developments*

Subsequent to the enactment of ***Chapter 493 of 1995,*** Congress repealed the National Maximum Speed limit Compliance Program, which had conditioned federal highway funding on compliance with federal speed limitations. (National Highway System Designation Act of 1995. Therefore, the State Highway Administration currently has discretion is setting speed limits on both interstate highways and expressways, up to the State's 65 mph maximum.

Use of Headlamps in Inclement Weather

Chapters 175 and 176 of 1997 required a driver of a vehicle to use the vehicle's headlamps or fog lights when the driver operates the vehicle's windshield wipers for a continuous period of time due to impaired visibility because of unfavorable atmospheric conditions. Violations are not considered moving violations and therefore do not result in the assessment of points. The Acts provide that the fine not exceed $25 for a violation. A police officer may enforce this provision only as a secondary action when the driver is detained for another violation. A conviction for a violation generally may not be used for any purpose in a civil action; however, this provision is not to be construed to prevent a person from instituting a civil action for damages arising out of an incident that involves a defectively installed or defectively operating headlamp or fog light.

SANCTIONS

Leaving the Scene of an Accident

Chapter 781 of 1998 increased the penalties for a person convicted of leaving the scene of an accident that results in the death or bodily injury of another person. In the case of an accident that results in bodily injury of another person, a driver convicted of leaving the scene or failing to immediately return to the scene is subject under the Act to a fine of not more than $3,000 or one year imprisonment, or both. If the accident results in the death of another person, the maximum penalty will be a fine of not more than $5,000 or five years imprisonment, or both. ***Chapter 781*** also extended the statute of limitations for these offenses from one year to three years. The Act addressed the disparity between the penalties for vehicular manslaughter, homicide by motor vehicle while intoxicated or under the influence, and other serious drunk and drugged driving offenses, and the penalties for hit and run offenses that result in bodily injury or death.

Penalties for Misuse of License

Closing a perceived loophole in prior law, the General Assembly passed ***Chapter 276 of 1995*** which authorized the Motor Vehicle Administration to suspend, revoke, or refuse to issue or renew the license of a person who uses, or

permits the use of a license, identification card, or a facsimile thereof, in an unlawful or fraudulent manner. Except for a provision of law governing the purchase of alcohol, prior law only proscribed fraudulent use by a person of that person's MVA-issued documents. Under ***Chapter 276***, penalties may be imposed upon a person for the unlawful or fraudulent use of any license or identification card.

Point System Conferences

When drivers accumulate three points under the Motor Vehicle Law within a two- year period, the Motor Vehicle Administration is required to issue a warning letter. With exceptions applicable solely to professional drivers, the Motor Vehicle Administration is required to call in a driver receiving five points for a point system conference; the accumulation of eight points results in a letter of suspension, while twelve or more points can result in revocation of the driver's license. Professional drivers with commercial licenses are subject to a differing scale.

Prior to October 1, 1996, there was no sanction if someone failed to attend a required point system conference, and it had been estimated that less than 50% of those called in for a conference actually appeared. ***Chapter 521 of 1996*** authorized the Motor Vehicle Administration to require a driver who fails to attend a conference to attend a driver's improvement program offered by private providers. Failure to attend the driver's improvement program can result in suspension of the driver's license.

Chapter 521 also authorized an individual to elect to attend an Motor Vehicle Administration approved point system conference offered by a private provider in lieu of a conference administered by the Motor Vehicle Administration.

Probation Before Judgment Dispositions

The Motor Vehicle Administration has previously maintained a segregated record of probation before judgment (PBJ) dispositions for driving while intoxicated, driving under the influence of alcohol, or driving under the influence of a controlled dangerous substance. For other offenses, a judge is often unaware of previous PBJ dispositions that a defendant may have received.

Under ***Chapter 505 of 1998***, beginning October 1, 1998, the Motor Vehicle Administration is required to record all PBJ dispositions for violations under the Maryland Vehicle Law that carry a potential penalty of incarceration. PBJ records are to be segregated and available only to the courts, criminal justice agencies, and the defendant or the defendant's attorney. The Act allowed the courts to have a more complete view of a defendant's driving history during subsequent proceedings involving motor vehicle offenses and assists judges in imposing appropriate sentences for repeat offenders.

Reinstatement of Drivers' Licenses

Chapter 650 of 1996 repealed the requirement that the Motor Vehicle Administration investigate an individual's character, habits, and driving ability in order to reinstate the individual's revoked license or driving privilege. Instead, the Act provided that the Motor Vehicle Administration is only required to investigate the habits and driving ability of an individual seeking reinstatement of a license or privilege who has been: (1) involved in three or more alcohol-related or drug-related driving incidents; (2) in a vehicular accident resulting in the death of another; or (3) convicted of failing to stop after an accident resulting in bodily injury or death. Following the investigation, the Motor Vehicle Administration may reinstate a license or privilege only if satisfied that it will be safe to reinstate the license or privilege of the individual.

Chapter 650 also increased from 18 months to two years, the amount of time before which an individual may file an application with the Motor Vehicle Administration for the reinstatement of a driver's license or privilege that has been revoked four or more times.

Speeding Violations by Minors - Notice to Parent or Guardian

The Maryland Vehicle Law requires a minor's driver's license application to be signed by a parent, guardian, or other responsible adult. Yet when the minor receives a ticket for a traffic infraction, the adult cosigner may never find out.

As of October 1, 1997, this changed for serious speeding tickets. ***Chapter 557 of 1997*** required the Motor Vehicle Administration to notify the cosigner of a minor's driver's license application if a citation is issued to the minor charging the minor with driving a motor vehicle at 20 or more miles per hour above the maximum speed limit. The notice must state the speed at which the minor is alleged to have driven, the speed limit at the location of the alleged violation, the amount of fine specified on the citation, and the number of points that may be assessed. ***Chapter 557*** imposed an obligation on the adult cosigner to notify the Motor Vehicle Administration of any change of address during the period that the applicant or licensee is a minor.

TRAFFIC CONTROL SIGNAL MONITORING SYSTEMS

According to the State Highway Administration, motorists running through red lights result in approximately 4,500 injuries each year in the State and approximately 24 fatalities. Traffic light camera technology that can photograph a vehicle running a red light has been successfully employed in New York City for nearly three years, resulting in over 400 vehicle owners being cited each day for violations. The use of the technology has proved an effective mechanism to reduce the running of red lights.

Chapter 315 of 1997 authorized a law enforcement agency of a political subdivision or a State law enforcement agency to mail a civil citation to the owner of a motor vehicle recorded by a traffic control signal monitoring system (camera) entering an intersection against a red signal. The recorded image must show the rear of the vehicle and clearly identify the registration plate number. A citation mailed to the owner of the motor vehicle must include certain information and must be mailed within two weeks of the alleged violation. In lieu of issuing a citation, the agency may sending a warning notice to the owner.

The amount of the civil penalty may not exceed $100. The amount of the penalty for those who elect to pay the citation without appearing in District Court is to be prescribed by the Chief Judge of the District Court. A person receiving a citation may pay the civil penalty directly to the political subdivision that operates the traffic control signal monitoring system or directly to the District Court if the system is operated by the State. Alternatively, the person receiving the citation may elect to stand trial in the District Court. In a trial, a recorded image of a motor vehicle produced by a monitoring system is admissible without authentication. In any other judicial proceeding, the recorded image is admissible as otherwise provided by law.

Chapter 315 of 1997 listed several factors that the Court may consider as a defense, including:

(1) that the driver passed through the intersection in order to yield the right-of-way to an emergency vehicle or as part of a funeral procession;

(2) that the motor vehicle or its registration plates were stolen;

(3) that the traffic control signal was not in proper position;

(4) evidence that the person named in the citation was not operating the vehicle at the time of the violation; and

(5) any other issue that the District Court considers pertinent.

Under the Act, if the owner of a Class E (truck) vehicle exceeding 26,001 pounds, a Class F (tractor) vehicle, Class G (trailer) vehicle operated in combination with a Class F (tractor) vehicle, or a Class P (passenger bus) vehicle receives a citation, instead of paying the penalty or appearing in District Court, the owner may send a sworn statement to the District Court identifying who was driving at the time of the violation and the driver's address and driver's license identification number. Motor vehicle rental or leasing companies and holders of interchangeable registration tags such as dealer tags are protected from receiving citations under the Act.

The Act provides that if the District Court accepts as a defense that another person was driving at the time of the violation or receives a letter pertaining to a truck or bus as described above, the District Court is required to pass that evidence on to the agency issuing the citation. The agency would then have two weeks to reissue a citation if it

chooses.

Chapter 315 of 1997 also provides that a violation is not a moving violation for the purpose of assessing points and may not be recorded by the Motor Vehicle Administration (MVA) on the driving record of the owner of the vehicle. Nor may a violation be considered in the provision of motor vehicle insurance coverage. If the owner ignores the citation, however, the registration of the vehicle may be suspended.

Howard County currently is the only jurisdiction issuing citations under the Act. Anne Arundel County anticipates using cameras to issue citations to drivers running red lights by December 1998. Other jurisdictions are currently considering use of similar technology.

VEHICLE EMISSIONS INSPECTION PROGRAM

Background

Among the most controversial issues facing the General Assembly at the start of the 1995-1998 term were those surrounding the implementation of the "enhanced" Vehicle Emissions Inspection Program (VEIP). The enhanced VEIP was authorized by the General Assembly in 1991 in response to requirements of the 1990 federal Clean Air Act Amendments. Federal law requires the states to achieve specified air quality standards by certain deadlines or risk sanctions including the loss of federal highway funds and strict limitations on new industries in the state.

In compliance with State and federal law, the Motor Vehicle Administration and the Department of the Environment proposed regulations establishing the enhanced VEIP in Maryland. Under the regulations, vehicles in Calvert, Cecil, Charles, Frederick, Queen Anne's, and Washington counties were required to begin submitting to emissions testing in addition to those areas of the State previously included in the program. The enhanced test procedures were to include: (1) transient mass-emissions testing using the inspection and maintenance (IM) 240 driving cycle ("dynamometer test"); (2) an evaporative system integrity or transient purge test that requires manipulation of an engine component; (3) a test that requires removal of the driver; or (4) on-road testing. In addition, the cost of a biennial test under the proposed enhanced VEIP was to increase from $8.50 to $17.

In 1993, the State awarded a $96.9 million contract to MARTA Technologies, Inc. to acquire the necessary land and to construct and equip the test facilities. Testing was scheduled to begin in early January of 1995.

1995 Session

With many citizens viewing the new program as too costly and intrusive, and voicing their concerns to the General Assembly, the program quickly became the focus of legislative attention. Almost 20 bills were introduced, mostly with the goal of either repealing or delaying the enhanced program. However, one significant bill was enacted as an emergency measure during the 1995 Session.

Chapter 489 of 1995 reflected a compromise fashioned by the Governor and legislative leaders to temporarily maintain the then current tailpipe test and anti- tampering checks, but would allow for the geographic expansion of the program. Specifically, ***Chapter 489*** delayed, until after May 31, 1996, any of the new test procedures associated with the enhanced VEIP.

Chapter 489 also lowered the amount the owner of a vehicle failing an emissions test must spend for qualifying repairs before becoming eligible for a waiver from the test requirements. Under prior law, the qualifying waiver amount was $250 for 1995 and was to increase by $100 each year until reaching the federally-mandated amount of $450 (adjusted for inflation) in 1997. ***Chapter 489*** established a waiver amount of $150 through the end of 1997 and provided that for 1998 and later, the federally established waiver amount would apply.

Lastly, ***Chapter 489*** limited the amount of the fee that may be charged for emissions tests to $12 during the period through May 31, 1996, and to $14 after that date. A fee of $17 was originally proposed by the Motor Vehicle Administration for the enhanced program, a level that was suggested as necessary for the program to be financially self-sustaining.

1996 Session

Chapter 428 of 1996 extended from May 31, 1996 to May 31, 1997 the prohibition against full implementation of the enhanced VEIP. The enhanced VEIP testing was to be available only on a voluntary basis; however, it continued to be required of State-owned vehicles or federally owned vehicles, as authorized by federal law.

Additionally, ***Chapter 428*** required the Motor Vehicle Administration, in consultation with the Secretary of the Maryland Department of the Environment, to implement an incentive program to encourage voluntary submission to the enhanced VEIP test. Incentives might include reduced test fees, flexible test schedules, waiver of late fees, the reduction of expenditures incurred for emissions-related repairs necessary to obtain a waiver, or any other cost-effective incentive. Finally, ***Chapter 428*** extended the $12 cap until May 31, 1997.

1997 Session

- *Permanent Moratorium and Voluntary Transient Mass-Emissions Testing*

During the 1997 Session, the General Assembly passed legislation that would have made permanent the moratorium on *requiring* the enhanced testing procedures for motor vehicles registered in Maryland (***Senate Bill 278/1997***). However, Governor Glendening vetoed the legislation, citing Maryland's pollution problems and the threat of federal sanctions. The bill would have required the Motor Vehicle Administration to offer to owners of vehicles subject to testing under the State's emissions control program the option to *voluntarily* submit their vehicles to dynamometer testing. The bill also would have provided that a person who spends $150 on emissions-related repairs may receive a waiver from having to undergo an emissions retest.

- *Technician Certification and Repair Facilities*

Chapter 669 of 1997 required the Motor Vehicle Administration and the Secretary of the Environment to grant a waiver from passing the exhaust emissions test to a vehicle owner if, among other criteria, the vehicle owner exhibits evidence that emissions related repairs qualifying for a waiver were performed by a certified repair technician and at a certified repair facility.

Chapter 669 required the Motor Vehicle Administration and the Secretary of Environment to establish criteria to certify repair technicians who retest vehicles to bring the vehicles into compliance with the VEIP. The Act also required the Administration and the Secretary to determine, on or before March 1, 1998, and before March 1 in each successive year, whether criteria to establish a decentralized emissions retesting program have been satisfied. Additionally, if the vehicle emissions inspection program is awarded to an independent contractor to operate centralized inspection facilities and the criteria for a decentralized retesting program have been met, the Motor Vehicle Administration and Secretary of Environment are required to propose regulations that allow decentralized retesting of vehicles.

1998 Session

Chapter 776 of 1998 extended through December 31, 1999, the current $150 repair expenditure amount needed to qualify the owner of a motor vehicle for a waiver from test and inspection requirements under VEIP. Qualifying repairs must be made within 60 days of the initial emissions test. In the absence of this legislation, as of January 1, 1998, a vehicle owner would have been required to pay the minimum expenditure required by federal law ($450) toward emission-related repairs within 120 days after the first test.

For additional discussion of VEIP, *see* Part K - Natural Resources, Environment, and Agriculture of this Major Issues Review.

VEHICLE REGISTRATIONS AND TITLING

Certificates of Title

Chapter 443 of 1998 prohibited the Motor Vehicle Administration from issuing a certificate of title for a vehicle to anyone who is not at least 18 years of age, unless the application is cosigned by a qualifying adult. Generally, the application will need to be cosigned by a parent or guardian of the applicant. However, if the applicant is married or has no parent or guardian, an employer or other responsible adult may cosign the application. The requirements for co-signatures are similar to the requirements for minors seeking drivers' licenses.

Registration Plates

- *Chesapeake Bay Tag*

In 1990, the General Assembly authorized the Motor Vehicle Administration to issue a single special commemorative plate for any geographical, historical, natural resource, or environmental commemoration of statewide significance. The Motor Vehicle Administration has since issued the popular Chesapeake Bay plates.

Under the 1990 legislation, a commemorative plate is to be issued only for two consecutive years. However, because of its popularity, the General Assembly has continuously extended authority for the Bay plate. During the 1995-1998 term, the General Assembly has rejected creation of several alternative special commemorative plates and twice enacted authority to continue issuance of the Bay plates for additional two-year periods (***Chs. 356 and 357/96 and Chs. 140 and 141/98***).

Since 1991, the Bay plate has raised almost $8 million for the Chesapeake Bay Trust. Currently, the fee for the plates is $20, of which $12 is allocated to the Chesapeake Bay Trust and $8 is retained by the Motor Vehicle Administration to recover its costs for the program.

- *Special Organizational Tags*

The Maryland Vehicle Law authorizes the Motor Vehicle Administration to issue special registration plates to members of qualifying nonprofit organizations. The special plates contain certain letter or numeral combinations, and the name or abbreviation of the organization; the tags may also include an organization's logo. To participate under the program, the qualifying organization must have a minimum of 25 members seeking the plate. The law authorizes the Motor Vehicle Administration to charge a one-time fee for the plates, set at a level to recover its costs. The current additional fee is $15 for a non-logo plate; plates including a logo require a one-time $25 fee.

The organizational plate program has proved extremely popular with many nonprofit organizations throughout the State. There are approximately 400 organizations that have special plates under the program and the General Assembly continues to deal with legislation on special license plates. ***Chapter 558 of 1995*** allowed the members of qualifying nonprofit motorcyclist organizations to apply to the Motor Vehicle Administration for issuance of special organizational plates. ***Chapter 432 of 1996***, in part, provided that trucks up to one-ton manufacturer's rated capacity are eligible for special organizational plates. Previously, the law limited availability to trucks up to 3/4 tons. Also in 1996, the General Assembly enacted emergency legislation providing that the surviving spouse of a person who held special organizational plates reflecting membership in a qualifying nonprofit organization may retain the plates reflecting that membership (***Ch. 223/96***). While the Motor Vehicle Administration had previously attempted to accommodate individuals faced with the situation addressed by this Act, ***Chapter 223*** established clear authority for this practice.

The 1997 Session started with a highly publicized controversy relating to the State's organizational license plate program. In December 1996, the Motor Vehicle Administration had issued to members of an organization known as the "Sons of Confederate Veterans" special organizational plates bearing the name of the group, the year "1896", and a logo of the Confederate battle flag. In response to complaints by individuals offended by the logo, the Motor Vehicle Administration sought to withdraw the plates in January, 1997. On January 20, 1997, the Sons of Confederate Veterans sued the State on various grounds including that its rights of free speech as guaranteed by the First and Fourteenth Amendments to the U. S. Constitution had been violated. A United States District judge ruled in favor of the Sons of Confederate Veterans and enjoined the Motor Vehicle Administration from recalling the previously issued plates. The court also required the Motor Vehicle Administration to issue and renew such plates if an applicant is otherwise

entitled. The State decided not to pursue an appeal.

As a result of the Sons of Confederate Veterans controversy, numerous bills were introduced during the 1997 Session affecting the special organizational plate program. ***Senate Bill 852*** (failed) would have increased the number of owners required to apply for an organizational plate from 25 to 250 and would have increased the required fees that the Motor Vehicle Administration charges. ***House Bill 308*** (withdrawn) and ***House Bill 1453*** (failed) would have abolished the organizational plate program. ***House Bill 1455*** (failed) would have prohibited depicting a flag on a plate other than the flag of the United States, the Maryland flag, or a flag of a political subdivision adopted before July 1, 1997. The latter bill would have affected not only the Sons of Confederate Veterans, but numerous other organizations as well. Although none of the above bills was successful, the Motor Vehicle Administrator appointed an outside work group to explore changes in the organizational plate program following the 1997 Session. However, the work group supported maintaining eligibility requirements established under the current law.

Chapter 580 of 1998 required the Governor to appoint a committee consisting of five members representing animal humane societies and the Motor Vehicle Administrator to design a single emblem or logo intended to enhance public awareness of the need to manage the population of cats and dogs in the State through sterilization. The Act will allow for design of a single design available to humane societies throughout the State under the existing organizational license plate program.

- *Miscellaneous Special Tag Issues*

Chapter 589 of 1995 made two changes to the law governing the issuance of special license plates for individuals with disabilities. The first change was to increase from 3/4 ton to 1 ton or less manufacturer's rated capacity, the type of truck eligible for issuance of the special plate. Second, the Act authorized the Motor Vehicle Administration to issue either a special plate or a parking permit for use on a motorcycle. In the case of a permit, it is to be issued in the form of a sticker. Testimony on this legislation indicated that the existing placard, which is typically hung from a vehicle's rear view mirror when in use, is inappropriate for use on a motorcycle as it can easily be stolen or otherwise removed from the motorcycle.

Chapter 432 of 1996 altered the personalized registration plate, commemorative license plate, and other special registration plate programs to allow use of the various special plates on trucks up to one-ton manufacturer's rated capacity. Previously, the law limited availability of special plates to trucks rated at up to 3/4 tons.

Chapters 392 and 550 of 1997 clarify that disabled veterans may receive specified special registration plates for their vehicles without paying the annual vehicle registration fee. The Maryland Vehicle Law states that a vehicle owned and personally used by a qualifying disabled veteran is exempt from the vehicle registration fee. The law also provides that a disabled veteran is exempt from paying the registration fee for special registration plates issued to individuals with disabilities. Arguably, disabled veterans were already exempt from all registration fees; however, since the Motor Vehicle Administration had been charging disabled veterans for certain special registration plates, these Acts clarify that disabled veterans do not lose their exemption by selecting the special enumerated tags. Special tags affected by the Acts are: (1) special registration plates for amateur radio licensees; (2) special commemorative plates; (3) special organizational plates; and (4) plates for recipients of an individually earned combat- related armed forces medal.

MISCELLANEOUS ADMINISTRATIVE AND ENFORCEMENT LEGISLATION

MVA Investigators - Authority

Chapter 41 of 1997 authorized Motor Vehicle Administration investigators to issue citations for violations relating to:

(1) special registration plates and parking permits for individuals with disabilities;

(2) provisions of the vehicle antitheft law relating to falsified, altered, or forged documents and plates;

(3) unlawful application for a license and operating a vehicle during periods of license cancellation, revocation, or suspension; and

(4) special residential parking permits issued by the Motor Vehicle Administration.

According to the Maryland Department of Transportation, investigative agents have become increasingly involved in situations in which an individual is in violation of not only insurance and registration laws (for which the investigators already had authority to issue citations), but also those provisions relating to driving with a revoked or suspended license and other violations. The effect of these diverse violations has been to require an agent to issue citations for some of the violations and then contact the police to effectuate the issuance of the remaining citations. The additional concern of individuals making false use of special registration plates and parking permits for people with disabilities also received considerable attention as part of the enforcement issue. As the result of ***Chapter 41 of 1997,*** Motor Vehicle Administration investigators should be able to more effectively address problems uncovered as part of their responsibilities.

Registration and Required Insurance Enforcement

Maryland has continued to face problems of people illegally registering their vehicles out-of-state, often to avoid Maryland's compulsory insurance requirements. A number of bills were enacted during the 1995-1998 term that directly or indirectly address these issues.

- *Recovery of Registration Plates on Lapse of Required Security - Privatization Program*

Under a restructuring of the Motor Vehicle Administration's investigative division, field agents previously responsible for confiscating registration plates from vehicles for which the required insurance has lapsed were reassigned to other duties. Recovery of the plates, therefore, was likely to occur only if the owner of the vehicle surrendered them to the Motor Vehicle Administration, potentially making it easier for drivers to operate their vehicles without insurance. ***Chapter 666 of 1996*** authorized the Motor Vehicle Administration to enter into contracts with independent agents to assist in the recovery of registration plates from owners of vehicles with lapsed insurance.

In 1998, the Motor Vehicle Administration was authorized to use revenue that it retains from uninsured motorist penalties to contract with independent agents to recover the registration plates of uninsured vehicles (***Ch. 437/98***). In fiscal 1997, the Motor Vehicle Administration collected total penalties of $22.5 million and retained approximately $6.75 million. The Act authorized the Motor Vehicle Administration to use up to $1 million of these funds for the plate recovery program. The funding, however, is subject to approval through a budget appropriation or, following notice to the General Assembly's budget committees, through the budget amendment process.

- *Registration Enforcement Fund*

In October 1997, a work group was convened to develop a mechanism to combat the problem of people illegally registering their vehicles out of state. The work group included representatives of the General Assembly, the Motor Vehicle Administration, the Maryland State Police, the Governor's Office, the Maryland Municipal League, and the Maryland Association of Counties. While the scope of the problem of vehicles illegally registered out of state is difficult to quantify, a legislative audit issued in 1991 estimated that between 5,461 and 7,914 vehicles owned by Maryland residents were illegally registered in Virginia alone. It was estimated that the loss of excise tax revenues to the State ranged from $1,280,000 to $1,855,000. Although Virginia is not the only state in which Maryland residents illegally register vehicles, it presents an extensive problem due to lower tax and nonmandatory insurance requirements. Since the audit, the Maryland Vehicle Administration has taken numerous steps to enhance enforcement. However, the problem remains significant.

The legislation developed by the work group, ***Chapter 488 of 1998*** established a 5-year grant program under the Department of State Police to provide a funding source for law enforcement agencies to combat the problem of Maryland residents illegally registering their vehicles out-of-state. Enforcement efforts will target cases where vehicle owners clearly have attempted to evade Maryland's vehicle titling, registration, and insurance laws. ***Chapter 488*** established the Motor Vehicle Registration Enforcement Fund, and provided that $400,000 be credited to the Fund each year for the 5-year life of the program from uninsured motorist penalties. To offset the costs of administering the

program, the Act provided that the Department of State Police may retain 10% of the revenues credited to the Fund each year.

Provisions of ***Chapter 488*** are to be implemented by January 1, 1999, and will remain in effect through June 30, 2003. On or before March 1, 2000, and on or before March 1 of each year thereafter, the Secretary of State Police is required to report to the General Assembly on the status of the Fund, the grants that have been awarded, and the effect of efforts to reduce the number of improperly registered vehicles in the State.

- *Reporting of Insurance Policies*

In addition to ensuring a funding source for the hiring of independent agents to recover registration plates as discussed above, ***Chapter 437 of 1998*** provided that the Motor Vehicle Administration may establish a system that would require the reporting by each insurer of new insurance policies issued for vehicles registered in Maryland. However, the Act provides that the Motor Vehicle Administration may not require mandatory participation by any insurer under the reporting system before July 1, 2000. The fiscal 1999 budget includes $963,000 for the Motor Vehicle Administration to implement an insurance reporting system. The system may be initially tested using insurers that volunteer to participate in the system. ***Chapter 437*** prohibited the Motor Vehicle Administration from disclosing insurance information submitted by insurers under the reporting system.

PART H
BUSINESS AND ECONOMIC ISSUES

BUSINESS REGULATION AND OCCUPATIONS

LICENSING GENERALLY

During the 1995-1998 term, the General Assembly made a series of changes to the licensing provisions that generally affect various occupational and professional licenses issued under the Business Occupations and Professions Article and the Business Regulation Article.

Staggered Licensing

Prior to the enactment of ***Chapter 59 of 1997***, the Secretary of Labor, Licensing, and Regulation was authorized to stagger expiration dates for a variety of licenses including those issued to barbers, cosmetologists, real estate brokers, and home improvement contractors. ***Chapter 59*** gave the Secretary of Labor, Licensing, and Regulation additional authority to stagger the expiration dates for the following licenses: (1) accountants; (2) architects; (3) electricians; (4) foresters; (5) certified interior designers; (6) landscape architects; (7) pilots; (8) plumbers; (9) professional engineers; (10) professional land surveyors; (11) heating, ventilation, air-conditioning, and refrigeration contractors; (12) secondhand precious metal object dealers and pawnbrokers; and (13) stationary engineers. It is anticipated that this expansion of the authority of the Secretary to stagger the expiration dates of licenses issued by various boards in the Department will enable the Department to implement an efficient Department-wide staggered licensing system on the Internet.

Reduction of Licensing and Renewal Fees

According to data from the Department of Labor, Licensing, and Regulation, each of the eight occupational licensing boards included in the provisions of ***Chapter 735 of 1997*** took in a significantly higher amount of revenue than it actually cost to run the board. As a result, ***Chapter 735*** reduced the initial license fees and, if applicable, the license renewal fees for: (1) accountants; (2) cosmetologists, senior cosmetologists, estheticians, manicurists, and makeup artists; (3) electricians; (4) master or limited master plumbers, journey or limited journey plumbers, and propane gas fitters; (5) land surveyors and property line surveyors; (6) boxers, kick boxers, wrestlers, seconds, referees, judges, managers, matchmakers, and promoters; (7) heating, ventilation, air conditioning and refrigeration master, master restricted, limited, journeymen, and apprentice licensees; and (8) secondhand precious metal object dealers. These reductions in initial license fees and renewal fees were approximately in proportion to the excess of revenues over expenditures.

Proration of License Fees

In 1995 the General Assembly enacted ***Chapter 538,*** which applied to fees for initial licenses issued for a 2-year term under the Business Occupations and Professions Article. ***Chapter 538*** provided that the issuing authority shall charge the license applicant the full amount of the license fee for a license issued during the first year of the license term. However, for a license issued in the second year of the license term, the issuing authority shall charge one-half of the license fee if the license is issued in the first 6 months of the second year, or one-quarter of the license fee if the license is issued in the last 6 months of the second year.

Chapter 426 of 1996 expanded the provisions on proration of license fees to apply to 2-year licenses issued under the Maryland Home Improvement Law, the Maryland Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors Act, and the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act.

Dishonor of License Fee Payment

Under prior law, when payment of a license fee or renewal fee was made by check or other negotiable instrument that was subsequently dishonored, the Department of Labor, Licensing, and Regulation gave the licensee an opportunity

for a hearing before the license was declared void. This procedure was time-consuming and cumbersome, and allowed licensees to possess licenses for which no payment had been made. ***Chapter 526 of 1996,*** which applied to licenses issued under the Business Regulation Article and the Business Occupations Article, provided a procedure for suspending a license if payment of the license or renewal fee was dishonored and for reinstating the license if the fee and any late charge were paid or if the dishonor of payment was in error.

Examinations, Fees, and Credit Reports

Chapter 49 of 1998 was a response to concerns raised during the regulatory review process about the statutory authority of various occupational and professional licensing boards in the Department of Labor, Licensing, and Regulation to contract with outside testing administrators and to require license applicants to pay examination fees directly to the testing contractors. It had been the longstanding practice of these boards to contract with outside testing services and to collect examination fees from applicants for licenses and then pass those fees on to the testing contractors.

Chapter 49 codified existing practice by authorizing the direct payment of examination fees to the designee of the following occupational and professional boards: (1) accountants; (2) architects; (3) barbers; (4) cosmetologists; (5) electricians; (6) landscape architects; (7) plumbers; (8) professional engineers; (9) land surveyors; (10) real estate appraisers; (11) home improvement contractors; and (12) heating, ventilation, air- conditioning, and refrigeration contractors. In addition, if the particular boards did not have the statutory authority to contract with testing administrators for occupational and professional examinations or if the statutory authority was unclear, ***Chapter 49*** provided that authority.

Chapter 49 also expressly codified existing practice by authorizing the Home Improvement Commission to require applicants for initial contractor licenses to file credit reports. The Act also authorized both the Real Estate Commission and the Home Improvement Commission to require real estate broker and contractor licensees, respectively, to file credit reports for license renewal.

Effect of Criminal Conviction on Licensing

Prior to the enactment of ***Chapter 342 of 1998*** , all regulatory units in the Department of Labor, Licensing, and Regulation had established grounds for the issuance, denial, renewal, suspension, and revocation of licenses, certifications, registrations, and permits. The specific grounds for doing so varied from unit to unit. A number of units were authorized to take disciplinary action if an applicant or licensee had been convicted of a felony or a crime of moral turpitude. In addition, many of the regulatory units had discretion to take disciplinary action if an applicant or licensee pleaded guilty or nolo contendere or received probation before judgment for certain crimes.

The impetus behind ***Chapter 342*** was the Court of Special Appeals decision, Linkus v. Maryland State Board of Heating, Ventilation, Air Conditioning and Refrigeration Contractors, 114 Md. App. 262 (1997), which concluded that the Board lacked the legal authority to consider an applicant's general character or prior criminal convictions unrelated to the heating, ventilation, air-conditioning, and refrigeration laws. The case involved an applicant who did not reveal a conviction of second-degree rape on the initial application for "qualifying review" and who only later revealed this conviction on the actual license application. Although the Board decided that it would be inappropriate to issue the license, the Court of Special Appeals overturned the decision of the Board.

Chapter 342 authorized specific boards in the Department of Labor, Licensing, and Regulation, and in some instances the Secretary of Labor, Licensing, and Regulation, to deny an application or renewal, reprimand a licensee, certificate holder, or permit holder, or suspend or revoke a license, certificate, or permit if the applicant, licensee, or holder is convicted of: (1) a felony; or (2) a misdemeanor that is directly related to the fitness and qualification of an applicant, licensee, or holder to practice the activity authorized by the license, certificate, or permit. In the case of regulatory units that already possessed this or similar authority, ***Chapter 342*** altered or clarified the circumstances under which that authority may be exercised. ***Chapter 342*** also repealed the authority of several boards to deny a license or take disciplinary action based on a conviction of a crime of moral turpitude or criminal activity with respect to which the individual has received probation before judgment.

The following occupations and professions were covered under ***Chapter 342***: (1) accountants; (2) architects; (3) barbers; (4) cosmetologists; (5) electricians; (6) foresters; (7) interior designers; (8) landscape architects; (9) bay pilots; (10) plumbers; (11) professional engineers; (12) land surveyors; (13) real estate appraisers; (14) real estate professionals; (15) home improvement contractors; (16) heating, ventilation, air- conditioning, and refrigeration contractors; and (17) second-hand precious metal object dealers and pawnbrokers.

In addition, ***Chapter 342*** authorized the Director of the Office of Cemetery Oversight to deny registrations and permits, reprimand registrants or permit holders, and suspend or revoke registrations or permits for conviction of: (1) a felony; or (2) a misdemeanor that is directly related to the fitness and qualification of the applicant, registrant, or permit holder to own or operate a cemetery or provide burial goods.

CEMETERY AND "DEATH CARE" REGULATION

In 1996 the General Assembly established a Task Force to Examine the State's Cemetery and Funeral Industry for the purpose of examining consumer and business issues within both industries. As a result of the Task Force's deliberations, recommendations, and report, the Maryland Cemetery Act was enacted by ***Chapter 675 of 1997*** to create an oversight body for cemeteries and persons providing burial goods.

Office of Cemetery Oversight

Chapter 675 established the Office of Cemetery Oversight in the Department of Labor, Licensing, and Regulation and authorized the Secretary to appoint a Director to administer and operate the Office. ***Chapter 675*** transferred to the Director all of the authority and responsibilities formerly held by the Office of Secretary of State over cemetery owners concerning the Perpetual Care Trust Fund and preneed burial contracts. The Act also established the Cemetery Oversight Fund, into which are to be paid fees for the issuance of registrations and permits.

Registration and Permitting

- *Requirements*

Chapter 675 required a person to register with the Office of Cemetery Oversight before engaging in the operation of a cemetery in Maryland or providing burial goods. Registered cemeterians or sellers may engage in the cemetery or burial goods business as a sole proprietor or through a corporation, limited liability company, or partnership, if the entity through which the registrant does business obtains a permit issued by the Office of Cemetery Oversight. A registered cemeterian who operates a cemetery through a corporation, limited liability company, or partnership is subject to all of the provisions of the Act relating to the operation of a cemetery. Likewise, a registered seller who engages in the operation of a burial goods business through a corporation, limited liability company, or partnership is subject to all of the provisions of the Act relating to the provision of burial goods services.

- *Exemptions*

Chapter 675 exempted from the registration and permitting requirements bona fide, religious nonprofit cemeteries that do not sell preneed goods. Those religious cemeteries subject to registration and permitting requirements of ***Chapter 675*** do not need to register or obtain permits until October 1, 1999. The exempt cemeteries are required to file with the Office of Cemetery Oversight every 2 years a statement that includes the name and address of the exempt cemetery, the name and address of the religious organization that owns and operates the cemetery, and the name and address of the individual who is responsible for the oversight of the cemetery, unless the cemetery has not had a burial within the previous 5 years.

Because they were already regulated under the Health Occupations Article, ***Chapter 675*** exempted from the registration and permitting requirements morticians and funeral directors acting within the scope of their professions and in the ordinary course of their businesses.

Chapter 151 of 1998 and Chapter 152 of 1998 exempted a not-for-profit organization created before 1900 by an act of the General Assembly from the registration and permitting provisions of the Maryland Cemetery Act.

Preneed Goods and Services

- *Disclosures and notices to consumers*

By requiring sellers of preneed goods or services to provide a variety of disclosures and notices to consumers, ***Chapter 675 of 1997*** enhanced consumer protection. All sellers of preneed goods and services, including funeral directors and morticians, must distribute a general price list, disclose all of those goods and services reasonably expected to be required at the time of need but not included in the preneed contract, and disclose the buyer's cancellation and refund rights. Registrants and permit holders under the Act must make the following additional disclosures at the time of entering into a contract for burial goods or services: (1) the itemized cost of each service to be performed; (2) any services incidental to burial not covered by the contract; (3) the cemetery's policy on the use of independent monument companies; and (4) the name, address, and phone number for the Office of Cemetery Oversight. A registrant or permit holder that sells its business, files a petition in bankruptcy, or ceases to operate must provide specified notices within 15 days to the Director and each buyer of a preneed burial contract.

- *Caskets and casket vaults*

Chapter 675 of 1997 changed the trust and escrow requirements for caskets and casket vaults. Under the prior law, a funeral director or mortician was required to deposit in a trust or escrow account 100% of the payment for preneed goods and services and a cemetery business was required to deposit in a trust or escrow account 55% of the payment for preneed goods and services. Under ***Chapter 675***, all preneed sellers of caskets or casket vaults are required to deposit in a trust or escrow account 80% of the payment for caskets and casket vaults.

If a buyer of a casket or casket vault under a preneed contract cancels at any time before the buyer needs the casket or casket vault for burial, ***Chapter 664 of 1998*** required payment to the buyer of 100 % of the money paid for the casket or casket vault. After the buyer cancels, the seller must certify to the trustee who holds the buyer's payments in escrow: (1) the cancellation of the purchase; (2) the amount of funds applicable to the casket or casket vault under the preneed contract; and (3) the name and address of the buyer. The trustee is required to pay the buyer the funds and any interest accrued on those funds and, in addition, the seller must refund to the buyer an amount of money necessary to provide the buyer with a refund of 100 % of the money paid for the casket or casket vault under the preneed burial contract. ***Chapter 664*** did not apply to funeral directors because they were already required to provide full refunds for canceled preneed contracts.

Land Limits

Under the law prior to 1997, a cemetery corporation was not authorized to buy, hold, or use for burial more than 100 acres in the State. ***Chapter 86 of 1997*** provided that in the Kent Election District of Prince George's County, a cemetery corporation may buy, hold, or use for burial up to 150 acres in one tract. ***Chapter 675 of 1997*** further expanded the applicability of this law to any form of business entity and, in addition, provided that in Baltimore County a registrant or permit holder may buy, hold, or use for burial up to 200 acres in one tract.

BUSINESS REGULATION

Athletics

- *Boxers and Kick Boxers*

Chapter 551 of 1996 was an emergency Act that required a boxer or kick boxer to undergo HIV and hepatitis testing before applying for a license and, as directed by the State Athletic Commission, before a contest.

- *Sports Agents*

To protect all student athletes in Maryland high schools and colleges from unscrupulous sports agents, ***Chapter 777 of***

1998 expanded the applicability of the Maryland Sports Agent Act. By altering the definition of "local athlete" to include an athlete who is not a resident of the State, ***Chapter 777*** extended coverage under the Maryland Sports Agent Act to out-of-state students who play for sports teams at Maryland high schools, colleges, and universities. Under the former law, only those student athletes who were residents of Maryland and were playing or had played for a high school or NCAA intercollegiate team in the State were considered local athletes.

Charitable Solicitations

- *Statute of Limitations*

Chapter 512 of 1995 increased from 1 to 3 years the statute of limitations for prosecuting violations of the Maryland Charitable Solicitations Act, which regulates the fund-raising activities of charitable organizations and their representatives.

- *Exemptions, penalties, and relief for violations*

Chapter 89 of 1995 clarified that a charitable organization must have a declaration of tax-exempt status from the U.S. Government in order to be exempt from the requirements of the Maryland Charitable Solicitations Act. ***Chapter 89*** also provided that, on referral by the Maryland Secretary of State, the Attorney General may seek a civil penalty of up to $5,000 for each willful violation of the Act or a civil penalty of up to $3,000 for each grossly negligent violation. In order to provide some guidance with respect to the kind of penalties and remedies that are appropriate for violations of the charitable solicitations law, ***Chapter 89*** also clarified what relief is appropriate for the Circuit Court to order.

- *Information and enforcement*

To enhance the ability of the Secretary of State to provide detailed information to citizens and businesses about charities that solicit contributions and to enforce the Maryland Charitable Solicitations Act, ***Chapter 371 of 1996*** made a number of changes to the laws governing charitable organizations and charitable representatives. ***Chapter 371*** authorized the Secretary of State to provide computer disks to the public that contain information about charitable organizations. ***Chapter 371*** also authorized the Secretary of State to appoint a designee to investigate alleged violations of the Maryland Charitable Solicitations Act and, if the Secretary has reasonable grounds to believe that a violation of the Act has occurred, to mediate and enter into settlement agreements with apparent violators of the Maryland Charitable Solicitations Act.

In addition, ***Chapter 371*** altered the scope of the Maryland Charitable Solicitations Act by exempting from registration those charitable organizations that raise no more than $25,000 per year in charitable contributions and those charitable organizations that only receive contributions from for-profit corporations and private foundations, unless the charitable organization hires a professional solicitor. Finally, ***Chapter 371*** made a number of other changes to the laws governing the bonding of professional solicitors, the submission of accountings of moneys received and disbursed from fund-raising drives, contracts between charitable organizations and professional solicitors and fund-raising counsel, financial disclosure statements, and the liability of broadcasters and other media outlets for broadcasting, publishing, or printing requests for charitable solicitations.

- *Bond Requirements*

During 1996, the Office of the Attorney General advised that the Secretary of State's office may not continue to hold the bond of a professional solicitor after the expiration of its registration. According to the Secretary of State's office, however, if a bond must be returned on request immediately after the end of the period of registration, a professional solicitor could abscond with the money donated to a charity, and the State would not be able to make a claim against the bond on behalf of the charity or anyone else who has been harmed.

To remedy this problem, ***Chapter 13 of 1997*** provided that the Secretary of State may return a bond or irrevocable letter of credit filed by a professional solicitor only if 3 years have passed since the registration period to which the bond or letter of credit applies and there is no pending claim against the bond or letter, or only if the registration period

to which the bond or letter applies is over, all required accounting reports have been properly completed and filed, and it appears to the satisfaction of the Secretary of State that the person is not in violation of the Maryland Charitable Solicitations Act.

- *Solicitation through Containers*

Chapter 271 of 1997 strengthened the laws pertaining to the solicitation of charitable contributions through containers by expanding and altering the disclosure requirements that must be satisfied by a person who places containers in public places to solicit money for charitable purposes.

Collection Agencies

Chapter 58 of 1996 made a number of changes to the laws governing the licensing and regulation of collection agencies in Maryland. By amending the definition of "collection agency", the Act expanded the applicability of the law regulating collection agencies to include a person who employs the services of another to solicit or sell a collection system. ***Chapter 58*** also repealed a requirement that the Collection Agency Licensing Board must notify an otherwise qualified applicant of the applicant's responsibility to obtain a surety bond as a condition of licensing. The Act also authorized the Collective Agency Licensing Board, after an appropriate hearing, to deny a license if an applicant fails to meet a licensing requirement and established procedures for annual license renewals. ***Chapter 58 of 1996*** expanded the enforcement authority of the Board by authorizing the Board to issue cease and desist orders for violations of the Maryland Consumer Debt Collection Act and the Maryland Collection Agency Act. The Board also may require violators to take affirmative actions to correct violations. If a violator fails to comply with an order issued by the Board, the Board may impose a civil penalty of up to $500 for each violation cited in the order, not to exceed $5000. The Board is also given the power to enforce its own orders by filing suit in the circuit court.

Home Improvement Contractors

- *Criminal penalties*

Chapter 631 of 1997 and Chapter 632 of 1997 were prompted by a Court of Special Appeals decision, Reisch v. State, 107 Md. App. 464 (1995), which held that in order to sustain a criminal conviction of an unlicensed contractor, the State must prove beyond a reasonable doubt that the contractor knew that the contractor was required to have a Maryland home improvement contractor license and that the contractor intentionally ignored that legal obligation. The Department of Labor, Licensing, and Regulation believed that in the vast majority of unlicensed activity cases, the State would be unable to obtain a conviction under the statutory standard as interpreted by the Court of Special Appeals. The Department was concerned that without an effective deterrent of criminal prosecution, unlicensed home improvement activity would significantly increase and consumers victimized by unlicensed home improvement contractors would lose the remedy of criminal restitution.

Chapter 631 of 1997 and Chapter 632 of 1997 altered the circumstances under which a person is subject to criminal penalties under the Maryland Home Improvement Law. The Acts provided that a person is guilty of a misdemeanor and subject to fines, imprisonment, or both if the person acts or offers to act, while unlicensed, as a contractor, subcontractor, or seller of a home improvement, regardless of whether the person knowingly and willfully violated this prohibition. Additionally, if there is no greater criminal penalty provided under other applicable law, a person who violates Title 8 of the Business Regulation Article is guilty of a misdemeanor, regardless of whether the person knowingly and willfully violated the law. The Acts also altered the criminal penalties for violating the prohibitions on unlicensed practice. A first time violator is subject to a fine of up to $1,000, imprisonment of up to 30 days, or both.

- *Miscellaneous*

Chapter 197 of 1996 continued the statutory and regulatory authority of the Home Improvement Commission until October 1, 2002.

Chapter 259 of 1996 established a procedure to allow a home improvement licensee to place the license on inactive

status and to reactivate the license at a later time.

Chapter 336 of 1996 required the building and permits department of a municipal corporation to include the license number of a home improvement contractor on a home improvement permit, unless the home improvement authorized under the permit will be performed by the property owner. This requirement formerly existed only for counties. Uncodified language in the Act authorized a municipal corporation to use its existing stock of home improvement application permit forms before using forms that require spaces for license numbers.

Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors

In 1992 the Maryland Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors Act was enacted in order to regulate and license heating, ventilation, air-conditioning, and refrigeration (HVACR) contractors in Maryland. During the 1995-1998 term, the General Assembly made several changes to these licensing provisions.

- *Master Licenses*

Chapter 318 of 1995 provided that an applicant for a master HVACR license or master restricted license may gain the experience needed for the license under a limited or master restricted license. The Act also provided a limited waiver of the experience requirements for certain limited or master restricted licensees applying for a master or additional master restricted licenses.

- *Journeyman Licenses*

Chapter 667 of 1998 required the HVACR Board to issue a journeyman license to an individual who has successfully completed an apprenticeship program in heating, ventilation, air-conditioning, and refrigeration approved by the Apprenticeship and Training Council, without requiring the individual to take an examination. Under this Act, an applicant for a journeyman license who completes an unapproved apprenticeship would still be required to take the examination.

- *Credit for Work Experience*

Under the 1992 law, the Board was authorized to credit up to 3 years of formal course of study or professional training in HVACR services if, in the opinion of the Board, the study or training provided comparable experience. However, the issue of crediting work experience that did not meet the statutory standards arose because many individuals who had worked in the HVACR trade for years missed the "grandfathering" period established when the licensing system was originally enacted. In support of changing the law, the Department of Labor, Licensing and Regulation argued that, for these individuals, complying with the full licensing requirements was overly burdensome because the licensing requirements did not take into account all of an applicant's work experience.

As a result, ***Chapter 515 of 1996*** was enacted to authorize the Board to credit up to 6 years of appropriate work experience that fails to meet the statutory work experience requirements for HVACR licenses if the Board believes the work provides comparable experience and the failure of the applicant to meet the requirements is not attributable to the fault of the applicant. Similarly, the Board must credit up to 3 years of work experience to an applicant for teaching formal courses of study in HVACR services.

- *Local Licenses*

In order to grant reciprocity to holders of State HVACR licenses, ***Chapter 566 of 1997*** required a subdivision of the State that required a local license to provide HVACR services to issue a license to any individual licensed by the State Board on receipt of any application and fee required by the subdivision. The Act further provided that a subdivision may not require an applicant for a local HVACR license to take an examination if the applicant is already licensed by the State.

Motor Fuel and Lubricants

- *Retail Service Station Dealers - Extension of Conversion Moratorium*

Chapter 472 of 1996 and Chapter 560 of 1996 extended to October 1, 2000 the sunset date on the conditional moratorium of the registration of retail service stations. Additionally, the Acts altered a current exception to the moratorium by repealing the requirement for local approval before conversion to a gasoline only outlet and by substituting the requirement that the dealer and the owner agree to the elimination of an enclosed work area.

- *Voluntary Allowances*

Chapter 772 of 1998 temporarily suspended from July 1, 1998 through September 30, 2000 the requirement that all voluntary allowances granted by producers, refiners, and wholesalers of motor fuel shall be extended uniformly to all retail services stations supplied. A voluntary allowance is a temporary price reduction that is offered to a retail dealer to enable the dealer to meet the lower price of a competing dealer. With the enactment of ***Chapter 772***, the General Assembly has made an effort to provide a tool to the oil manufacturers and wholesalers to assist retailers who face fierce competition by rivals such as the Price Costco, Sheets, and Sam's Club.

- *Games of Chance*

Chapter 409 of 1998 allowed refiners and other suppliers of motor fuel to retail service stations to engage in, sponsor, promote, advertise, or otherwise perform or participate in a game of chance that is marketed or offered to the public, as long as the game of chance is not marketed or offered at a retail service station. In addition, the Act prohibited a supplier of motor fuel that is authorized to conduct a game of chance from requiring a retail service station dealer to pay for any costs related to the game of chance.

- *Petroleum Transporters*

Chapter 407 of 1997 increased from 50 to 1,750 gallons the minimum size of a fuel transporting device that is required to register with the Comptroller and required the Comptroller to establish regulations governing monthly filing requirements for petroleum transporters.

- *Administration and Enforcement*

Chapter 410 of 1997 allowed the Comptroller to inspect the propulsion tanks of special fuel powered motor vehicles during normal business hours and any time that the vehicles are in operation. The Act also provided that the denial of access of the Comptroller by an agent, owner, or other person who operates a motor vehicle is prima facie evidence of a violation of specified laws.

Secondhand Precious Metal Object Dealers and Pawnbrokers

Chapter 509 of 1996, Chapter 171 of 1997, and Chapter 227 of 1997 made a number of changes to the laws governing secondhand precious metal object dealers and pawnbrokers. The primary purpose behind many of these changes was to increase the ability of the Department of Labor, Licensing, and Regulation and local law enforcement agencies to oversee transactions made by dealers, particularly those transactions that occur at weekend shows and other similar events.

- *Business Location Requirements*

Chapter 509 of 1996 provided a procedure by which a licensed dealer may change the business address under the dealer's license.

Under ***Chapter 227 of 1997,*** an applicant applying for a dealer's license must provide a "fixed business" address and a storage location for items, if the storage location is different from the fixed business address. A safe deposit box may not be used as a storage location unless the applicant authorizes access for inspection by law enforcement officers or agents. Additionally, a license may not be issued to a dealer for the same location where a license was previously

revoked or suspended unless the applicant demonstrates that the business is separate and independent from the business for which the previous license was suspended or revoked.

- *Off-site Transactions*

Chapter 227 required a dealer to give notice to a local law enforcement unit 7 days in advance of participation in an event held away from the dealer's fixed business address. A dealer is not required to give the advance 7-day notice unless the dealer or the dealer's agent or employee has acquired space at a location other than the fixed business address or has published notice of or advertised the event. A dealer must mail or deliver a copy of the written acquisition record to the local law enforcement unit by the end of the next business day after the item is acquired. In addition, a dealer also must place a precious metal object and record at the dealer's fixed business address or elsewhere (with the approval of the local law enforcement unit) by the next business day.

- *Enforcement and Investigation*

Chapter 227 expanded the Secretary's powers in the areas of enforcement and investigation. Under the Act, the Secretary may seek a restraining order in certain situations and may assess a civil penalty of up to $500 for each violation if a dealer refuses to allow access for an inspection of an object or record. Also, the Secretary may issue subpoenas for records, reports, or precious metal objects, if the Secretary has probable cause to believe that a violation of the title has occurred. ***Chapter 227*** also altered the circumstances under which the Secretary may take action against licensees or applicants if they or others knowingly employ, after being notified by the Secretary, individuals whose dealers' licenses have been revoked. Additionally, the Secretary is required periodically to distribute to all dealers a list of individuals whose licenses have been revoked in the State.

Chapter 227 also expanded the investigative authority of law enforcement agencies to include any violation of the title. The Act provided that a warrant for an administrative inspection must be issued if an officer or agent has probable cause for the place of business to be inspected. ***Chapter 227*** doubled penalties for violations of the title to a maximum $10,000 fine and/or up to 2 years imprisonment and created a rebuttable presumption that an object is a precious metal object if it reasonably appears to be so and it was received in the course of business or is found in the place of business or storage facility of a dealer.

- *Stolen items provided to law enforcement agency*

Chapter 509 of 1996 expanded the list of preconditions that must be met before a dealer or pawnbroker is required to provide allegedly stolen items of personal property, acquired by the dealer or the pawnbroker, to a law enforcement unit. Under the prior law, the dealer or pawnbroker was required to release to a primary enforcement unit any item located at the dealer or pawnbroker's place of business if the item is established to have been stolen, the owner of the item or the victim of the theft has positively identified the item or has provided an affidavit of ownership, and the stolen property report describes the item with specificity. ***Chapter 509*** required an affidavit of ownership but allowed the owner to designate another person to provide the affidavit of ownership. Under ***Chapter 509,*** the primary law enforcement unit must provide a receipt to the dealer or pawnbroker that describes the item and that notifies the dealer or pawnbroker of the right to file a statement of charges against the alleged thief or the individual who sold the item to the dealer or pawnbroker. Finally, ***Chapter 509*** required a person who sells an item to a dealer to sign a statement, under the penalties of perjury, that the person is the owner of the item.

- *Licensing and Criminal Background Checks*

Chapter 171 of 1997 reduced to $75 the initial license fee and license renewal fee for a secondhand precious metal object dealer. ***Chapter 171*** also streamlined the process by which an applicant or prospective employee applies for the State and national criminal history records check. The Act changed the background check procedures and required license applicants and their employees to apply directly for a national and State criminal history records check from the Criminal Justice Information System Central Repository (Central Repository) of the Department of Public Safety and Correctional Services on a form approved by the Director of the Central Repository. ***Chapter 171*** required the

Central Repository to provide to the Secretary of Labor, Licensing, and Regulation the results of the national and State criminal history records checks submitted by applicants and prospective employees, an update of that information to reflect any convictions, pleas of guilty, or nolo contendere to any criminal charge occurring in the State after the date of the criminal records check, and an acknowledged receipt of the application for a criminal history records check by an individual requiring a criminal history records check.

Business Opportunities

Business opportunities are prepackaged small business deals offered primarily to novice entrepreneurs through classified ads, home seminars, and business opportunities expos. In 1980, the General Assembly discovered that investment problems and deceptive practices were common in the business opportunity industry. During the 1980 Session, the General Assembly enacted the Maryland Business Opportunity Sales Act, which required business opportunity sellers to supply basic disclosures about the business opportunity before a buyer pays any money or signs a contract.

In response to concerns expressed by the Securities Division in the Office of the Attorney General that the Business Opportunities Sales Act had fallen short of its stated goal of preventing deceptive practices and fraud, ***Chapter 517 of 1996*** was a major revision of the laws governing the sale of business opportunities in Maryland. ***Chapter 517 of 1996*** expanded the applicability of the Business Opportunities Sales Act. The enforcement powers of the Securities Commissioner were augmented by ***Chapter 517***, by authorizing the Commissioner to issue both preliminary and final cease and desist orders, to seek a greater array of remedies against violators in the circuit court, and to deny, suspend, or revoke the registration of business opportunities. ***Chapter 517*** expanded the procedures and documentation required as a precondition of a business opportunity registration. The disclosure statement that a seller of a business opportunity must provide to a prospective customer is also expanded. Finally, ***Chapter 517*** provided specific procedures for the renewal of a business opportunity registration.

Tobacco Products

- *Licenses*

Chapter 704 of 1997 provided that a person licensed as a manufacturer of cigarettes, or a person connected with the business of a licensed manufacturer or related by ownership, may not at the same time hold or have any financial interest in a wholesale license or in any business of a wholesaler. Similarly, a person licensed as a wholesaler of cigarettes, or a person connected with the business of a licensed wholesaler or related by ownership, may not at the same time hold or have any financial interest in a manufacturer license or in any business of a manufacturer. Under the bills, a manufacturer is authorized to act as an agent of a wholesaler for purposes of stamping and distribution of cigarettes if the agency relationship is approved by the Comptroller.

Under ***Chapter 704,*** to be engaged in virtually any aspect of the cigarette business, a person must have a license. Licensing is required of manufacturers, wholesalers, storage warehouse operators, subwholesalers, vending machine operators, and retailers of cigarettes.

- *Access by minors*

Current law prohibits minors from using or possessing tobacco products. With one exception, the law also prohibits a person engaged in the business of selling or distributing tobacco products for commercial purposes from selling or distributing those products to minors. The exception to this prohibition in State law covers the owner of, or other person exercising control over, a tobacco product vending machine if a minor has bought a tobacco product from a machine. This exception applies only if the machine displays a conspicuous label stating the prohibitions and the criminal penalties concerning the distribution or sale of tobacco products to minors.

Senate Bill 505 of 1998 would have narrowed this exception and further reduced access by minors to tobacco products by limiting tobacco product vending machines to certain locations that are inaccessible to minors.

House Bill 172 of 1998 would have prohibited a person from selling or offering for sale a tobacco product by means of a vending machine or other mechanical device used for dispensing tobacco products, except for a vending machine: (1) that is located in an establishment that is a bona fide fraternal or veterans organization; or (2) that accepts only tokens and was in use on January 1, 1999. A person who violated this prohibition would have been guilty of a misdemeanor and on conviction subject to a fine of $500. See also Part J - Public Health, under the Subpart "Smoking".

Sunday Blue Laws

Chapter 139 of 1996 exempted Howard County from the prohibition on operating a car dealership on Sunday. The prohibition applied across the State except for Montgomery and Prince George's Counties. ***Chapter 139*** was meant to facilitate the development of an "auto superstore" at the site of the former Freestate Raceway.

Senate Bill 462 of 1997 (failed) would have authorized a car dealer in Anne Arundel County to sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday. The impetus behind the bill was the expressed interest of AutoNation U.S.A. to locate a facility in northern Anne Arundel County.

Boilers and Pressure Vessels

In 1996 attention was focused on the safety of boilers and pressure vessels in the State when a seven-year-old student at the Hazelwood Elementary-Middle School in Baltimore City was burned by scalding water and steam that spewed from a toilet. The injury to the child was caused by the failure of a boiler safety feature that keeps hot and cold water separate. An investigation revealed that the school's boiler had never been inspected and that it was operating with defective safety parts. This incident sparked more investigations which revealed numerous problems with current backlogs, methods of inspection, and inadequate follow-up on violations by the City of Baltimore and the Department of Labor, Licensing, and Regulation. A performance audit was then undertaken by the Office of Legislative Audits which more thoroughly identified problems with the boiler inspection system. As a result, the Division of Labor and Industry within the Department of Labor, Licensing, and Regulation requested that the Board of Boiler Rules establish a Performance Subcommittee to make recommendations for improvement.

House Bill 1315/House Bill 1316 of 1998 (both failed) incorporated the recommendations of the Department. ***House Bill 1315*** would have established a statewide licensing system for stationary engineers. ***House Bill 1316*** would have expanded the regulatory authority of the Department over owners of boilers and pressure vessels, inspectors, and insurance companies that inspect the boilers and pressure vessels that they insure.

BUSINESS OCCUPATIONS

Accountants

Chapter 107 of 1996 eliminated the waiver of the commercial or business law part of the certified public accountancy examination provided to members of the bar.

Chapter 35 of 1996 altered the composition of the State Board of Public Accountancy by eliminating the lawyer member of the Board and substituting a licensed certified public accountant member who actively practices certified public accountancy. Because the Board no longer administers its own examination and instead uses the examination prepared by the American Institute of Certified Public Accountants, the Board does not need a lawyer member of the Board to help develop the examination. The Act also required the Board to maintain a list of the names and mailing addresses of all licensees and permit holders, allowed the Board to release the list to the public, and required licensees and permit holders to designate a mailing address at the time of issuance or renewal of a license or permit. Finally, the Act altered the circumstances under which the Board may grant a waiver of the examination requirements for certified public accountants. This codifies the long-standing practice of the Board.

Architects

Currently, all architectural documents prepared in connection with the alteration, construction, or design of a building intended for public use must be signed and sealed by a licensed architect. ***Chapter 780 of 1998*** exempted property

owners from the requirement that an architect's signature appear on any document associated with a construction project involving an alteration or repair of an existing public structure that is located in a municipal corporation and which satisfies the following requirements: (1) the estimated cost of the alteration may not exceed $5,000; (2) the alteration must be non-structural and in compliance with the federal Americans with Disabilities Act and specified building performance standards; and (3) the exemption may only be used once on a building or structure within a 12-month period. Notwithstanding the provisions creating the exemption, a local code official may require that architectural documents for alterations or repairs of existing buildings or structures be signed and sealed by a licensed architect if the official determines that the signature and seal is necessary to protect public health and safety or to ensure compliance with building performance standards.

Barbers

Chapter 456 of 1995 authorized a student to practice barbering without a license only if the student meets certain criteria, including specified levels of training, supervision, and disclosure to the individual receiving the barbering services. The criteria that the bill established for barber students to practice without licenses are similar to those already established for cosmetology students who practice cosmetology without licenses.

Chapter 459 of 1996 continued the statutory and regulatory authority of the State Board of Barbers until July 1, 2001.

Chapter 53 of 1996 clarified the circumstances under which barbering services may be performed outside a barbershop or beauty salon and eliminated the prohibition on barbershops in Prince George's County being open for business more than 6 days a week. The specific criteria included in the Act that must be met in order to practice barbering outside of a permitted barbershop or beauty salon are the same as those currently found in statute and regulation for licensed cosmetologists who practice cosmetology outside a permitted beauty salon. The antiquated "blue law" prohibition on barbershops in Prince George's County is not enforced. Numerous barbershops in Prince George's County currently are open for business 7 days a week.

In order to qualify for a license to practice barbering, an applicant must have successfully completed at least 1,200 hours of training in barber school or at least 2,250 hours as a registered apprentice in a licensed barber shop. ***Chapter 445 of 1998*** allowed the State Board of Barbers to credit up to 600 apprenticeship hours to an applicant who has completed training in a detention center or correctional facility-based barber school with an approved curriculum. Hours completed in these barber schools count toward the 2,250 apprenticeship hours required by law to qualify for a barber license. Barber training is currently being offered at the Prince George's County Detention Center.

Cosmetologists

Chapter 259 of 1997 increased the membership of the State Board of Cosmetology to seven members and requires four members to be licensed cosmetologists, two members to be consumer members, and one member to be affiliated with a private cosmetology school as an educator or owner. The altered composition of the Board will give greater representation to cosmetology schools. There are currently 33 cosmetology schools in Maryland, and in terms of the number of professional schools, cosmetology schools rank second only to schools for realtors.

Chapter 11 of 1997 required an applicant for a license to practice cosmetology in this State, who is licensed in another state, the District of Columbia, or a territory of the United States, to have passed an examination in the other jurisdiction that is at least equivalent to the examination in this State, before the State Board of Cosmetologists may waive the examination requirement in this State. The purpose of the Act was to clarify the authority of the State Board of Cosmetologists concerning the waiver of examination requirements for out-of-state applicants seeking licensure in Maryland.

Chapters 365 and 366 of 1997 exempted individuals who provide hair braiding services from requirements for licensure by the State Board of Cosmetology. The bills specified that the practice of cosmetology does not include hair braiding services, provided that the service does not include the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair. The intent of ***Chapters 365 and 366*** were to accommodate those individuals who wish to provide only hair braiding services and do not wish to undertake the more extensive training required for a licensed cosmetologist.

Chapter 65 of 1998 extended the termination date for the State Board of Cosmetologists from July 1, 1998 to July 1, 2001. The act placed cosmetologists on the same ten-year sunset cycle as the State Board of Barbers, and it allowed the State Board of Cosmetologists to undergo the next scheduled review under the Maryland Program Evaluation Act beginning on July 1, 2000.

Certified Interior Designers

Chapter 54 of 1996 required an applicant for certification as an interior designer to satisfy the education and experience requirements necessary to qualify for the National Council of Interior Design qualification examination or its equivalent. The eligibility criteria of the National Council offer more flexibility to applicants in meeting education and work experience requirements for certification. The act also altered reinstatement requirements for lapsed certifications by adding a precondition that an interior designer earn two continuing education credits in courses approved by the Board in a 2-year period immediately preceding the request for reinstatement and by eliminating the requirement that a certificate may be reinstated after one year only if interior designer shows good cause for the extension.

In response to concerns raised by interior designers regarding the exorbitant cost of the renewal of a certificate combined with the cost of continuing education, ***Chapter 670 of 1997*** decreased from 20 to 10 the number of hours of continuing education in two or more courses approved by the State Board of Certified Interior Designers that a certified interior designer must take to renew the interior designer's certificate for a 2-year term. However, if the interior designer receives a certificate during the second year of a certificate term, the designer may renew the certificate for the next full term by completing 5 hours of continuing education in one or more courses approved by the Board.

Design Professional Boards

After the 1995 Session, the Senate Economic and Environmental Affairs Committee and the House Economic Matters Committee requested the Department of Labor, Licensing, and Regulation to establish a Design Professionals Task Force. The Task Force was directed to study how the Department could effectively curtail practice and title violations, including violations by unlicensed individuals. Among the conclusions of the Task Force was that legislation should be introduced that would authorize the design professional boards to impose civil penalties. ***Chapter 523 of 1996*** authorized the State Board of Architects, the State Board of Examiners of Landscape Architects, the State Board for Professional Engineers, and the State Board of Professional Land Surveyors to impose civil penalties not exceeding $1,000 against licensees and other persons who engage in unlicensed practice and commit other title violations.

Another conclusion of the Task Force was that legislation should be introduced to alter the authority of design professional boards to assess a reinstatement penalty against those licensees who allow their licenses to lapse. ***Chapter 400 of 1996*** was the result of this recommendation. Under this Act, the State Board of Architects, the State Board of Examiners of Landscape Architects, the State Board for Professional Engineers, and the State Board of Professional Land Surveyors are authorized to reinstate the licenses of design professionals who failed to renew their licenses only if the individuals reapply for licenses within a specified period of time and pay a reinstatement fee of $100 in addition to all past due renewal fees. The Boards may waive the reinstatement fee for a licensee who provides evidence, satisfactory to the Board, that the licensee did not continue to practice during the time the license was lapsed. Finally, the bills increased the reinstatement fees that the State Board of Examiners of Landscape Architects, the State Board of Professional Engineers, and the State Board of Professional Land Surveyors may impose for licenses that have been revoked to $100.

Electricians

Chapter 294 of 1995 authorized the Board to reinstate the license of a master electrician up to 2 years after the expiration of the license and eliminated the hearing requirement. In addition, a master electrician who obtained inactive status may reapply for inactive status within 2 years after the expiration of that status. The former licensees and individuals on inactive status who apply after the 2-year window expires must fulfill licensing examination requirements.

Chapter 10 of 1997 reduced the fee charged by the State Board of Master Electricians for the reinstatement of the license of a master electrician who is not on inactive status and who has failed to renew the license less than 2 years after the license has expired. The Act reduced the reinstatement fee from: (1) $100 to $25 for up to and including a 30-day late renewal; (2) $200 to $50 for up to and including a 60-day late renewal; and (3) $300 to $100 for a late renewal over 60 days. If a master electrician fails to renew the license for any reason and applies for reinstatement more than 2 years after the license has expired, the master electrician must pay a reinstatement fee of $100. The purpose of ***Chapter 10*** is to reduce the cost of reinstating master electrician licenses.

Chapter 66 of 1997 authorized the State Board of Master Electricians to waive the examination requirement for an applicant who is licensed in another state provided that the applicant meets other requirements in existing law and meets a general 7-year experience requirement in providing electrical services. At least 4 years of the 7-year experience requirement must have been gained prior to licensure in the other state while under the supervision of a master electrician or similarly qualified employee of a governmental unit. The Board may allow an applicant up to 3 years credit toward the 7-year experience requirement if the State Board determines that the applicant has completed a formal course of study or professional training in electrical installation comparable to the required experience.

Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors

Chapter 318 of 1995 provided that an applicant for a master license or master restricted license may gain the experience needed for the license under a limited or master restricted license. The Act also provided a limited waiver of the experience requirements for certain limited or master restricted licensees applying for a master or additional master restricted licenses.

Lawyers

The Rules of Professional Conduct, allow a lawyer to communicate by mail to a specific individual, but prohibit a lawyer from contacting a prospective client for the purpose of obtaining professional employment if the lawyer knows or reasonably should know that the physical, emotional, or mental state of the person is such that the person could not exercise reasonable judgment in employing a lawyer.

Chapter 669 of 1996 expanded the current restrictions on lawyers' solicitation of clients. The Act prohibited a lawyer from sending a written communication, directly or through an agent, to a prospective client for the purpose of obtaining professional employment if the communication: (1) relates to an action for personal injury or wrongful death, or otherwise relates to an accident or disaster that involves the prospective client or the prospective client's relative, unless the accident or disaster occurred more than 30 days before the date the communication was mailed; or (2) relates to a criminal charging document that involves the prospective client or the prospective client's relative, unless the charging document was filed more than 30 days before the date the communication was mailed. The Act also exempted a written communication sent by a lawyer to a prospective client at the request of the prospective client. The penalty for violations is a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

The Supreme Court has ruled that lawyer advertising is commercial speech and therefore is afforded a limited measure of protection under the First Amendment. In Florida Bar v. Went For It, 115 S. Ct. 2371 (1995), the Supreme Court held that a Florida Bar rule similar to ***Chapter 669*** did not violate the First Amendment under the circumstances of that case.

Land Surveyors and Property Line Surveyors

Chapter 170 of 1997 is in response to the enactment of the Maryland Limited Liability Company Act in 1992. Since 1992, individuals have begun to practice land surveying and property line surveying through limited liability companies. However, the statute governing the practice of land and property line surveying was not amended to reflect this business trend. ***Chapter 170*** allowed a professional land surveyor or licensed property line surveyor to practice land surveying or property line surveying through a limited liability company as a member, employee, or agent of the limited liability company. The Act ensured that individuals practicing through a limited liability company are subject to regulation by the State Board for Professional Land Surveyors.

Chapter 719 of 1998 altered the definition of "land surveying" and "property line surveying" to clarify the scope of practice. The practice of land surveying is defined as any service, work, documents, or practice for which the preparation or performance requires special knowledge of mathematics, physical and applied sciences, and the relevant law, to measure and locate natural or artificial features of the air, earth surface, underground, and bodies of water. This definition includes the use of current technologies such as aerial devices, global positioning systems which use information from satellites, and other technologies. The Act specifically authorized land surveyors, in conjunction with site development or land subdivision, to prepare and design plans for road or street grades, sediment and erosion control, and specified storm drainage and management systems. The practice of property line surveying is defined to encompass all of the activities of land surveying except the specific activities related to site development and land subdivision.

Pilots

Chapter 214 of 1996 altered various provisions of the law governing bay pilots. The Act authorized the State Board of Pilots to issue a 37-foot-draft limited license. The Act also provided that limited licenses are valid for 2 years, made changes in the categories of inactive pilots, and altered the payment scheme for those pilots. According to the Board, these changes are intended to add equity to the system by making a distinction between years of service. Finally the Act provided that in certain situations such as detainment on a vessel or quarantine, a licensed pilot is entitled to the daily rate of pay for an unlimited license pilot as determined under the bylaws of the Association of Maryland Pilots.

Propane Gas Services

Chapter 338 of 1996 created an exemption from the requirement that an individual must be licensed by the State Board of Plumbing to provide plumbing services or certified by the Board to provide propane gas services before the individual may provide propane gas services in the State. An individual licensed by the State Board of Heating, Ventilation, Air- Conditioning, and Refrigeration Contractors may service an existing propane gas appliance if the individual has completed a manufacturer's training course certifying competence to work on that particular type of appliance. Under the Act, the individual servicing the propane gas appliance will no longer have to stop work midway, call a licensed plumber or propane gas fitter, teach that individual what to do, and then watch the individual do the work.

Plumbers

Chapter 61 of 1997 added the State Board of Plumbing to the list of professional boards that may impose civil penalties. ***Chapter 61*** authorized the State Board of Plumbing, in addition to any other required penalty, to impose a $1,000 civil fine per violation if a person provides plumbing services without a license and establishes criteria to be used by the Board in assessing the appropriate amount of the fine.

The State Board of Plumbing also licenses and regulates the activities of plumbers providing services for gas used for heating or cooking purposes. Because licensed plumbers in practice work on gas equipment used for purposes other than heating and cooking, ***Chapter 422 of 1998*** expanded the definition of gas in the law to include gas used for any purpose, including residential, medical, commercial, or industrial purposes. The definition establishes the scope of a license or certificate to provide specified gas related services.

Chapter 640 of 1998 provided that master plumbers, journey plumbers, and licensed apprentice plumbers may take a Board-approved course in cross connection/backflow mechanisms and become certified as approved cross connection/backflow prevention technicians. In addition, only those master and journey plumbers with certification are authorized to certify the installation and testing of mechanical cross connection control devices. Local jurisdictions may adopt regulations or enact laws that have comparable or more stringent qualifications for the certification of the installation and testing of mechanical cross connection devices.

Professional Engineers

Chapter 277 of 1997 limited the liability of professional engineers who perform voluntary engineering services at disaster sites. The Act provided that a professional engineer is not personally liable in damages beyond the limits of

any applicable insurance or self- insurance for any personal injury, wrongful death, property damage, or other loss caused by an act, error, or omission of the professional engineer while practicing engineering with regard to any structure, building, piping, or other engineered system, either publicly or privately owned. The immunity applies only to the practice of engineering performed voluntarily and without compensation at the scene of a declared emergency caused by a disaster or catastrophic event, and at the request of specified public, law enforcement, or safety officials acting in an official capacity. There is no immunity if the engineer's act, error, or omission was wanton, willful, intentionally tortious, or grossly negligent.

Chapter 42 of 1997 clarified that the State Board for Professional Engineers may issue a license by reciprocity to an individual who is currently licensed to practice engineering in the United States or abroad if the individual satisfies the licensing requirements of Maryland. The effect of the Act will be to treat all licensees equally because the examination requirement will apply to all licensees regardless of their place of origin.

The State Board for Professional Engineers also reviews all applications submitted by candidates for engineering licensing examinations. The Board had cited the need for an additional qualified member to review the large number of applicants for the civil engineering examinations. ***Chapter 11 of 1998*** expanded the Board membership to seven by adding an additional civil engineer.

Private Detective Agencies and Security Guard Agencies

Chapter 329 of 1995 expanded the categories of uncertified individuals that a licensed private detective agency may provide to be hired as security guards to include those individuals who have obtained and currently possess certification by the Maryland Police and Corrections Training Commission as police officers.

Chapter 602 of 1996 removed the regulation of security guards and security guard services from the Maryland Private Detectives Act and creates for those persons an independent licensing system called the Maryland Security Guards Act, which is substantively similar to the old system of regulation under the law on private detectives. Under the new act, an individual or firm must by licensed as a security guard agency by the Secretary of the State Police before the person may conduct a business that provides security guard services in the State. In addition, a security guard agency may provide security guards for hire only if those individuals are certified as security guards. The licensing and administrative requirements under the Maryland Security Guard Act are essentially the same as those now in place for private detective agencies and private detectives. In addition, ***Chapter 602*** reduced license and renewal fees for private detective agencies to conform to the fees that the bill sets for security guard agencies. The Act does not affect any valid license that a person holds before October 1, 1996, but does apply to license renewals. Private detective agencies otherwise eligible for renewal will receive the security guard agency license.

Chapter 84 of 1997 required the Secretary of State Police to stagger the terms of licenses for private detective agencies, changes the term of a license from a 1-year to a 2-year term, and, unless a license is renewed, mandates that the license expire on the date the Secretary sets. The Act also adjusts the license renewal fee accordingly, from $100 to $200 for an individual license and from $200 to $400 for a firm license. In addition, ***Chapter 84*** expanded the definition of "provide private detective services" to include providing, for compensation, the service of nonuniformed personal protection. According to the State Police, this codifies current practice within the industry.

Chapter 85 of 1997 made similar changes to the law regulating security guard agencies. The Act required the Secretary of State Police to stagger the terms of licenses for security guard agencies, changes the term of a license from a 1-year to a 2-year term, and, unless a license is renewed, mandates that the license expire on the date the Secretary sets. The Act also adjusted the license renewal fee accordingly, from $100 to $200 for an individual license and from $200 to $400 for a firm license.

Real Estate Professionals

- *Limitations on Interest in Business*

Chapter 400 of 1995 provided that not more than 49% of the interest in a business through which real estate brokerage services are provided, regardless of its legal structure, may be held by associate real estate brokers or real estate

salespersons or any combination of associate brokers or salespersons.

Chapter 471 of 1996 provided that no more than 50% of the interest in a business through which real estate services are provided may be held directly or indirectly by associate real estate brokers, real estate salespersons, or any combination of associate brokers or salespersons. The Act also excluded from the attribution of ownership interest provisions an immediate family member who is affiliated with the business as an associate real estate broker or real estate salesperson.

- *Conformance with Federal Fair Housing Act*

Chapter 431 of 1995 conformed Maryland law on discrimination by real estate licensees to the federal Fair Housing Act. The Act expanded the grounds under which the State Real Estate Commission may deny a license to an applicant or discipline a licensee to include prohibiting an individual from making representations or certain statements about the existing or potential proximity of real property owned or used by individuals of a particular sex, handicap, or familial status to induce a person to transfer real estate or to discourage a person from buying real estate. The Act also extended the prohibition on the practice of "blockbusting" to include prohibiting representations made on the basis of handicap or familial status.

- *Errors and Omissions Insurance*

Chapter 389 of 1997 required that upon discontinuation of a real estate broker's errors and omissions insurance, the broker must immediately notify any associate real estate brokers and real estate salespersons covered under the insurance of the discontinuance. The Act applied only to real estate brokers who purchase errors and omissions insurance that provides coverage to the associate brokers and salespersons affiliated with or employed by the real estate broker.

- *Education Requirements*

An applicant for a real estate salesperson license is required, among other requirements, to have successfully completed a basic course in real estate that is approved by the State Real Estate Commission. The approved course consisted of 90 clock hours of classroom instruction. ***Chapter 766 of 1998*** provided that the class approved by the Commission may not include more than 60 clock hours of classroom instruction. Additionally, ***Chapter 766*** reduced from 15 to 6 clock hours the number of hours that an individual who has been licensed for more 10 years must complete to qualify for a license renewal.

- *Brokerage Relationship and Duties*

A nationwide survey of real estate practices conducted by the National Association of Realtors and the Consumers Federation of America in the early 1990s noted that Maryland law lacked requirements for adequate disclosure by an agent representing a buyer and for the use of standardized disclosure forms of agency relationships in general. Issues were also raised concerning the legality of the agency relationship when a single broker represents both the buyer and seller in a residential real estate transaction. A 1993 Opinion of the Attorney General (Opinion No. 93-033) concluded that the law at that time did not prohibit dual agency "if both the buyer and seller are made aware of all material facts concerning the role of the dual agent and both freely assent to the dual agency".

Chapter 719 of the 1994 Session authorized dual agency in Maryland only under the limited circumstance when a real estate broker represents both a seller and a buyer of residential real property listed by the real estate broker in accordance with specified conditions, including the written consent of all parties to the transaction. Legislation in the 1997 Session (failed) attempted to expand the dual agency allowed by the 1994 Act, but there were concerns raised regarding the consumer protection provisions of that bill. An ad hoc subcommittee was formed and met during the 1997 Interim in order to resolve the differences between the Maryland Board of Realtors and the Consumer Protection Division of the Attorney General of Maryland.

Chapter 628 of 1998 represented the resolution of these differences. The Act established standards for licensees when

providing real estate brokerage services to clients under a brokerage agreement and to prospective buyers and lessees under presumed agency relationships. To allow brokerage firms to provide the full range of services to clients when representing both buyers and sellers, the Act specified the roles of "intra-company agents" and "dual agents". Under the Act, the intra-company agents may advise their clients about price negotiation and strategy provided that the client has consented to dual agency and the intra-company agent has made appropriate disclosures. ***Chapter 628*** created a presumption of buyer's agency for a licensee who assists a prospective buyer in locating residential real property for purchase and who is neither affiliated with or acting as the listing broker for that property. The Act also specified the duties and obligations the parties have under the presumed agency relationship and clarified that the presumed agency may be terminated by either the licensee or the buyer. Additionally, the Act specified the disclosures that must be contained in brokerage agreements and circumstances under which a brokerage agreement terminates or expires.

Security Systems Technicians

To provide greater regulation of the security system industry, in the 1994 Session the General Assembly created a new licensing procedure under the Superintendent of the Maryland State Police for security system technicians. In response to a number of technical difficulties associated with the new licensing requirements, ***Chapter 105 of 1995*** was an emergency Act that provided that the licensing requirements for individuals acting as security systems technicians do not take effect until June 1, 1996. This delay allowed the security system industry and the Department of State Police to resolve the difficulties that have arisen.

Chapter 226 of 1996 made various changes to the law regulating security system technicians. In response to numerous concerns raised about the cost and availability of bonds, the Act required a company to execute a fidelity bond of at least $50,000 and reduced from $100,000 to $5,000 the amount of the blanket bond that must be held by a company. The Act allowed the State Police to use part of the application fee and renewal fee to cover the cost of the required criminal record checks. Under the Act, the State Police are authorized to disclose to other law enforcement officers information obtained from investigations of applicants for licenses. Finally, the Act required a licensee to carry the license and display it on demand to any customer or law enforcement officer.

Chapter 520 of 1997 made a number of additional changes to the law regulating the security systems industry. The major changes included: (1) requiring the registration of security systems technicians and other individuals who have access to circumventional information and requiring these individuals to be employed or working under contract with a security systems agency; (2) narrowing the scope of current law to exclude persons selling security systems at retail establishments under certain circumstances, persons selling security systems who do not have access to circumventional information, and commercial property owners performing the routine operation of a security system, including the changing of passcodes; (3) requiring security systems agencies to execute a fidelity bond for $50,000 or to buy general liability insurance for at least $50,000; and (4) providing that local governments may license or regulate security systems agencies or users but that registration, training, bonding, or insurance standards set by State law supersede any local law or ordinance.

Well Drillers

Chapter 547 of 1997 authorized the State Board of Well Drillers to supplement written examinations with an oral or practical examination for persons applying for a license to practice well drilling in the State.

PART H
BUSINESS AND ECONOMIC ISSUES

PUBLIC SERVICE COMPANIES

After years of little legislative interest in public utilities, the 1995-1998 term saw a marked increase in activity in this area, in response to national trends toward deregulation and restructuring of regulated monopolies.

HOLDING COMPANY FORMATION

A holding company structure allows for the division of regulated and unregulated activities among separate subsidiary corporations of the holding company. Under current law, enacted in 1913, public service companies that are incorporated in Maryland are prohibited from forming holding companies. ***Senate Bill 595/House Bill 10 of 1998*** (both failed) would have allowed a Maryland public service company to form a holding company, in a corporate reorganization that involves an exchange of stock of the public service company for stock in the holding company. Maryland is the only state that does not allow its public service companies to form holding companies. At this time, BGE is the only electric company operating in the State that is incorporated in Maryland.

During the 1998 Legislative Session, ***House Bill 10*** became embroiled in the debate over restructuring of the electric utility industry, and failed to be acted upon by the end of the session.

PUBLIC SERVICE COMMISSION

Accident Reports

Public service companies were formerly required by law to report any accident to the Public Service Commission that resulted in personal injury, property damage, or loss of life. ***Chapter 50 of 1998*** limited the reportable accidents to those that resulted in personal injury requiring hospitalization, property damage exceeding $50,000, or loss of life.

Motor Carriers

Motor carriers that provided transportation for hire under or through a contract with a public authority or a federal, State, or local transportation agency were exempted from rate regulation of the Public Service Commission under ***Chapter 455 of 1998***. These motor carriers were still required to obtain a motor carrier permit from the Commission and submit accident reports to the Commission, and remained under the Commission's general supervision, including inspections, accident reporting, and violations of public utility laws.

Submetering

Projects or developments owned or operated by a local housing authority may include a variety of different types of units including dwelling units and apartments as well as commercial establishments. ***Chapter 55 of 1998*** authorized the Public Service Commission to approve a local housing authority's request to submeter a development or area that includes a combination of different types of buildings or units, rather than requiring separate submetering of each type of unit.

Obsolete Commission Jurisdiction

For many years, common carriers of flammables were dually regulated at the State level. The Public Service Commission, recouping its expenses through rate making, regulated tariffs, safety standards, and insurance requirements for these common carriers. The Maryland Department of Transportation, in cooperation with the State Police, also regulated safety standards and insurance of common carriers of flammables. Under the federal Motor Carrier Safety Act of 1994, Congress preempted state authority to regulate rates and charges of common carriers of flammables. ***Chapter 191 of 1996*** repealed the Commission's regulatory authority over common carriers of flammables, eliminated State rate making in that area, and left safety standards and insurance requirements to the

Maryland Department of Transportation and the State Police.

Public Utility Companies Article Revision

Chapter 8 of 1998 was a nonsubstantive, "Plain English" recodification of the laws governing the Public Service Commission, the Office of People's Counsel, and the regulation of public utilities in the State. The material included in the Act revised all of Article 78 of the Annotated Code, as well as portions of Article 23 of the Code, in a new article entitled the "Public Utility Companies Article". The act also revised, and transferred to the Labor and Employment Article, provisions of Article 89 dealing with railroad safety and health. Utility-related provisions of Article 27 were revised in place, in preparation for the upcoming general revision of the criminal law. The Public Utility Companies Article was the twenty-fifth revised article to become law since the first revised articles were enacted in 1973.

The process of Code Revision is a formal bulk revision undertaken by the Department of Legislative Services since 1970. Its guidelines include improvement of organization, elimination of obsolete or unconstitutional provisions, resolution of inconsistencies and conflicts in the law, correction of unintended gaps or omissions in the law, deletion of repetitive or otherwise superfluous language, and general improvement of language and expression.

ELECTRICITY AND GAS REGULATION

Electric Utility Restructuring

- *Retail Electric Competition Nationally*

One of the most volatile issues in the field of utility regulation has been the opening of the electric power industry to retail competition, known commonly as "retail wheeling". Long regulated as monopolies, electric utilities are now facing the breakup of vertically integrated generation, transmission, and distribution facilities in several areas of the country.

Extending the principles of the federal Energy Policy Act of 1992, which imposed fair market competition on the wholesale electricity system, a number of states have begun to institute retail competition for electricity. This retail competition is to allow all classes of consumers to purchase electricity from any generating supplier, paying a transmission fee to the utilities that own the transmission and distribution networks used in the transaction.

In many states, proponents have argued that retail competition would lower the retail pricing of electricity, and spur economic development. This would most likely to be true in areas where regulators have historically allowed expansion of generating capacity with little consideration for alternative sources of purchased power or management of electricity demand. Of particular interest to Maryland, Pennsylvania enacted legislation in 1997 to phase in retail competition within 3 years, New Jersey adopted a schedule for retail competition by regulation in 1997, and the Delaware Public Service Commission has recommended electric restructuring to its legislature.

Retail competition raises the prominent issue of "stranded costs". Stranded costs are the excess of costs incurred by an electric utility to provide generating capacity under a guaranteed rate of return over and above the costs that the utility could recover through the sale of electricity in the open market. Because generating capacity has usually been approved under a state-sanctioned process for review of projected electricity needs, a state that adopts retail competition must address who will pay for the stranded costs: the utility's shareholders, the utility's ratepayers, or the state's taxpayers. Other major concerns include the effect of retail competition on system reliability, universal service, and pollution control measures.

In proceedings over the past several years, the Maryland Public Service Commission has been reviewing the issues surrounding retail electric competition, in anticipation of adopting retail electric competition in some form. The Commission issued a staff report in its electric utility restructuring proceeding on May 31, 1997 outlining the regulatory and competitive issues facing the electric industry, as a prerequisite to taking formal action to adopt retail electric competition in Maryland.

Task Force to Study Retail Electric Competition and the Restructuring of the Electric Utility Industry

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Chapter 106 of 1997 established a Task Force to Study Retail Electric Competition and the Restructuring of the Electric Utility Industry, as well as an advisory group to assist in the Task Force's deliberations. The 20 members of the Task Force consisted largely of State Senators, Delegates, and representatives of the Executive Branch. In order to assist the Task Force, the act required the Governor, the President of the Senate, and the Speaker of the House of Delegates jointly to appoint an advisory committee consisting of industrial, commercial, and residential electric customers, investor-owned electric utilities, electric cooperatives, municipal electrical systems, an independent power producer, the solar energy industry, and the coal industry.

The Task Force was to conduct hearings and solicit comments from the advisory group and other interested parties. ***Chapter 106*** required the Task Force to evaluate the impact of implementing retail electric competition and the restructuring of the electric industry on Marylanders, review retail competition and the restructuring of the electric utility industry in other states, and evaluate associated tax and regulatory issues. The Task Force was required to determine if legislation should be introduced, and issue its final report by December 15, 1997.

During the 1997 Interim, the Task Force met to consider movements in other parts of the nation to restructure the retail electric utility industry, eliminating traditional rate- of-return regulation for electric generation, and allowing customers to choose electric generation suppliers. At the same time, the Public Service Commission was studying the issue, as a continuation of its own proceedings in Case No. 8738. On December 3, 1997, the Commission issued Order No. 73834, establishing a framework for the restructuring of the electric industry in Maryland. Meeting twice after the Commission issued its Order, the Task Force did not come to consensus on specific recommendations for legislation implementing retail electric competition.

- *Retail Electric Competition in Maryland*

The restructuring schedule adopted by the Commission in Order No. 73834, as modified on December 31, 1997 by Order No. 73901 and a February 19, 1998 letter of the Commission, was incorporated into ***House Bill 10 of 1998*** (failed) by amendment in the Senate.

The Commission's adopted schedule provided for customer retail access to competitive electric suppliers starting in July 2000 for all or a portion of the electric customers in the State. The schedule included dates for the formation of roundtables and adjudicative proceedings to discuss issues essential to implementation of electric utility restructuring, including stranded costs, price protection, unbundled rates, market power, demand-side management, universal service, customer protection, competitive billing, consumer education, supplier authorization, competitive metering, and default supplier.

As of July 1, 1998, the orders of the Public Service Commission on electric utility restructuring are unimpeded. The Commission is proceeding to study implementation of customer retail access according to the schedule adopted in its orders.

- *Taxation of Electricity*

One major issue that needs to be addressed before retail electric competition takes effect in Maryland is taxation. ***House Bill 1322 and House Bill 1323 of 1998*** (both failed) would have imposed a franchise tax on the delivery of electricity for final consumption in the State, and would have altered the scope of electric utilities subject to tax. The bills would also have impacted income taxes, property taxes, sales taxes, and environmental surcharges relating to the generation and delivery of electricity and natural gas. For further discussion of the electric utility taxation, see the subpart "Miscellaneous Taxes" under Part B - Taxes.

Gas and Electric Companies

- *Nonregulated Business Activities of Gas and Electric Companies*

During recent sessions, the General Assembly had grappled with nonregulated business activities of regulated gas and electric companies. At issue had been the alleged use of funds derived from ratepayers through activities regulated by the Public Service Commission, for business activities not related to the provision of utility services. The 1997 Legislative Session saw the first enactment in recent memory on the allocation of funds between regulated and nonregulated business activities of a public service company.

Chapter 725 of 1997 applied to major gas or electric companies that were subject to a cost allocation manual approved by the Commission and that engaged in a nonregulated business activity. When one of these companies filed for a change in its base rate, or when it underwent a major change in its corporate organization or structure, it was required to file with the Commission an independent audit opinion prepared by an entity approved by the Commission. Utilities that qualified for "make whole" rate proceedings under former Article 78, § 69B of the Code were exempt.

The independent audit opinion was required to certify to the continuing accuracy of the utility's cost allocation manual, or identify adjustments that should be made to the manual consistent with prior Commission rulings. ***Chapter 725*** required the utility's stockholders to bear the cost of the independent audit opinion. A utility could not be required to file more than one independent audit opinion in any consecutive 3-year period.

- *Residential Solar Electricity Generation*

In order to expand options available for residential electricity supply, and to promote alternative energy sources, ***Chapter 484 of 1977*** authorized residential "net energy metering", under which individuals who own solar electric generators in their primary residences received credit for electricity they generated and sent to the electricity transmission grid. Customers eligible for net energy metering were those who had qualifying solar electrical generating equipment at their residence, and who were either on a residential service tariff or a general service tariff.

The bill required electric utilities to install in an eligible customer's home a single meter that could measure the flow of electricity in two directions. The Public Service Commission was required to mandate electric utilities to develop a standard contract or tariff for net energy metering customers, and make it available to customers on a first- come, first-served basis until net energy metered customers reached an overall capacity of 34.77 megawatts Statewide.

Chapter 484 required net energy metering customers to pay for grid-supplied electricity that they used beyond what they produced, and limited them to uniform customer charges when their generation exceeded the electricity supplied to them by the grid. Equipment used for solar electric generation was required to meet national and State safety and performance standards.

TAXICABS AND FOR-HIRE DRIVING SERVICES

The General Assembly expanded the authority of the Public Service Commission to regulate transportation for hire in the State in ***Chapter 705 of 1997***. Under this legislation, the Commission was authorized to issue passenger-for-hire licenses to drivers of motor vehicles that transport passengers for remuneration. Both the new license and the existing taxicab driver's license were defined as for-hire driver's licenses.

Any person who operated a vehicle for hire under a permit or authorization to transport passengers from the Commission or from an appropriate local authority was required to have either a passenger-for-hire license from the Commission, or a taxicab driver's license from the Commission or from a licensing local government. Drivers of vehicles with a capacity of more than 15 passengers, already required to possess a commercial driver's license, were exempt from the act.

The Commission was required to obtain a criminal record check through the Criminal Justice Information System and a driving record check of each applicant for a for-hire driver's license. The Commission was authorized to deny a license to an applicant convicted of a crime that bore a direct relationship to the applicant's fitness as a for-hire driver.

Chapter 705 prohibited the operation of a vehicle to provide passenger-for-hire services or taxicab services unless the operator possessed the appropriate license, subject to a civil penalty of up to $500.

Counties and municipalities were explicitly authorized to license taxicabs based within their jurisdictions, if they required at least a criminal record check and a driving record check of each applicant.

In order to provide adequate staffing for licensing for-hire drivers, ***Chapter 705*** authorized the Commission to seek funding in the State budget, rather than relying on user fees from the regulated industry. The act also made a number of technical changes to modernize the taxicab statute in preparation for Code Revision in the 1998 Session.

RAILROADS

The competing merger offers of CSX and the Norfolk Southern Railroad for Conrail and the split of Conrail's eastern rights-of-way between CSX and the Norfolk Southern generated a great deal of concern over the effect of these changes on railroad freight charges and on the competitiveness of the Port of Baltimore and the Baltimore- Washington metropolitan area. Although the primary oversight of railroad mergers is federal, ***Joint Resolution 7 of 1997*** expressed the intent of the Maryland General Assembly in the restructuring proposed between Conrail, CSX, and the Norfolk Southern railroad systems.

The resolution described the importance of having at least two Class I railroads serving Maryland, and of strengthening the operation of shortline and regional railroads in the State. The resolution noted the need for funding significant improvements in rail infrastructure in Baltimore in order to accommodate double-stacked container shipment, which was essential for maintaining the competitiveness of the Port of Baltimore. Any merger and restructuring among Conrail, CSX and the Norfolk Southern should have addressed these issues, as well as competitive shipping rates, smooth interaction with growing commuter rail services, and continued employment opportunities. ***Joint Resolution 7*** urged the Maryland Congressional Delegation to encourage the federal Surface Transportation Board in these areas and urged the Board to disapprove any merger proposal that failed to address these issues.

TELEPHONES AND TELECOMMUNICATIONS

Telephone Regulation

- *Alternative Forms of Regulation*

Chapters 140 and 141 of 1995 allowed the Public Service Commission to develop new telephone rate regulation mechanisms in order to keep pace with the rapidly changing face of telephone services. As the market for telephone services has become more competitive, the PSC has found it appropriate to move away from traditional rate- of-return regulation.

Arguments in favor of alternative rate regulation methods then being tested in a number of other states included the premise that fostering a competitive telephone market might bring more business to the State, which in turn might create more jobs, increase investment, and eventually serve to offer state-of-the-art services in the areas of education, health care, public safety, and the environment. Concerns raised by alternative methods included the potential for less responsiveness and lower quality of service to the individual consumer, decreased job opportunities in traditional telephone companies, and increased difficulty in maintaining universal telephone service.

Chapters 140 and 141 authorized the Public Service Commission to regulate a telephone company by means of alternative forms of regulation, if the Commission found that the alternative regulatory mechanism would encourage the development of competition, protect consumers, and be in the public interest. The acts listed examples of alternative forms of regulation for the Commission to consider, and consumer protection criteria. After considering the issues in its Case No. 8715, the Commission implemented a modified price-cap rate methodology for local exchange telephone service in Order No. 73011 on November 8, 1996.

- *Directory Assistance Calls*

Chapter 685 of 1996 lowered, from six to two per month, the required minimum number of calls to directory assistance that must be provided free of charge to residential telephone customers. The Public Service Commission was

authorized to allow charges for additional directory assistance calls only if the Commission found, after notice and an evidentiary hearing, that the charges would protect consumers by providing affordable and reasonably priced directory assistance service, encourage competition, and be in the public interest.

- *911 Telephone System*

In response to the explosion in the availability and use of cellular telephones and allied forms of wireless telephone service, ***Chapter 158 of 1995*** required wireless telephone services capable of accessing the 911 system, and 911-accessible services, to add the 911 fee to current bills for service. Wireless telephone services included cellular telephone service, personal communication service, and specialized mobile radio. At the time, the statewide 911 fee was set in statute at 10 cents per month.

The wireless services were to act as collection agents for the Comptroller, and remit collected fees each month. Wireless services were required to collect additional 911 fees assessed by counties in the same manner.

Under rate making proceedings of the Public Service Commission, providers of switched local exchange telephone service that pay or collect the 911 fee are granted immunity from liability for transmission failures. Due to the expansion of the 911 fee to wireless services in 1995, ***Chapter 391 of 1996*** granted, to all cellular telephone companies and personal communications companies that pay or collect the 911 fee, the same immunity that wire-based services receive from the Commission.

- *State Services Access*

Citizens of Maryland were guaranteed toll-free telephone access to all State agencies under ***Chapter 463 of 1997***. The act required the agencies to install and maintain telephone systems allowing toll-free access to agency employees during regular business hours for the conduct of State business. The toll-free numbers were required to be printed on the agencies' new stationery and publications, and included in any directory that listed agency information.

- *Telephone "Slamming/Cramming"*

As of 1998, the Federal Communications Commission (FCC) has been conducting a proceeding to develop rules and regulations to prevent "slamming" -- the unauthorized switching of a customer's long distance carrier -- and to penalize carriers that switch customers without authorization. A related practice, unauthorized changes in service options, is known as "cramming". The Maryland Public Service Commission was concurrently considering slamming and cramming issues in Case No. 8776, scheduled for hearing in May, 1998.

House Bill 1403 of 1998 (failed) would have prohibited telephone companies from taking actions on behalf of a customer to change the selection of telephone service providers and options except in compliance with procedures adopted by the Public Service Commission in harmony with FCC rules. The bill would have required notice to be provided to a customer when changing providers and options.

Telecommunications

- *Access for Disabled Individuals*

In 1991, the General Assembly created the Equipment Distribution Program to assist eligible individuals with a hearing or speech disability and limited resources to purchase specialized communications equipment, but provided no funding at the time. ***Chapter 101 of 1996*** allowed the Universal Service Trust Fund, which then funded the Maryland Relay Service, to be used for the Program. Eligible recipients were required to be certified as having a disability which seriously limited or prohibited the use of the basic telephone network without specialized equipment, not be receiving similar services through another program, and be a recipient of Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC), or Transitional Emergency Medical and Housing Assistance (TEMHA). The Universal Service Trust Fund, supplied by a surcharge on all switched local exchange access service, at that time maintained a surplus sufficient to cover the costs of the Equipment Distribution Program and the Relay Service

through FY 1997. Equipment Distribution Program expenses in later years could have required an increase of up to $0.01 per month in the surcharge, which at the time was $0.12 per month.

- *Crimes*

In order to keep up with changes in the telecommunications industry, ***Chapter 733 of 1998*** replaced then-existing provisions of law relating to obtaining unauthorized telephone and telegraph service and to cloned wireless telephones. The act prohibited the obtaining or attempting to obtain telecommunications service with the intent to avoid any lawful fee for that service. A violation became a misdemeanor, subject to a fine of up to $2,500, imprisonment of up to 3 years, or both. ***Chapter 733*** also criminalized the knowing possession of electronic serial numbers and mobile identification numbers to facilitate telecommunications service without consent of the lawful owner. A violation became a misdemeanor, subject to a fine of up to $2,500, imprisonment of up to 3 years, or both. In the case of a person who possessed these numbers in quantities sufficient to indicate an intent to distribute, manufacture, or sell the number combinations, the violation became a felony, subject to a fine of up to $10,000, imprisonment of up to 5 years, or both. (For a more extensive discussion of this legislation, *see*, the subpart "Criminal Law" under Part E "Crimes, Correction, and Public Safety".)

- *State Inter-LATA Network*

To promote cost-effective access to state-of-the-art technology for telecommunications and computer networking, ***Chapter 722 of 1997*** required the Department of Budget and Management to establish a high-speed network for use across local access and transport area ("LATA") boundaries in Maryland. The network was required to be accessible by direct connection and by local intra-LATA telecommunications systems to State and local governments and public and private educational institutions that use the network.

At the time, schools and agencies generally obtained access to State telecommunications and computer networking facilities through telephone lines, at relatively low transmission speeds. Rates for telephone calls across LATA boundaries tended to be higher than rates for calls within a LATA. Especially in rural areas, alternative means of connecting to agencies and schools at faster rates, and across LATA boundaries, were either unavailable or prohibitively expensive.

Chapter 722 required the Department to establish points of presence in each of the four LATAs in the State, with fiber-optic connections between them. The facilities could be owned by the State or leased. Technical requirements spelled out in the bill guaranteed that the network would be suitable for distance learning and teleconferencing for governmental and educational purposes. The act requested the Governor to provide sufficient funds to construct or lease, maintain, and improve the network in fiscal 1999 through fiscal 2002.

- *Tax Reform*

The General Assembly modernized the treatment of telecommunications providers in light of recent changes in the industry. ***Chapters 629 and 630 of 1997*** equalized the treatment of local and long distance telephone service providers by imposing the corporate income tax on gross receipts of local providers. All telephone service providers were granted a credit against corporate income taxes of 60% of operating real property taxes. The legislation reclassified certain transmission equipment -- cables, lines, poles, and towers -- as operating personal property, rather than operating real property, in order to treat wire-based utility telecommunications providers in the same manner as wireless providers and nonutility cable-based providers.

Also, local telephone service providers were required to show the gross receipts tax as a line item on monthly billing statements, rather than including the tax in telephone rates. The Public Service Commission was required to reduce telephone rates to reflect the change in treatment of the gross receipts tax, starting January 1, 1998.

PART H
BUSINESS AND ECONOMIC ISSUES

INSURANCE REGULATION

One of the primary goals of insurance regulation is to assure the solvency of those companies engaged in the insurance business in this State in order to protect Maryland policyholders. However, during the 1995-1998 term of the General Assembly, particularly in the area of health insurance regulation, this goal was reexamined. As such, health insurance reform again was a major issue in this State. The General Assembly devoted considerable time and effort to reassessing the goals of health insurance regulation in light of the increasing dominance of managed care plans in the provision of health care services. In doing so the Legislature sought to balance the twin objectives of maintaining health care cost containment and preserving a reasonable level of choice of health care providers and services for residents of this State. In addition, during the 1995- 1998 term, the General Assembly tackled issues related to access to and the availability of affordable private passenger automobile insurance.

The General Assembly responded to these issues and others by adopting health insurance reforms that have become models for reform in other states, instituting market reforms in the private passenger automobile area to increase the availability of affordable automobile insurance in areas that have traditionally have had the highest private passenger automobile insurance premiums in the State, and enacting other insurance initiatives.

INSURANCE REGULATION - GENERALLY

Maryland Insurance Administration

- *Funding Mechanism*

In 1993, the Maryland Insurance Administration (MIA) was created as an independent agency headed by an Insurance Commissioner appointed by the Governor with the advice and consent of the Senate. The first Insurance Commissioner under the 1993 Act was given a four-year term and could only be removed for cause; subsequent commissioners were to serve at the pleasure of the Governor. Since 1993, representatives of the insurance industry have expressed concern about the funding of MIA and whether there was a true correlation between the amount of fees paid under the law to MIA by the insurance industry and the level of regulation of the industry by the MIA.

The Joint Chairman's Report on the Fiscal Year 1997 Operating Budget included committee narrative directing the then Department of Fiscal Services to review the funding mechanism in place at the MIA. The evaluation concluded that, in general, the fees paid by the insurance industry closely correlate to the costs associated with the regulation of the industry. However, because this correlation is achieved without a mechanism forcing parity between fees and regulatory services, this parity could be lost if changes in the insurance industry alter the magnitude of the fees collected or if there is a significant change in the budget of the MIA. The report also concluded that implementation of an annual assessment similar to that used to fund the Public Service Commission and the Workers' Compensation Commission would be a reasonable alternative to the current fee-based system. In addition, the concept of an annual assessment would guarantee a correlation between payments made by the insurance industry and the benefits it receives. Such an assessment also could simplify the MIA's budget by replacing its current funding mechanism, a hodgepodge combination of general and special fund revenues.

In 1997, the General Assembly enacted ***Chapter 685***. The Act maintained the MIA's then current regulatory fee structure, but with one exception, the valuation fee, which was paid only by life insurers. This fee was eliminated and the resulting loss of revenue, approximately $1.1 million, was made up by assessing a fee on all insurers, including health maintenance organizations (HMOs), for the period from October 1, 1997 until June 30, 1998. ***Chapter 685*** also established an Advisory Committee to Study Funding Mechanisms for the Maryland Insurance Administration. The charge to the Advisory Committee was to examine alternative funding mechanisms for the MIA and to develop a proposal that apportions the cost of regulation fairly and equitably among regulated entities. The Advisory Committee developed a proposal and legislation reflecting this proposal was introduced during the 1998 Session.

Chapter 774 of 1998 altered the mechanism currently used to fund a portion of the budget of the MIA. The new funding mechanism is based on an annual assessment on all insurers, including HMOs. This money will be deposited into a newly created special fund, the Insurance Regulation Fund. In addition, ***Chapter 774*** made the MIA a special fund agency. As such, it will no longer receive any general fund moneys for the operation of the agency. All of its funding will be derived from the fees its collects and the annual assessment.

The insurance assessment equals the approved MIA budget minus the amount of the fees that the MIA collects; this assessment cannot exceed 40% of the MIA's approved budget appropriation. The insurance assessment fee is calculated as a percentage of all gross direct premiums written by an insurer. As described in ***Chapter 774***, annually, property and casualty insurers will pay 27.5% of the assessment; life insurers, 27.5% of the assessment; and health insurers, 45% of the assessment. The assessment fee for each carrier is based on a calculation that first determines what portion of total premiums written by all carriers within a particular line (life, health, and property and casualty) has been written by that particular carrier. That fraction of total premiums is then multiplied by the assessment percentage (life = 27.5%; property and casualty = 27.5%; health = 45%). The Commissioner may assess penalties and interest on any carrier that does not pay its assessment fee by July 1 of each year.

Chapter 774 of 1998 altered a few of the then current fees. The agent and broker filing fees are reduced and form filing fees are increased from $100 to $125. In addition, ***Chapter 774*** required HMOs to pay form filing fees. The MIA will continue to collect the fees for certificates of authority, agent/broker licensing, financial examinations, and market conduct examinations. The amount the MIA currently collects from the insurance fraud fee will accrue to the Insurance Regulation Fund. All premium taxes, retaliatory taxes, fines, and penalties will continue to accrue to the General Fund.

The creation of the Insurance Regulation Fund and the new method for determining the insurance assessment fee are effective April 1, 1999. The change in the agent and broker fees and the rate and form filing fees are effective on July 1, 1999. Before July 1, 1999, the current methodology for the MIA, as established in ***Chapter 685 of 1997***, remains in effect.

Chapter 774 included a provision that gives domestic insurers a credit against any retaliatory taxes that the insurer may pay to another state as a result of the insurer having to pay the assessment fee.

Chapter 774 also allowed health maintenance organizations and nonprofit health service plans to "file and use" certain insurance product forms that are effective on the date of filing with the Insurance Commissioner. The Commissioner is required to study the feasibility of allowing property and casualty insurers to "file and use" their forms.

Finally, ***Chapter 774*** established a fixed 4-year term of office for the Commissioner authorizing removal by the Governor only for malfeasance, incompetence, or failure to carry out duties of the office. For the Commissioner serving on June 1, 1998, the initial term of office is 5 years.

- *NAIC Accreditation*

In an effort to avoid a takeover of insurance regulation by the federal government, the National Association of Insurance Commissioners (NAIC) initiated a national accreditation program for state insurance regulatory programs. Accreditation is granted to states that meet minimum requirements developed by the NAIC for effective financial regulation. In the fall of 1994, after the General Assembly enacted several statutory changes during its 1994 Session, as requested by the NAIC Accreditation Team, the Maryland Insurance Administration (MIA) received a full 5-year NAIC accreditation. In order to maintain this accreditation, the MIA must adopt any subsequent NAIC accreditation standards. At its December 1994 meeting the NAIC adopted combined Risk Based Capital (RBC) standards for life and health insurers and property and casualty insurers as new accreditation standard.

Chapter 339 of 1995 established in Maryland law the NAIC's RBC standards. The RBC standards established are supplemental to the current standards for capital and surplus of insurers. ***Chapter 339*** mandated four levels of company and regulatory action: Company Action Level Event, Regulatory Action Level Event, Authorized Control Level Event, and Mandatory Control Level Event. ***Chapter 339*** also specified what actions the insurer and the Commissioner must take in the case of each of these events. Provisions concerning hearings, and confidentiality and

requirements for foreign insurers also were addressed.

Regulation of the Insurance Business

- *Title Insurance Agents and Brokers*

Title insurance provides security to owners and security holders who have an interest in real estate by identifying and eliminating risks and preventing losses caused by defects in titles arising out of events that occur before the date a title insurance policy is issued and by offering financial indemnity against losses caused by title defects that are unknown at the time the policy is issued. By buying title insurance, the consumer is buying protection against past, rather than future, claims against title. In addition to selling title insurance, title insurance agents conduct settlements and maintain escrow accounts for the purpose of holding and distributing funds associated with settlements.

In 1995, the news media have raised a number of concerns recently about title insurers and title insurance agents, particularly about reports of significant thefts by title insurance agents from escrow accounts. Other problems associated with the title insurance industry include the problem of the return of title insurance agents convicted of stealing from escrow accounts to the business, the fact that the information required of applicants for title insurance agent licenses is inadequate, and the existence of the exemption given to lawyers from licensing requirements, which is considered a major loophole in the title insurance law.

Chapter 635 of 1995 responded to these concerns by making a number of changes to current law in order to strengthen regulation of the title insurance industry. ***Chapter 635*** expanded the requirement for those who must be licensed as title insurance agents or brokers to include any person that provides escrow, closing, or settlement services which may result in the issuance of a title insurance contract. Specifically exempted from licensing as title agents or brokers are clerical staff used by title agents or brokers and certain financial institutions. ***Chapter 635*** expanded the kinds of information required of applicants for certificates of qualification as insurance agents and brokers. Additionally, in accordance with the Act, the Insurance Commissioner may deny an application for an insurance agent or broker if the applicant employs or continues to employ an individual acting in a fiduciary capacity who has been convicted of a felony or crime of moral turpitude within the preceding 10 years. Title insurance agents and title insurance brokers that are sole proprietors, partnerships, or corporations must file with the Insurance Commissioner a blanket fidelity bond covering appropriate employees and a surety bond or letter of credit. This bonding requirement, however, does not apply to title insurance insurers applying for a certificate of qualification. ***Chapter 635*** also increased the financial oversight and record-keeping requirements for title insurance agents and agencies that have appointments with title insurers.

Under current law, lawyers who do title work are exempt from all licensing requirements as title insurance agents. ***Chapter 635 of 1998*** pulled lawyers into limited parts of the licensing scheme. Lawyers who sell title insurance as part of doing settlement work are required to obtain a special restricted certificate of qualification as a title insurance agent or broker, but they are not required to pass an examination or to meet the other education or experience requirements for title agents or brokers. Lawyers who own title agencies or who do title work through title agencies are subject to the surety bond and fidelity bond requirements, but lawyers who do title work through law firms need not be bonded.

- *Privatizing Licensing and Examination*

The Maryland Insurance Administration (MIA) administers the licensing and examinations of insurance brokers and agents, public adjusters, and insurance advisers. The then current process was cumbersome and involved excessive time and labor. In total, the then current process required a minimum of 45 business days for an individual to receive a license, be appointed by an insurer, and begin earning commissions.

Chapter 271 of 1996 authorized the Insurance Commissioner to privatize certain functions relating to the licensing and examination process. ***Chapter 271*** authorized the Insurance Commissioner to enter into a contract with a private contractor that has the technological capability to perform the services. The contract is subject to approval by the Board of Public Works. As envisioned, under the privatized system, an applicant would complete a combined examination/certificate of qualification application form and take the examination. During the examination process, the

proctor would be conducting a background check on all applicants utilizing electronic access to two NAIC databases and other credit bureaus. Outsourcing licensing services will allow an agent to obtain a license within 24 hours after taking the qualifying examination and to have an appointment processed within 24 hours after an insurer requests the appointment.

Insurance Code Revision

As part of its continuing responsibility by law to revise the Annotated Code of Maryland, the Department of Legislative Services prepared the Insurance Article, which was enacted over a 3-year period ***(Ch. 36/95; Ch. 11/96; Ch. 35/97)*** and took effect simultaneously on October 1, 1997. This article is a nonsubstantive, "Plain English" recodification of the insurance laws of the State. The Insurance Article was the 23rd revised article to become law since the first revised articles were enacted in 1973.

PROPERTY AND CASUALTY INSURANCE

Automobile Insurance Reform

In 1995 and 1996, as part of a continuing effort to address problems of fraud in the insurance industry and, in particular, the cost and availability of private passenger automobile insurance in Baltimore City, the General Assembly enacted two comprehensive insurance reform packages sponsored by the Governor ***(Ch. 352/95; Ch. 348/96)***.

- *Insurance Fraud Division*

Seeking to address past criticism for the State's apparent inability to successfully investigate and prosecute insurance fraud, ***Chapter 352 of 1995*** created an Insurance Fraud Division (Division) within the Maryland Insurance Administration (MIA) and eliminated the Insurance Fraud Unit, which was established in 1992 by Executive Order as part of the Office of the Attorney General. As provided in ***Chapter 352***, funding for the Division was to be provided through: (1) the State budget; and (2) an annual fraud prevention fee of $750 in 1995 and $1,000 in 1996 and thereafter, to be imposed on any insurer or other insurance entity authorized to operate in the State, and $10 to be imposed on any insurance agent licensed by the Insurance Commissioner.

Chapter 649 of 1997 revised and clarified the collection of the fraud prevention fee. ***Chapter 649*** added health maintenance organizations, nonprofit health service plans, fraternal benefit societies, and any other entities operating under the regulatory jurisdiction of the Insurance Commissioner to the requirement imposed on insurers to pay the fraud prevention fees, as provided in ***Chapter 352 of 1995***. Premium finance companies and motor clubs were specifically exempted. In addition, ***Chapter 353 of 1998*** exempted fraternal benefit societies collecting premiums under $75,000 per year from having to pay the insurance fraud prevention fee. For those required to pay, the fraud prevention fee is due on June 30 of each year and, if applicable, may be paid with the renewal of the entity's certificate of authority.

Chapter 649 changed the annual fee payment required of insurance agents to a biennial fee, and included agents, brokers, public adjusters, insurance advisers, fraternal benefit agents, and third party administrators qualified, licensed, or registered by the Commissioner in the list of those required to pay the fraud prevention fee. The fee was changed from the then an annual $10 fee to a $15 biennial fee and, if applicable, allowed the fee to be paid with the renewal of the insurance professional's certificate of qualification, license, or registration.

- *Competitive Rating*

Chapter 352 of 1995 expanded the applicability of competitive insurance rating to most lines of property and casualty insurance, including private passenger automobile (PPA) insurance. Previously, from 1989 through 1995, competitive rating had been allowed only for workers' compensation insurance.

Under ***Chapter 352***, the Insurance Commissioner may disapprove a rate that is determined excessive. ***Chapter 352*** established a two-pronged test for such a determination. To be determined excessive, the rate must be: (1) unreasonably high for the insurance provided; and (2) not actuarially justified based on commonly accepted actuarial

principles.

In 1997, proposals to repeal competitive rating for both private passenger automobile insurance and homeowner's insurance were defeated.

- *Baltimore City Market Reform*

Chapter 352 of 1995 also contained market reforms to address the availability of affordable private passenger automobile (PPA) insurance in Baltimore City.

Chapter 352 required all private passenger automobile insurers, including the Maryland Automobile Insurance Fund (MAIF), on or before July 1 of each year, to submit data to the Insurance Commissioner regarding the geographic distribution of PPA premiums written by that insurer in Maryland for the preceding calendar year. On or before August 15 of each year, the Insurance Commissioner must: (1) prepare a list of insurers that are major insurers; (2) compute each insurer's market share in the State from the preceding calendar year; and (3) notify each insurer of its major insurer designation. Beginning with August 15, 1996, the Insurance Commissioner must compute each insurer's market share in Baltimore City.

On or before October 1 of each year, an insurer that has been designated a major insurer is required to file a marketing plan with the Insurance Commissioner. The goal of the marketing plan is to ensure that the insurer markets and otherwise makes available insurance to those persons who reside in Baltimore City in the same manner as to persons who reside in other jurisdictions in the State. The Insurance Commissioner is required to review the marketing plan to determine whether the plan will achieve that goal.

- *Affordability of Private Passenger Automobile Insurance*

On February 20, 1995, the Governor signed Executive Order 01.01.1995.05 establishing the Governor's Commission on Baltimore City Automobile Insurance Rate Reduction. The Commission was established to examine those factors which contribute to high automobile insurance rates in Baltimore City and to make recommendations to the Governor that would reduce those rates. In particular, the Commission was charged with examining rating practices by insurers, the influence claimant behavior has on insurance rates, and the roles and influence of attorneys and health care providers on Baltimore City rates. In December, 1995, the Commission submitted a report of its recommendations to the Governor. Although a number of the Commission's more significant recommendations included in its report were not enacted under ***Chapter 348 of 1996, Chapter 348*** did include some provisions that may act to stabilize, if not reduce rates, in Baltimore City.

Chapter 348 made it a fraudulent insurance act, for personal gain, to solicit a person injured in an automobile accident to sue or retain a lawyer to sue or to solicit a person injured in an automobile accident to seek care from a health care practitioner. ***Chapter 348*** also made it a fraudulent act for a health care practitioner or lawyer to employ, directly or indirectly, or in any way compensate an individual for the purpose of having that person solicit clients for that health care practitioner or lawyer. As required by ***Chapter 348***, the Insurance Fraud Division of the Maryland Insurance Administration must notify the appropriate professional licensing board or disciplinary body of evidence of: (1) insurance fraud involving professionals; and (2) gross overutilization of health care services. Also, as provided in ***Chapter 348***, the appropriate professional licensing board was authorized to discipline a chiropractor or a physical therapist who: (1) has grossly overutilized health care services; or (2) is convicted of insurance fraud. The State Board of Physician Quality Assurance is permitted to discipline a physician who is convicted of insurance fraud.

- *Underwriting Standards ("Crumlish" Decision)*

In Crumlish v. Insurance Commissioner, 520 A.2d 738, 70 Md. App. 182 (Ct. Sp. App. 1987), the Maryland Court of Appeals decided that, to show a reasonable relationship to business and economic purposes, an insurer must objectively demonstrate the probability of a direct and substantial adverse effect upon its losses or expenses when writing or renewing a risk.

Chapter 352 of 1995 relaxed the effect of the Crumlish decision. With respect to private passenger motor vehicle insurance, for the purposes of the cancellation or nonrenewal of policies, an insurer now may utilize underwriting standards that have not been subject to statistical validation if:

(1) the standards are based on factors that adversely affect the losses or expenses of insurers; and

(i) the statistical validation is not available; or

(ii) the statistical validation is unduly burdensome to produce; or

(2) the standards relate to:

(i) the submission by the applicant or policyholder of a false or fraudulent claim or application or other action that would constitute insurance fraud; or

(ii) the conviction of the insured of a crime that increases the hazard insured against.

This provision terminates as of September 30, 1998.

After completion of a study and a report on the impact of the relaxation of the Crumlish standards on the availability of private passenger automobile insurance, as provided in ***Chapter 352 of 1995***, legislation was enacted during the 1998 Session continuing the relaxation of Crumlish but under more specified circumstances ***(Ch. 651 and Ch. 652/98)***.

Under current law, an insurer, agent, or broker may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by application of standards that are reasonably related to the insurer's economic and business purposes. A carrier's underwriting standards must be filed with the Insurance Commissioner.

With respect to homeowner's insurance, ***Chapters 651 and 652 of 1998*** and prohibited an insurer from canceling or refusing to renew coverage based on the claims history of an insured unless the insured has 3 or more weather-related claims within the preceding 3-year period. However, an insurer will be allowed to consider claims for weather-related events for the purpose of canceling or refusing to renew coverage if the insurer provided written notice to the insured for reasonable or customary repairs or replacement specific to the insured's premises or dwelling which the insured failed to make and which, if made, would have prevented the loss for which a claim was made.

Chapters 651 and 652 of 1998 also created exceptions to the standards that must be reasonably related to an insurer's economic and business purposes in order for an insurer to cancel or refuse to renew a particular insurance risk or class of risk. For homeowner's insurance, an insurer will be allowed to use the following standards to cancel or refuse to renew a policy:

- a material misrepresentation in connection with the application, policy, or presentation of a claim;
- nonpayment of premium;
- the claims history of the insured where the insured makes more than 3 claims in the preceding 3-year period; and
- any other standard approved by the Commissioner that is based on factors that adversely affect the losses or expenses of the insurer under its approved rating plan and for which statistical validation is unavailable or is unduly burdensome to produce.

For private passenger motor vehicle insurance, ***Chapters 651 and 652 of 1998*** prohibited an insurer from canceling or refusing to renew coverage based on the claims history of an insured where 2 or fewer of the claims within the preceding 3-year period were for accidents or losses where the insured was not at fault.

Similar to homeowner's insurance, for private passenger motor vehicle insurance, ***Chapters 651 and 652 of 1998*** also created exceptions to the standards that must be reasonably related to an insurer's economic and business purposes in

order for an insurer to cancel or refuse to renew a particular insurance risk or class of risk. Those standards include:

- a material misrepresentation in connection with the application, policy, or presentation of a claim;
- nonpayment of premium;
- revocation or suspension of the driver's license or motor vehicle registration within the preceding 2-year period: (1) of the named insured or covered driver under the policy; and (2) for reasons related to the driving record of the driver;
- 2 or more motor vehicle accidents or any combination of 3 or more accidents and moving violations within the preceding 3-year period if, based on an investigation of the circumstances of any accident, the insurer determines that the insured was not at fault;
- 3 or more moving violations against the insured or covered driver under the policy within the preceding 2-year period; and
- any other standard approved by the Commissioner that is based on factors that adversely affect the losses or expenses of the insurer under its approved rating plan and for which statistical validation is unavailable or is unduly burdensome to produce.

Finally, ***Chapters 651 and 652 of 1998*** allowed an insurer that uses claims history for purposes of canceling or refusing to renew coverage to consider specified factors in mitigation of the proposed decision without producing statistical validation, including the severity of the losses and the length of time that the insured has been a policyholder. In addition, the insurer must give notice of its practice of using claims history to an insured at the inception of the policy and at each renewal. These provisions will terminate on September 30, 2001.

Maryland Automobile Insurance Fund (MAIF)

- *Surplus Level and the Assessment Mechanism*

In 1989, after losing money for 16 consecutive years, the Maryland Automobile Insurance Fund (MAIF) began to show a gain from its operations and to accumulate a surplus. Even with a surplus, however, in any year in which MAIF experienced a loss on either a cash flow or statutory accounting basis, the then current law required MAIF to impose an insufficiency assessment to ensure its solvency. Most of its surplus accumulated during 1989 and 1990, but the surplus continued to increase. As a result, during the 1994 Session, the Joint Subcommittee to Study the Maryland Automobile Insurance Fund was created. Among the issues it studied was the high level of surplus that had been accumulated by MAIF, the appropriate use of that surplus, and a reconsideration of the assessment mechanism.

To determine the appropriate level of surplus, the Joint Subcommittee sought guidance from the Risk Based Capital (RBC) Model Law proposed by the National Association of Insurance Commissioners (NAIC). This model law examines an insurer's history of reserving and the safety of its investments to determine the appropriate surplus level for a carrier. Using the RBC Model Law, MAIF proposed the use of a 4:1 ratio ($4 in net premiums written to $1 in surplus) to determine the adequacy of its surplus. ***Chapter 139 of 1995*** enacted the MAIF proposal. It changed the basis for an assessment and established the 4:1 ratio of direct premiums written to surplus. Specifically, if an operating loss occurs, an assessment was to be only imposed if MAIF did not hold a surplus balance that was at least 25% of the next premiums written. The assessment limits were to be calculated separately for MAIF's private passenger and commercial lines.

Based on its current business and using the 4:1 ratio, MAIF estimated that it needed approximately $37 million in surplus. MAIF agreed to use the accumulated surplus over the $37 million to make rates affordable in the long-run. Under the agreement, rates were to be lowered to 95% adequacy in all jurisdictions except Baltimore City. The remaining 5% was to be covered by the surplus. Baltimore City would be subsidized at 81% of adequacy -- the rate derived by applying the 95% to the existing 85% adequacy level. The remaining percentage, which contributed to the loss, was to be covered by the surplus under MAIF's agreement. MAIF estimated that it would take 4 to 5 years for the

surplus to decrease to approximately $37 million.

Due to operating losses since 1994, MAIF's total surplus decreased from $124 million in 1993 to an estimated $90 million in 1996. Of the total $90 million surplus at the end of 1996, $30 million was attributed to the commercial line. Because the private passenger surplus of $60 million was not at least 25% of the private passenger automobile net premiums written, under the 1995 law ***(Ch. 139)***, MAIF would have had to assess the motoring public in 1998. In order to prevent such an assessment, ***Chapter 592 of 1997*** altered the formula used to calculate whether an assessment on auto insurance companies must be imposed by MAIF.

Chapter 592 specified that MAIF's *total* surplus, rather than just its private passenger automobile surplus, was to be used to determine when a private passenger automobile (PPA) assessment is required. Under ***Chapter 592***, an assessment is not required unless the MAIF's total surplus falls below 25% of MAIF's average net direct written PPA premiums for the last 3 years. The Act did not alter the calculation of the commercial line automobile assessment limit.

- *MAIF Good Drivers*

In recent years, as MAIF has become profitable, an increasing percentage of its drivers have maintained good driving records for 3 or more years and should no longer be holding policies issued by the State-created "insurer of last resort". Some members of the Joint Subcommittee to Study the Maryland Automobile Insurance Fund expressed the idea that MAIF policyholders with good driving records should obtain insurance from other carriers. However, the Joint Subcommittee realized that this may not be so easily accomplished. It seemed that in many areas, particularly in Baltimore City, other carriers are not accessible and policyholders have no choice but to purchase insurance from MAIF. At the same time, the Joint Subcommittee also recognized that removing better risk drivers from MAIF would inevitably result in increased premiums for the rest of MAIF's policyholders.

As part of the insurance reform legislation enacted in 1995, ***Chapter 352*** prohibited a private passenger automobile insurer from refusing to issue a private passenger automobile policy to any person who: (1) was insured by MAIF on or after January 1, 1995; and (2) was a good driver. ***Chapter 352*** described a good driver is an individual who does not have any moving traffic violations, and has not had any chargeable traffic accidents for 3 continuous years. However, the Act authorized an insurer to refuse to issue a policy to a MAIF good driver if the individual does not meet the insurer's eligibility or underwriting standards.

HEALTH INSURANCE

Escalating health care costs in the 1980s and early 1990s forced health insurance carriers to adopt cost containment strategies and promoted growth of the managed care industry, typically embodied in health maintenance organizations (HMOs). Managed care is the product of the integration of health care financing and health care delivery in that managed care plans assume both the responsibility for the quality of health care services delivered to their enrollees and the financial risk for the cost of those services delivered. As such, one basic tenet of managed care is cost containment. Cost containment practices utilized by managed care plans include encouraging preventive care, establishing incentives for providers to avoid unnecessary tests and procedures, and requiring individuals, prior to obtaining specialty services, to obtain approval from their primary care provider.

The evolution of and rise in managed care plan enrollment and penetration in Maryland and across the country has been accompanied by a parallel evolution and rise in concerns by those charged with protecting those who have health coverage through managed care plans that their cost containment practices may limit access to certain health care services and treatments or jeopardize the quality of health care delivered. Over 40% of the commercially insured residents in Maryland receive their health care coverage through HMOs. Health care insurance legislation enacted during the 1995-1998 term of the General Assembly reflected the struggle to balance two competing ideals in the managed care environment: patient choice and access and cost containment. Such legislation provided additional avenues to health care consumers to receive appropriate health care services by expanding choice and access and mandating coverage and reimbursement for specific health benefits and by ensuring appropriate and adequate processes and procedures to appeal health care coverage decisions.

Patient Access to Health Care

As more and more people have joined managed care plans, the number of patients available to out-of-network health care providers has decreased. In recent years, those providers not participating in networks have found themselves losing patients and struggling to maintain an adequate patient base. In 1994, legislation was introduced that would have allowed a patient in a managed care plan to receive health care services from health care providers outside the managed care plan's network of health care providers without first receiving a referral from the patient's primary care provider. The managed care plan would have been required to reimburse that out-of-network provider at 80% of the plan's in-network reimbursement to a provider. Although that legislation failed, in 1995, legislation was enacted that expanded patient choice and access ***(Chapters 604 and 605 of 1995)***. Again, the debate centered on the patient's freedom to choose the health care providers versus the managed care plan's need to contain costs by managing access to providers and services.

- *Mandatory Point-of-Service Option*

As a compromise between patient choice and cost containment, ***Chapters 604 and 605 of 1995*** required a health maintenance organization (HMO), when contracting with an employer, association, or other private group arrangement to provide health care benefits, to offer a point-of-service (POS) option that an employee or individual can accept or reject. The health maintenance organization may contract with another carrier if the health maintenance organization cannot offer a POS option. An employee or individual that accepts the POS option may be responsible for the difference between the HMO premium and the POS premium. In addition, under ***Chapters 604 and 605***, a carrier is permitted to impose different cost-sharing options for the POS option, such as deductibles and copayments.

Chapters 604 and 605 also required a carrier when contracting with an employer, association, or other private group arrangement for dental benefit plan coverage, to offer a dental POS option that the employee or individual may accept or reject. The employee or individual may be responsible for the difference in the premium for the dental POS option.

- *Continuum of Care*

Coupled with the issue of patient access is the issue of continuum of care. This issue arises due to complaints voiced by individuals in managed care plans that they are not informed when providers are terminated from the carrier's network provider panel and that, as a result, they have to switch immediately to another provider without the opportunity to properly select and become familiar with a new provider. In an effort to resolve this problem, ***Chapters 604 and 605*** allowed a patient to remain with a health care provider for up to 90 days after the provider receives notice of the provider's termination from the carrier's network provider panel.

- *Application Process for Providers*

In response to numerous complaints from health care practitioners about the application process that they must undergo in order to be considered for participation in a provider panel of a managed care plan, ***Chapters 604 and 605*** established an application process that insurance carriers that use network provider panels must follow when reviewing and processing applications submitted by health care providers for participation in the carrier's network provider panel.

- *Prohibition on "Withholds"*

Most HMOs place primary care physicians at financial risk in some way. Most preferred provider organizations (PPOs) and POS plans do not. Fee-for-service is still the dominant form of payment in PPOs and POS plans, but it is used by only a minority of HMOs. Most HMOs pay primary care physicians on a capitated basis and provide additional financial incentives to physicians to practice efficiently in the form of "withholds" or bonuses. A withhold occurs when a carrier and a provider agree to a set payment per patient (per capita) or an aggregate fixed sum that the carrier and the provider agree on for the estimated volume of patients, but the carrier "withholds" a portion of this per capita rate or the sum that the provider is supposed to get back if the provider "manages" patient care in the manner that the carrier considers appropriate. Thus, the provider has a financial incentive to deny referrals to specialty services and hospitalization in order to get a bonus or get a withhold back. Although providers caught in this situation may not

consciously deny referrals or other needed services, there is the feeling by patients that providers do so or at the very least that providers are influenced by these financial concerns.

Beginning with contracts issued or renewed on or after July 1, 1996, ***Chapters 604 and 605*** prohibited an insurance carrier that pays providers on a capitated or aggregate fixed sum basis from withholding from providers a lesser amount than that amount negotiated in the provider's contract with the carrier. A carrier is not prohibited from providing bonuses or other incentive-based compensation if the bonus or other incentive- based compensation does not affect quality of patient care or deter the delivery of medically appropriate care to an enrollee.

Health Care Provider and Payor Act

In addition to the use of "withholds", another practice typically used by carriers in their relationship with providers to help contain health care costs is the use of "gag rules" in contracts between carriers and providers. Another cost containment strategy, most often used by health maintenance organizations, is practice profiling.

Although ***Chapters 604 and 605 of 1995*** prohibited "withholds" did not address "gag rules" or "practice profiling", ***Chapter 548 of 1996*** did address this issue. A "gag rule" is a provision that governs communications a provider may have with patients about the terms of coverage, treatment options, or terms of the provider's reimbursement arrangement with the carrier. Practice profiling is an economic analysis or analysis of other data concerning services rendered or utilized by a provider under contract in a carrier's provider network. Practice profiling often is used to evaluate a provider's status on the carriers provider panel. ***Chapter 548 of 1996*** prohibited gag rules. ***Chapter 548*** also prohibited health insurance carriers from using reimbursements (withholds) to create incentives for limiting health care, prohibited contract provisions requiring providers to indemnify carriers from causes of action over coverage decisions or negligent acts by carriers, and established ground rules for practice profiling of providers by carriers.

Appeals of Health Coverage Decisions

- *Background*

Managed care plans control costs through capitation, discounted payments to providers, and financial incentives that are intended to enhance quality and minimize unnecessary utilization. However, as some parties raise concerns that financial incentives diminish health care quality, there has been an increasing focus on the evaluation of grievance and complaint procedures, and the determination of due process rights for enrollees and providers within the managed care system. As managed care gains an increasing proportion of the health care delivery system, concerns have surfaced about the interrelationships among participants in the system, and the ability of patients and providers to contest decisions rendered by managed care plans. Accordingly, in 1996, the General Assembly commissioned a task force to evaluate the use and effectiveness of patient and provider grievance and appeal mechanisms that, under current law, must be adopted by health maintenance organizations that operate in Maryland.

As a result of the work of the task force, legislation was introduced in the 1997 Session to conform, coordinate, and streamline grievance processes established internally by health maintenance organizations and the consumer complaint process of the Maryland Insurance Administration. A compromise on the legislation was reached in the final hours of the 1997 Session. However, the conference committee report on the legislation was delivered to the Senate just as it adjourned sine die.

- *1998 Legislation - Generally*

During the 1998 Session, legislative proposals similar to the Conference Committee report from the 1997 Session were introduced. This time the legislation was successful. ***Chapters 111 and 112 of 1998*** gave health consumers new rights to challenge managed care plan coverage decisions when coverage is denied and allow the State to sanction managed care medical directors for inappropriately denying health care coverage for which consumers have the right to receive under their contract with the managed care organization.

- *Internal Grievance Procedures for Enrollees in Health Plans*

As passed, ***Chapters 111 and 112*** required health insurers, nonprofit health service plans, dental plan organizations, and health maintenance organizations (carriers) to establish an internal grievance procedure for their enrollees. The carrier's internal grievance process must be exhausted before a complaint may be filed with the Insurance Commissioner. The Acts gave the Insurance Commissioner express authority to make a decision on a question of medical necessity when a carrier determines that a health care service is not medically necessary, appropriate, or efficient. In addition, the Insurance Commissioner is authorized to seek the assistance of medical experts or independent review organizations to provide the Commissioner with advice on issues relating to medical necessity.

- *Certification of Private Review Agents and HMO Medical Directors*

Chapters 111 and 112 of 1998 also transferred the responsibility of certifying private review agents from the Department of Health and Mental Hygiene to the Maryland Insurance Administration (MIA) and also strengthen this regulatory authority. HMO medical directors must be physicians licensed in Maryland and certified by the MIA. The Acts provided for the certification of HMO medical directors and associate directors by the MIA. The Insurance Commissioner may suspend, revoke, or refuse to renew a certificate if the HMO medical director inappropriately denies or withholds coverage. To be certified as a medical director, an applicant must submit an application to the Insurance Commissioner and pay an application fee. The application must include a description of the applicant's professional qualifications, including medical education information and, if appropriate, board certifications and licensure status and the HMO's utilization management procedures and policies. The medical director applicant must certify that these management procedures and policies meet the following four criteria: (1) objective; (2) clinically valid; (3) compatible with established principles of health care; and (4) flexible enough to allow deviations from the norms on a case-by-case basis. The Insurance Commissioner can suspend, revoke, or refuse to renew the certification of a medical director if the Commissioner finds a pattern of utilization management procedures and policies used by the medical director does not meet these criteria. The main provisions of ***Chapters 111 and 112*** are effective January 1, 1999.

Mandated Benefits and Coverages

While appreciating the concerns of consumers regarding access to health care services within a managed care environment, the General Assembly also is cognizant of the potential upward pressure on health care costs associated with mandating coverage for specified health insurance services. Currently, Maryland has 38 mandated benefits or offerings for services and provider reimbursement. During its 1995-1998 term, the General Assembly adopted approximately nine additional mandated benefits and coverages, a few of which will be highlighted in this section.

- *Assessment and Evaluation of Mandated Benefits and Coverages*

Aware that it was possibly reaching a point of no return in adopting disease- specific mandates and a need to focus on incorporating these problem-focused mandates into a broader managed care regulatory strategy, the General Assembly adopted legislation during the 1998 Session addressing this conundrum. Under ***Chapter 588 of 1998***, the Health Care Access and Cost Commission (HCACC) is required to assess the social, medical, and financial impacts of all current and proposed mandated health insurance services. HCACC must report its findings to the General Assembly by December 31, 1998 and each December 1 thereafter.
HCACC's initial report must include: (1) an evaluation of the cost of existing mandated health insurance services; and (2) a recommendation on an appropriate percentage of the average annual wage in the State that the total cost of mandated health insurance services may not exceed. To arrive at the recommendation, HCACC must consider the percentage of average annual wage in the State that relates to the premiums associated with: (1) the current mandated health insurance services enacted in the State; (2) the benefits provided under the State Employee Health Benefits Plan; and (3) the Comprehensive Standard Health Benefit Plan. If a mandated health insurance service is proposed by a member of the General Assembly before July 1 of any year, HCACC must review and evaluate the proposal and submit its findings and recommendations regarding the proposal in its December report.

- *Mothers and Newborns*

In 1995, in response to the practice of limiting length of hospital stay for new mothers, the General Assembly enacted

the Mothers' and Infants' Health Security Act. ***Chapters 502 and 503 of 1995*** required carriers (insurers, nonprofit health service plans, and health maintenance organizations) to provide coverage for hospitalization for childbirth in accordance with the "Guidelines for Perinatal Care", as published by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. The then current guidelines recommended a 48-hour stay after a vaginal delivery and a 96-hour stay after a cesarean section. However, the 1995 Act allowed carriers to authorize a 24-hour stay if followed by a postpartum home visit. When the 1995 Act became effective, carriers invariably limited the length of stay to 24 hours.

As a result, in 1996, the General Assembly passed legislation clarifying the intent of the 1995 Act. ***Chapters 396 and 397 of 1996*** required carriers to provide inpatient hospitalization coverage for a minimum of 48 hours following an uncomplicated vaginal delivery and 96 hours following an uncomplicated cesarean section. In addition, the 1996 Act authorized a home visit by a registered nurse with experience in maternal and child health or community health nursing for any mother who requests a shorter hospital stay and an additional home visit if prescribed by the attending provider. ***Chapters 396 and 397*** also required carriers to provide hospitalization coverage, for up to 4 additional days, for a newborn when the mother continues to be hospitalized for a medically necessary reason.

- *Gynecological Care*

In 1994, legislation was enacted that required a health insurer, nonprofit health service plan, and health maintenance organization (HMO) to classify an obstetrician/gynecologist (OB/GYN) as a primary care physician or permit a woman to receive an annual visit to an in-network OB/GYN for routine gynecological care without requiring the woman to first visit a primary care physician. ***Chapter 159 of 1995*** closed a loophole in the 1994 law that related to the situation where a woman does not choose an OB/GYN as the woman's primary care provider. Under ***Chapter 159***, a health insurer, nonprofit health service plan, and HMO must permit a woman who does not choose an OB/GYN as her primary care provider to receive an annual visit to an in-network OB/GYN for routine gynecological care, without requiring her to be referred by her primary care provider.

In 1996, for the third consecutive year, the General Assembly passed legislation relating to the ability of an enrollee in a HMO to seek routine gynecological care from an obstetrician/gynecologist (OB/GYN) without intervention by a primary care physician ***(Chapters 579 and 580 of 1996).*** The Acts allowed a woman to visit her in-network OB/GYN, without first visiting her primary care provider, for care that is medically necessary, provided the OB/GYN communicates with the primary care provider following each visit and confers with the primary care provider before performing any diagnostic procedure that is not routine care rendered during an annual visit.

- *Patient Care Costs Associated with Medical Clinical Trials*

Although legislation introduced during the 1997 Session failed, the General Assembly passed compromise legislation requiring coverage for medical clinical trials during the 1998 Session. ***Chapters 118 and 119 of 1998*** required health insurance carriers to cover patient care costs associated with clinical trials in all four phases of clinical trials for cancer, and in Phases II, III, and IV of clinical trials for all other life- threatening diseases. The coverage is only required if the clinical trial is approved by one of five specified entities and meets other strict criteria. Covered patient costs is defined as the cost of a medically necessary health care service incurred as a result of treatment provided under a clinical trial. It does not include the cost of an investigational drug or device, the cost of non-health care services, costs associated with managing the trial research, or costs that would not be covered under the patient's policy or plan for noninvestigational treatments.

- *Prescription Contraceptive Drugs and Devices*

Chapter 117 of 1998 required carriers that provide coverage for prescription drugs to include coverage for any prescription contraceptive drug or device that is approved by the United States Food and Drug Administration. In addition, carriers are required to provide coverage for the insertion or removal, and any medically necessary examination associated with the use of the contraceptive drug or device. Carriers are prohibited from imposing a different copayment or coinsurance requirements for a contraceptive drug or device than is imposed for any other prescription. ***Chapter 117*** also exempted a religious organization from the specified coverage if the coverage conflicts

with the religious organization's bona fide religious beliefs and practices.

Maryland Health Insurance Portability and Accountability Act

The federal Health Insurance Portability and Accountability Act (HIPAA) requires states to ensure that eligible individuals have access to health insurance. States can either adopt the federal provisions, which require all individual health insurance issuers to offer policies to eligible individuals on a guaranteed basis without preexisting condition exclusions, or implement an alternative mechanism. In 1997, Maryland enacted legislation that took the latter option.

- *Individual Market Reforms*

Chapter 294 of 1997 established Maryland's alternative mechanism to HIPPA. Individuals who move from the group market to the individual market who meet the test of eligibility and have creditable coverage are entitled to: (1) guaranteed issue; (2) guaranteed renewability; (3) prohibitions on preexisting condition limitations; and (4) maximum premium rates of no more than 200% of the rate the carrier normally charges for the same or similar policies to other individuals.

- *Group Market Reforms*

Chapter 294 of 1997 also limited all preexisting condition limitations to 12 months (18 months for late enrollees). Additionally, without exception, preexisting condition limitations relating to pregnancy are prohibited. Preexisting condition limitations for newborns and newly adopted children are prohibited so long as coverage is obtained within 30 days after the date of birth or adoption; however, a lapse in coverage of 63 or more days immediately prior to enrollment disqualifies an adopted child from benefitting from this reform on preexisting condition limitations.

HMO Emergency Room Facility and Provider Reimbursements

The federal Omnibus Budget Reconciliation Act of 1986 amended the Social Security Act by adding a provision to require hospital emergency facilities to screen, assess, and stabilize all patients seeking treatment, as a condition of receipt of Medicare reimbursements. The provision, which is part of the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and is commonly known as the anti- dumping law, was aimed at hospitals that refuse to treat patients who may not be able to pay for services. Under EMTALA, a hospital emergency facility may not: (1) contact a health maintenance organization to request authorization for treating an enrollee; or (2) transfer an enrollee to a health maintenance organization's urgent care facility or doctor's office for treatment without first screening, assessing, and stabilizing the enrollee's condition. Despite these requirements imposed on hospital emergency facilities under EMTALA, HMOs sometimes refuse to reimburse emergency facilities for emergency services rendered to their enrollees because managed care criteria for such services were not satisfied or procedures were not followed in rendering the emergency services.

In 1996, after the Governor vetoed legislation passed by the General Assembly in 1995 that tried to resolve this problem, the General Assembly passed legislation (***Chapter 503 of 1996***) that required a health maintenance organization to reimburse emergency providers whenever: (1) it authorizes or otherwise allows an enrollee to use an emergency facility; (2) it fails to provide 24-hour access to an enrollee to medically necessary care; and (3) emergency providers conduct a medical screening on an enrollee in an emergency facility as required by the EMTALA.

The General Assembly passed legislation during the 1998 Session further clarifying emergency facility and provider reimbursement requirements for HMOs. In addition to reimbursing emergency facilities and providers for medical screening services that EMTALA requires them to perform, ***Chapters 605 and 606 of 1998*** required an HMO to reimburse a hospital emergency facility and provider for medical assessment and stabilization services rendered to meet the requirements of the EMTALA. The requirement that HMOs pay for screening, assessment, and stabilization terminates on June 30, 1999.

Expansion and Refinement of the Maryland Health Care and Insurance Reform Act of 1993

In 1993, the General Assembly enacted a comprehensive reform of the health insurance market for small employer

groups. These reforms took effect in July, 1994.

One problem not contemplated during the debate on the reform was its effect on employees currently receiving health insurance benefits from their employers. Because of the language in the new law, employees who had been receiving health insurance coverage prior to the enactment of the Health Care and Insurance Reform Act of 1993, were considered ineligible for the coverage after its enactment. This was because these employees had secondary insurance coverage. To be considered an "eligible employee" under the Act, and thereby eligible for health insurance under the Act, an employee could not have other health insurance coverage. If the employee had such coverage, the employee was not considered an "eligible employee". Also, after the reforms took effect in July, 1994, the question of whether to extend these reforms to other types of entities, such as local government and nonprofit entities, arose. During its 1995-1998 term, the General Assembly passed legislation that resolved these problems and other small group market related issues.

- *Definition of "Eligible Employee"*

Chapter 501 of 1995 altered the definition of an "eligible employee" for purposes of qualifying for health insurance within the small group market. As provided in ***Chapter 501***, an employer may offer health insurance to an employee already covered by a private or public health insurance plan or other health benefit arrangement if that employer is offering health insurance to any of its employees.

- *Definition of "Small Employer"*

The definition of "small employer" for purposes of inclusion in the small group market was been expanded under ***Chapter 501 of 1995*** to include:

(1) A self-employed individual (see definition below);

(2) A local governing body of a charter county, a code county, a Board of Commissioners, and a municipal corporation if it can satisfy the other requirements for being a small employer; and

(3) A nonprofit organization, which has been determined by the federal Internal Revenue Code to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code.

- *Self-Employed Individuals*

Chapter 501 of 1995 expanded the small group market reform to include self- employed individuals. Under the Act, a self-employed individual was considered a small employer, and therefore, included in small group market reform if the self-employed individual, as based on the NAIC Small Employer Health Insurance Availability Model Act:

(1) is an individual or sole proprietor; and

(2) derives a substantial portion of the individual's income from a trade or business:

(i) through which the individual or sole proprietor has attempted to earn taxable income; and

(ii) for which the individual has filed the appropriate Internal Revenue Form 1040, Schedule C or F, for the previous taxable year and a copy of which has been filed with the carrier as proof of employment.

However, ***Chapter 128 of 1997 and Chapter 650 of 1997*** amended this description to close a loophole in the 1995 law, which limited self-employed individuals to those who filed specific tax forms and because of such of a restrictive definition, allowed insurance carriers to refuse to issue policies to self-employed individuals who filed tax forms not specified in definition. ***Chapter 128*** and ***Chapter 650*** described a "self-employed individual" broadly as an individual organized to do business in any manner that is legally recognized as "self-employment".

- *Professional Employer Organizations*

Professional employer organizations (PEOs) comprise an emerging industry that provides bundled human resources functions to small employers on an outsourcing basis. Typically, a PEO offers payroll administration (including tax withholding), workers' compensation, health benefits, 401K plans, and similar kinds of benefits. A PEO hires its client's employees onto a common payroll, and the client reimburses the PEO once per pay period for salary, taxes, and benefits. The employee works for both the client and the PEO under a coemployment concept. Under coemployment, the PEO and the client assume and retain specific employer responsibilities and risks. The employer generally retains day-to-day supervision of employees.

The Maryland Health Care and Insurance Reform Act of 1993 (the Act) was silent with respect to PEOs, which did not exist or did not constitute a recognizable market in 1993. ***Chapter 420 of 1997*** looked through the PEO to the day-to-day employer for determination of the group size of an employer and applicability of the Act. Under a 1994 amendment to the Act, multiple employer trusts or associations are treated in the same manner for determination of group size. ***Chapter 420*** was scheduled to terminate as of September 30, 1998. However, ***Chapters 376 and 377 of 1998*** repealed this termination date.

Acquisition of Nonprofit Health Entities

According to a study by the Center for Policy Alternatives, the pace of conversions of not-for-profit hospitals and health plans to for-profit status has accelerated in recent years. In 1995, 347 public and not-for-profit hospitals were involved in deals that were either pending or completed in that year. Several Blues, including the huge BlueCross of California, have already converted all or part of their operations to for-profit status and at least 15 additional Blues are considering or are in the process of converting. Legislation introduced in the 1997 Session to provide oversight of conversion activities in Maryland failed to pass the General Assembly. However, legislation was passed during the 1998 Session.

Chapter 123 and 124 of 1998 established a process for the oversight of the acquisition by a for-profit entity of a nonprofit health maintenance organization (HMO), nonprofit health service plan, and nonprofit hospital by the Office of the Attorney General, in consultation with the Department of Health and Mental Hygiene, or the Maryland Insurance Administration. Under the Acts, an acquisition would be approved by the appropriate regulating entity if it: (1) safeguards the value of public or charitable assets; (2) ensures the fair value of the public or charitable assets of the acquisition be distributed to the Maryland Health Care Foundation, or, for a hospital, to a community public or charitable entity or trust, as well; and (3) ensures that no part of the fair value of the public or charitable assets of the acquisition inures to an officer, director, or trustee of the nonprofit health entity.

Provider Sponsored Organizations

The federal Balanced Budget Act of 1997 establishes provisions for the licensing of provider-sponsored organizations (PSOs) to allow hospitals and doctors to group together to participate in Medicare risk contracts. The new program by which PSOs can provide care to Medicare recipients is entitled Medicare+Choice. The federal Act repeals the so-called 50-50 rule that required PSOs to have at least 50% non-Medicare enrollees and authorizes Medicare-only plans. The federal Act requires a state to take final action on a license application within 90 days after receipt of a completed application. A state is prohibited from imposing material requirements in its standards or review process that are not generally applicable to other entities engaged in substantially the same business. After the federal Health Care Financing Administration (HCFA) develops solvency standards for PSOs, states are required to apply those solvency standards. To date, solvency standards have not been finalized by HCFA.

Chapters 213 of 1998 authorized health care providers to form PSOs in Maryland in order to provide health care services to Medicare recipients under the new Medicare+Choice program. A PSO must be licensed by the Maryland Insurance Commissioner prior to contracting with consumers. In addition, a PSO is subject to the same statutory requirements to operate as are applicable to a health maintenance organization (HMO) to the extent that such requirements are not preempted by federal law.

In 1996, 1997, and 1998, legislation introduced to authorize community health networks (CHNs) in Maryland have failed to pass the General Assembly. These CHNs would essentially have been similar to PSOs with the exception that they would not have been restricted to the Medicare market. ***Chapter 213 of 1998***, together with the federal PSO legislation, should eliminate any further need for legislative consideration of CHNs to serve the Medicare population.

PART H
BUSINESS AND ECONOMIC ISSUES

HORSE RACING AND GAMING

FINANCIAL ASSISTANCE TO THE HORSE RACING INDUSTRY

The overall financial health of the horse racing industry in Maryland has declined over the past 20 years, with the advent of alternative forms of legalized gaming in the State and throughout the nation. During previous legislative terms, much attention was focused on legalizing and expanding simulcast wagering opportunities in the State. During the past four years, more attention was devoted to providing short term financial relief and to the possibility of slot machines at the racetracks (discussed below).

1997 Session

In a move to bolster purses and provide short-term financial assistance to the thoroughbred racing industry, ***Chapter 748 of 1997*** provided a one-time disbursement of $500,000 from uncashed pari-mutuel tickets for the Maryland Million Races for marketing, purses, and promotional activities.

Chapter 751 of 1997 made the State responsible for most of the personnel costs of the forty-eight additional (non-administrative) personnel, which were previously paid by the race track via reimbursable special funds. This shifted the cost of employment of approximately $1.8 million annually from the tracks to the State, with the tracks only responsible for the pension contribution of these employees.

Chapter 750 of 1997 reduced the wagering tax from .5% to .32% and thus increased the distribution to purses by 0.18% of each mutuel pool for a period of one year. Approximately $1 million was gained for purses through this tax reduction. In addition, $5 million in lottery revenue overattainment was dedicated to be used for racetrack purses, with 70% to the thoroughbred purses and 30% to the harness purses. The bill also created a Commission to Study Ways to Improve the Financial Viability of the Horse Racing Industry.

1998 Session

Chapter 519 of 1998 implemented the short-term relief measures that were outlined in the recommendations of the Commission to Study Ways to Improve the Financial Viability of the Horse Racing Industry, a joint legislative/executive group that functioned during the 1997 legislative interim. The measures included a number of studies to determine the long-term measures that might best assist the industry, and the use of $10 million in revenue overattainment to increase spending on noncapital items, such as purses, bred funds, and marketing. Under **Chapter 519**, the $10 million in funding is comprised of $5 million from general fund revenues that is appropriated in the fiscal 1999 budget and an additional $5 million from possible lottery surpluses.

The Commission to Study Ways to Improve the Financial Viability of the Horse Racing Industry also recommended that several initiatives passed during the 1997 Session be continued at least for another year. Under ***Chapter 477 of 1998***, the State wagering tax rate of 0.32% remained in place until June 30, 1999. In addition, any funds remaining in the horse racing special fund at the end of the year are to be distributed to the Maryland- Bred Race Fund and the Standardbred Race Fund rather than to the general fund, with approximately $814,000 thus allocated to the bred funds. Additionally, ***Chapter 366 of 1998*** continued the distribution of $500,000 from uncashed pari-mutuel tickets to the Maryland Million for marketing, purses, and promotional activities for another year.

RACING AND GAMING REGULATION

Gaming

The General Assembly repeatedly considered measures that would have imposed a statewide regulatory scheme for all gambling activities. ***House Bill 106 of 1995*** (failed) would have established a Maryland Charitable Gambling

Commission to regulate gaming by the State's charitable organizations. ***House Bill 1410 of 1996*** (failed) would have established a Maryland Slot Machine, Tip Jar, and Casino Gambling Commission. During the 1997 Session, ***House Bill 973*** (failed) would have created a Maryland Gaming Commission and ***Senate Bill 854*** (failed) would have established a 5-member Maryland Gaming Control Commission.

Horse Racing

- *Average Daily Handle Breakpoint*

Measures dealing specifically with the regulation of racetracks were more successful. ***Chapter 590 of 1995*** raised the breakpoint in the average daily handle from $300,000 to $600,000 for figuring out the amount and distribution of the takeout in harness racing. This increased the amount of the purses by shifting money away from bettors.

- *Racing Days/Simulcasting*

Chapter 753 of 1997 increased from 450 to 620 the number of racing days that may be awarded to all harness racing licensees in a calendar year. This legislation also increased from 216 to 266 the number of racing days that may be awarded to all thoroughbred licensees in a calendar year.

Chapter 747 of 1997 allowed thoroughbred licensees to receive simulcast races held at out-of-state tracks after 6:15 p.m., if approved by the relevant harness racing interests. Also, the Act prohibited live harness racing after 2 a.m. unless circumstances beyond the control of the licensee cause a delay.

Chapter 749 of 1997 reduced from 65 to 40 the minimum number of live racing days that must be conducted at Ocean Downs harness racing track for Ocean Downs to qualify as a receiving track for intertrack betting purposes.

House Bill 1091 of 1998 (failed) was introduced as the result of a Maryland Racing Commission decision this past fall that prohibited the Ocean Downs harness racing facility from directly importing out-of-state thoroughbred race signals. The legislation would have authorized Ocean Downs to contract for pari-mutuel betting on a race that is held at any out-of-state track where betting on horse racing is lawful without approval of the State Racing Commission. However, an agreement was reached by the Maryland Jockey Club and Bally's Maryland, Inc. (the owner of Ocean Downs) on March 27, 1998 that resolved a long-standing dispute over simulcasting thoroughbred signals between the two interests. Due to the agreement, the legislation was withdrawn, and a pending lawsuit on this same issue is also being dismissed.

- *Pensions of Racing Employees*

Chapter 556 of 1995 provided for the inclusion of "additional employees" of the Maryland Racing Commission in the pension system for State employees. The licensees must allocate funds for employer contributions from the 0.25% of the handle set aside for racetrack employee benefits.

VIDEO LOTTERY TERMINALS AND OTHER GAMBLING INITIATIVES

Consistent with efforts nationwide, legislation to introduce slot machines at the racetracks and other venues generated much debate and discussion in Maryland during the past four legislative sessions. The main impetus for such legislation came from two directions: (1) to produce a significant new form of revenues for the State, local governments, and/or nonprofits; and (2) to revitalize the racing industry. However, no legislation that actually allowed for such an expansion of legal gambling activities in the State actually passed.

1995 Session

As introduced, ***Chapter 579 of 1995*** would have created a Maryland Gambling Commission and would have authorized the Commission to license not more than five persons to operate casinos. This legislation was rewritten to establish a nine-member Joint Executive-Legislative Task Force to Study Commercial Gaming Activities in Maryland. This task force set the tone for much of the legislation and debate that followed.

Immediately before the 1996 Session began, this task force issued its final report to the General Assembly and the Governor. The report recommended to the Governor that current prohibitions be maintained against commercial casino gaming, including slot machines at race tracks, because the task force: (1) was not convinced that commercial casino gaming would bring in substantial net economic benefits to the State; (2) believed that there might be substantial social costs arising from the introduction of such gaming; and (3) was concerned that commercial casino gaming might lower the quality of civic and moral life in Maryland.

Other legislation was introduced during the 1995 Session that sought to expand gambling in the State. ***Senate Bill 768/House Bill 1101 of 1995*** (both failed) were similar to the original legislation discussed above and would have created a Maryland Controlled Gaming Commission as an independent unit of State government and allowed controlled gaming in land-based facilities. The General Assembly considered two bills this year that would have authorized riverboat gambling. ***House Bill 809 of 1995*** (failed) would have created a State Commission to regulate vessel gaming on vessels underway or at dock on most navigable bodies of water in or around the State. ***House Bill 392 of 1995*** (failed) also would have authorized gaming on vessels but would have provided for a county tax on gaming revenues as well as a State tax.

1996 Session

The issue that dominated gaming legislation during the 1996 Session concerned the authorization of slot machines at racetracks. ***House Bill 1380 of 1996*** (failed) would have authorized a maximum of 3,000 machines at Laurel Race Course, 1,000 machines at Pimlico Race Course, 1,000 machines at Rosecroft Raceway, and up to 6,500 machines at satellite simulcast facilities in the State. ***House Bill 1435 of 1996***(failed) would have authorized the operation of a maximum of 2,000 machines at each of the four mile thoroughbred and harness racing tracks in the State.

1997 Session

In response to the horse racing industry's cries for new revenue sources to compete with tracks in Delaware and other states that offer slot machine gambling at race tracks, legislation authorizing slot machines at the tracks one again dominated the 1997 Session. ***House Bill 1433 of 1997*** (failed) would have allowed thoroughbred and harness tracks to operate up to 2,000 slot machines. ***House Bill 955 of 1997*** (failed) would have allowed "electronic gaming devices" (i.e., slot machines) at Pimlico Race Course, Laurel Race Course, Rosecroft Raceway and certain offtrack betting sites.

The 1997 Session brought several new attempts to expand gambling in the State, and several involved slot machines operated by nonprofit organizations. At the time, nonprofit organizations in eight Eastern Shore counties were authorized to operate slot machines. ***House Bill 612 of 1997*** (failed) would have allowed nonprofit organizations in Prince George's County to operate slot machines for public use, and ***House Bill 1111 of 1997*** (failed) would have extended this authority to nonprofit organizations in each county in the State. ***House Bill 972 of 1997*** (failed) would have raised reporting requirements and other oversight provisions concerning nonprofit organizations that now operate slot machines. Also in 1997, ***House Bill 1198*** (failed) would have enabled the Board of County Commissioners for Dorchester County to authorize the construction of a $100 million hotel-marina complex -- along with 1,000 slot machines -- in Cambridge.

1998 Session

House Bill 1324 of 1998 (failed), similar to legislation discussed above, would have authorized 8,000 video lottery terminals at the racetracks in the State. ***House Bill 678 of 1998*** (failed) would have authorized 11,250 video lottery terminals in the State, but was significantly different from other legislation that has been introduced on this subject in past sessions. The bill proposed a constitutional amendment authorizing video lottery terminals at up to 10 locations in the State, including racetracks, off-track betting locations, and at two tourist destination locations. An Education Trust Fund was designated as the primary recipient of revenues from the video lottery terminals, which was to be used to supplement education programs at all levels throughout the State. Under the legislation, State revenues would have increased by over $420 million annually after the first three years, and local revenues would have increased by almost $30 million.

LOCAL GAMBLING REGULATION

Casino Nights

Chapter 621 of 1995 allowed a volunteer fire company or bona fide fraternal, civic, war veterans', religious, amateur athletic, or charitable organization or corporation in Anne Arundel County to conduct a casino event no more than once a year and limited to specified card or dice games. Wagers are limited to $2 for each hand of cards or roll of dice. The Act prohibited casino events on or after October 1, 1997.

Similarly, ***Chapter 557 of 1995*** prohibited casino nights to be held in Prince George's County after 2 years following the effective date of the Act. This legislation also overturned a Maryland Court of Appeals decision prohibiting volunteer dealers and other workers to receive tips from patrons, freeing volunteers to accept tips. The Act, however, expressly prohibited workers from being paid a salary or compensation of any kind. The Act required Prince George's County to impose a tax of up to 20% on the gross receipts derived from casino night activities, and limited the number of permits for operation of casino nights to 21 at any time.

During the 1997 Session, attempts were made to extend the termination date for casino nights in Prince George's County, which were due to close on May 25, 1997. ***House Bill 702*** (failed) would have extended this "sunset" date until July 1, 1999. ***Senate Bill 856*** (failed) also would have extended the "sunset" of casino gambling until July 1, 1999, and would have also imposed a "sunset" of July 1, 1999 date on all other types of charitable gambling activities.

Tip Jars

In Western Maryland, the preferred form of gambling used by local fund-raising organizations is tip jar gambling. Tip jar gambling consists of pieces of sealed paper placed in a packet and sold. When opened, the paper reveals several numbers that patrons attempt to match to winning numbers. ***Chapter 636 of 1995*** created a Washington County Gaming Commission to recommend to the Board of County Commissioners of Washington County regulations or guidelines concerning the administration of laws relating to tip jar gambling in the County. The Act specified the types of nonprofit organizations that may operate tip jars and allows for profit restaurants and taverns to operate them as well (1) if the restaurants and taverns possess liquor licenses and (2) if part of their gross proceeds is deposited in a fund that is distributed to charitable organizations and the Washington County Volunteer Fire and Rescue Association. The tip jar provisions of the Act were scheduled to terminate on April 30, 1997.

Chapter 663 of 1996 modified various provisions governing tip jar gambling in Washington County. Major changes included establishing a temporary tip jar license and allowing private establishments to retain more of the proceeds from the games. The bill extended the termination provision for the laws governing tip jar regulation in the county to June 30, 1999.

During the 1998 Session, Washington County proposed both ***Chapter 229 and Chapter 548*** to address issues surrounding tip jar regulation in the county. ***Chapter 229 of 1998*** repealed the June 30, 1999 termination date for provisions of law establishing the Washington County Gaming Commission and providing for the regulation of tip jar gaming in Washington County. ***Chapter 548 of 1998*** provided for a number of changes to the Washington County Gaming Commission and tip jar regulation in the county. Most significant is a provision that requires that club tip jar licensees contribute the dedicated 15% of the gross profits to charitable purposes directly to the Washington County Gaming Fund. Contributions to the fund are expected to increase by approximately $300,000 per year.

PART H
BUSINESS AND ECONOMIC ISSUES

ECONOMIC AND COMMUNITY DEVELOPMENT

ECONOMIC DEVELOPMENT

Beginning in 1995, the General Assembly began to change the manner in which it approached economic development, enacting legislation to give its wide array of economic development programs a more strategic focus.

Reorganization and the Economic Development Commission

Chapter 120 of 1995 transformed the then Department of Economic and Employment Development into the new, and more business oriented Department of Business and Economic Development (DBED). Created within DBED was the Maryland Economic Development Commission (Commission) which consists of 25 appointed individuals who represent both the major geographic regions of Maryland and reflect the gender and racial composition of State. Among other responsibilities, the Commission was charged with developing and updating a strategic plan for economic development in Maryland, recommending to the Governor programmatic and spending priorities necessary to implement the strategic plan, approving proposed regulations pertaining to financing programs, participating in the marketing of Maryland, encouraging businesses to locate in the State, and raising private sector contributions and funds to supplement economic development programs. In 1995, the Commission issued a report, *Strategic Directions for Increasing Maryland's Competitiveness*, which made comprehensive recommendations for State policies governing economic development.

Business Incentives

During the 1995 and 1996 Interims, the General Assembly convened a Joint Committee on Economic Development Initiatives. The Joint Committee was charged with reviewing and making recommendations to improve the State's economic development policies, programs, and tools. To that end, the Committee examined economic growth and development in Maryland, studied existing State policies and programs to ascertain their effectiveness in fostering and supporting economic development, and surveyed competing states to determine their most valuable practices. In early 1996, the Joint Committee issued a report making numerous recommendations. Included in the report were proposals to improvement several of the business financing funds.

- *Economic Development Opportunities Fund ("Sunny Day" Fund)*

The Economic Development Opportunities Fund (Sunny Day Fund), established in 1988 as a response to competitive pressures from nearby states, was intended to use public dollars in the form of grants and loans to maximize "extraordinary economic development initiatives." However, during the late 1980's and early 1990's, several states using "sunny day" or "deal closer" funds to attract and retain businesses found that simply giving money to businesses did not ensure that those businesses would create jobs or generate substantial tax revenues. There was a growing consensus in Maryland that these funds should be used in a manner that minimized the State's risk by making the receipt of the funds conditional on some sort of performance goals that reflect a public benefit. Even though DBED had adopted an internal policy to include performance requirements in its Sunny Day Fund awards, the Joint Committee recommended changes to the law governing the Fund to ensure the Sunny Day Fund's accountability and make it more strategically focused. ***Chapter 479 of 1996*** incorporated many of the recommendations of the Joint Committee. Specifically, the bill required DBED (and other executive agencies that may use the Sunny Day Fund) to negotiate performance requirements with proposed award recipients. To track whether or not the award recipients were satisfying the negotiated performance expectations, the legislation also required DBED to report annually on the status of job creation, capital investment, and other measures of economic development performance for the previous three years. The report is required to contain an explanation if the Sunny Day Fund recipients fail to meet these negotiated goals. Additionally, among other changes, the legislation included measures to make the Sunny Day Fund more strategically focused.

- *Maryland Small Business Development Financing Authority*

The Maryland Small Business Development Financing Authority (Authority) was established by the General Assembly in 1978 to offer economic development financing assistance to socially disadvantaged business persons in Maryland. The Authority has four basic programs: (1) the Equity Participation Program; (2) the Small Business Development Contract Fund; (3) the Small Business Development Guaranty Fund; and (4) the Small Business Surety Bond Program. In 1994, the General Assembly enacted legislation that, among other things, authorized the then Department of Economic and Employment Development (the predecessor to the Department of Business and Economic Development) to contract with a private Maryland corporation formed by some or all of the Authority's staff for the purpose of administering the Authority's programs for a period of three years with a two-year renewal option. ***Chapter 570 of 1997*** authorized DBED to extend the expiration date of the management contract to June 30, 2002 and to renew the contract for an additional five-year term. The legislation also authorized DBED to include standards to evaluate the performance of the management company in rendering the services under the contract.

Various other changes were made to programs within the Maryland Small Business Development Financing Authority during the four-year term.

1. Equity Participation Program

In addition to the provisions authorizing the extension and renewal of the management contract, ***Chapter 570 of 1997*** made a number of changes to the Equity Participation Program, including increasing the maximum amount of financing from $100,000 to $500,000 for any franchise. The legislation removed the $3,000,000 annual cap on equity participation financing and opened up the eligibility requirements.

2. Small Business Surety Bond Program

The Authority may directly issue bid, payment, and performance bonds as surety for the benefit of principal contractors in connection with contracts in which the majority of the funding comes from a public source or a utility regulated by the Public Service Commission. The authority was initially granted in 1992 by the General Assembly, setting the maximum bond amount at $250,000. ***Chapter 117 of 1995*** increased this amount to $750,000.

- *Maryland Industrial Land Act and Maryland Industrial and Commercial Redevelopment Program*

The Maryland Industrial Land Act (MILA) was established by the General Assembly in 1972 to support local economic development by providing adequate sites and industrial shell buildings for the attraction of new industries and the expansion of existing industries. MILA authorizes loans for the acquisition of industrial sites, development of industrial parks, improvement of the infrastructure of potential industrial sites, construction of shell buildings for industrial use, improvement of public rights of way and installation of utilities, and rehabilitation of existing buildings and incubators.

The Maryland Industrial and Commercial Redevelopment Fund (MICRF) was established by the General Assembly in 1979 to provide grants and loans to local governments to facilitate industrial and commercial redevelopment. Eligible fund uses include land acquisition, building rehabilitation, infrastructure development, and direct business loans. Loans are made at below market rates, and until 1997, were made only to local political subdivisions. The local jurisdictions may use the funds as direct disbursements for economic development projects, disbursement to a company as a loan, or to guarantee private sector development loans.

The Joint Committee on State Economic Initiatives recommended that the General Assembly consider amending the laws governing the MILA and the MICRF to allow these programs to finance a more traditional base of economic development programs, allowing the Sunny Day Fund to be more strategically focused. Additionally, during the 193rd Term, local jurisdictions complained that MILA and MICRF were too inflexible to meet their diverse needs. In an effort to remove the statutory impediments to the full effectiveness of these programs, the General Assembly enacted ***Chapter 564 of 1997***.

1. Streamlining Financial Assistance

In addition to other changes designed to streamline the financing process, ***Chapter 564*** authorized direct loans to businesses from MILA and MICRF. The former law required the local jurisdictions act as "pass throughs" for loans. This structure slowed closings and required the jurisdictions to assume substantial risk. The legislation authorized the Department of Business and Economic Development (DBED) to obtain a guarantee from the local jurisdiction in which the business is located. Allowing the direct loans and guarantees eliminated the need for two separate loan transactions.

2. Full Faith and Credit Requirements

Taking steps to minimize the financial risk to the local jurisdictions, the legislation reduced the from 100% to 40% of the initial principal balance the amount of the loan for which local jurisdiction must pledge its full faith and credit. However, ***Chapter 564*** granted the Secretary of DBED some flexibility to adjust the full faith and credit requirements of the law. If the Secretary determines that the financing sought carries a high risk, the Secretary may require a higher pledge. For MICRF financing, the Secretary was empowered to approve loans that would not constitute a general obligation of the local jurisdiction in which an economic development project is located if the loan does not exceed $100,000, the local jurisdiction in which the project is located provides cash funds for the project that equals 40% of the loan, and the Department has adequate collateral to secure the loan or that the project is expected to general sufficient revenue to repay the loan. MILA was amended to reduce the local fund matching requirements to 10% for loans to finance planning and engineering studies and to acquire options to purchase prospective industrial land or park sites.

- *Tax Incentives*

Recommended by the Joint Committee on State Economic Development Initiatives as part of its overall strategy for economic development, the General Assembly established job creation tax credits. For more information about job creation tax credits established under ***Chapter 84 of 1996***, See Part B - Taxes, under the Subpart "Miscellaneous Taxes".

In the mid-1990's Maryland was placed near the top in rankings of states based on income tax burdens. The tax burdens were perceived as a disincentive for business location or expansion in the State. After studying the issue intensively during the 1996 Interim, the General Assembly enacted ***Chapter 4 of 1997*** to provide individual income tax relief. For further information, see Part - B Taxes, under the Subpart "Individual Income Tax Relief".

Technology Development

During the four-year term, the General Assembly recognized that in Maryland economic development was becoming closely tied to the technology sector of the economy. As such, the General Assembly took several steps to enhance the technological infrastructure of the State and encourage resulting commercial activities.

- *Public-Private Partnership Act of 1996*

In 1996, the General Assembly took a major step towards marshaling Maryland's technology resources for economic development. ***Chapter 406 of 1996*** altered the conflict of interest laws governing faculty and other officials at the State's public senior higher educational institutions so that those faculty and officials could enter controlled relationships with the private sector. The intent of the legislation was to expedite the movement of intellectual property and research from the laboratory to the marketplace through industry-sponsored research, incubator programs, technology licensing agreements, research parks, institutional employee ownership of equity in start-up companies, technical assistance, and continuing education. The basic approach of ***Chapter 406*** was to require the governing boards of the State's higher educational institutions that are engaged in research or development activities to adopt ethics policies and procedures to guide faculty and administrators and to manage and disclose any relationships that may give rise to concerns about conflicts of interest. Under the former law, the State Ethics Commission oversaw ethics issues related to conflicts of interest arising from outside research and entrepreneurial activities of faculty.

- *Maryland Science, Engineering, and Technology Development Corporation*

To further facilitate the commercialization of technology in the State, ***Chapter 661 of 1998*** created the Maryland Science, Engineering, and Technology Development Corporation (Corporation). The purpose of the Corporation is (1) to assist in transferring to the private sector and commercializing the results and products of scientific research and development conducted by colleges and universities; (2) assist in the commercialization of technologies developed in the private sector; and (3) foster this commercialization of research and development for the purpose of economic development throughout all regions of Maryland. As such, the Corporation was granted broad powers to carry out its purposes, and colleges and universities were granted the express authority to contract with and assign faculty and staff to the Corporation. Organizationally, the Corporation is similar to the Maryland Economic Development Corporation (MEDCO) which was established in 1984 to give a public corporation the capacity to directly own and develop property for economic development purposes. However, unlike MEDCO, the Corporation does not have bond issuance authority.

- *Maryland Economic Development Revenue Bond Act*

According to the then Department of Economic and Employment Development (the predecessor to the Department of Business and Economic Development) a report by Maryland's Regional and Local Technology Councils indicated that technology-based businesses had severe difficulties getting bank-financed working capital. Recognizing this concern in 1992, the federal government revised the federal law to authorize the financing of working capital through revenue bonds. The then Department of Economic and Employment Development (the predecessor of the Department of Business and Economic Development) indicated that other states had initiative this form of financing, placing Maryland at a competitive disadvantage. Chapter 327 of 1995 was enacted for the purpose of expanding the permissible uses of funds raised from industrial revenue bonds to include working capital. However, the working capital could not exceed 25% of the bonds issued. The legislation contained a termination date of September 30, 1998 which was subsequently repealed by ***Chapter 68 of 1998***. According to the Department of Business and Economic Development, repealing the termination will allow businesses to take advantage of bond financing terms that are competitive with other states.

Economic Impact on Small Businesses

In today's highly competitive and globally driven economic framework, small businesses have become a significant component of the Maryland economy, particularly in generating jobs. Because legislation often imposes a disproportionate impact on small businesses, the General Assembly recognized the need for a more systematic and consistent means of evaluating the impact of legislation on the operations and growth of small businesses. To institute this formal analysis, the General Assembly enacted ***Chapter 121 of 1995 and Chapter 692 of 1996***. Under ***Chapter 121 of 1995***, the Department of Legislative Services and executive branch agencies are required to review, analyze, and report on the impact of proposed legislation on the small business community. The analysis involves a rating that describes whether a particular piece of legislation will have a meaningful impact, a minimal impact, or no impact on small businesses. ***Chapter 692 of 1996*** established similar requirements for the review of proposed regulations by the General Assembly's Administrative, Executive, and Legislative Review.

FOOTBALL STADIUMS

Camden Yards

- ***Background***

In the early weeks of the 1996 Session, no other issue generated as much discussion and media attention as the agreement between the Maryland Stadium Authority and the Cleveland Browns football team to build a $200 million football stadium at Camden Yards.

Under the law passed in 1987, the Stadium Authority had been authorized to construct a professional football stadium at Camden Yards in Baltimore City, to issue bonds for this purpose, and to secure a franchise with a National Football

League team under a long-term lease. Acting under this authorization, the Stadium Authority entered into a Memorandum of Agreement on October 27, 1995 with the Cleveland Browns, Inc. in which the Authority agreed to design and construct a $200 million professional football stadium at Camden Yards in Baltimore City in time for the 1998 football season. The stadium is a 70,000 seat, natural grass, open-air, state-of-the-art facility with some 4,000 parking spaces. It is scheduled to be ready when the first preseason game begins on August 8, 1998.

The football team, now the Baltimore Ravens, agreed to play their home games at the new stadium and to lease the facility for a period of 30 years. No rent will be charged to the team for its use of the new football stadium at Camden Yards during the term of the lease. The Ravens may sell permanent seat licenses to pay for certain costs in relocating the team from Cleveland, with any amount of the proceeds in excess of $75 million (up to a maximum of $5 million) to be paid to the Authority.

The Authority's financing plan for the stadium project was based primarily upon funding from the sale of bonds ($92 million), contributions from State lottery proceeds (estimated to be $32 million over fiscal 1997-1999), and other sources. In addition, the owner of the Ravens will reimburse the Authority $24 million for the construction costs of the stadium.

The Stadium Authority agreed to substantial minority business participation in both stadium construction and ongoing stadium vendor contracts.

1996 Legislation

Legislative concern about the Agreement between the Maryland Stadium Authority and Art Modell, the owner of the football team, prompted the introduction of many bills relating to the stadium project. Under ***Chapter 327 of 1996***, the Stadium Authority was prohibited from closing on the sale of bonds for the construction of the stadium unless the lease with the Ravens required the team to reimburse the Authority $24 million for the construction costs, including the construction, fitting out, and furnishing of private suites at the stadium. The terms and conditions of the reimbursement were to be determined by the Authority. The Act required the Authority to transfer $24 million into a Public School Construction Fund (which was created under the Act) through annual payments of $2.4 million for the fiscal 2001 through 2010. Funds provided for school construction in the Fund are in addition to and not in substitution of general funds or any other funds provided in the Governor's allowance for public school construction.

- ***Fiscal 1997 Budget***

During the 1996 Session, language was added to the fiscal 1997 budget to provide that the $32 million special fund appropriation for the Maryland Stadium Facilities Fund for construction of a football stadium at Camden Yards may only be used for a project the size and scope of which does not exceed $200 million. By this stipulation, the General Assembly intended that the stadium facility may only be constructed in accordance with the terms of the 1995 Agreement at a maximum project cost of $200 million for all components including land acquisition, design, construction management, and construction.

- ***Proceeds from Sale of Permanent Seat Licenses***

To ensure that the owner of the Ravens did not automatically retain the proceeds of permanent seat licenses that remain after the payment of the team's relocation costs from Cleveland to Baltimore, ***Chapter 237 of 1996*** prohibited any proceeds that exceed the team's relocation costs from accruing directly to the benefit of any individual or private entity. The Act also mandated that excess permanent seat license proceeds be held by the Maryland Stadium Authority for stadium construction and continuing maintenance costs and clarified that the proceeds do not replace the $24 million reimbursement to the Authority for construction costs that the owner of the Ravens is required to pay under ***Chapter 327 of 1996***.

- ***Other Stadium-Related Bills***

A large number of bills were introduced in the 1996 Session to prohibit the building of the stadium, alter the conditions

of the Agreement, affect (or prohibit) the sale of personal seat licenses, or tie stadium funding to school construction. Each of these bills failed to pass.

Redskins Stadium

- ***Background***

Pursuant to a letter of intent of December 3, 1995, an agreement was signed on March 13, 1996 by the State, Prince George's County, the Maryland-National Capital Park and Planning Commission (MNCPPC), and the Washington Redskins football team to construct a professional football stadium on the Wilson Farm property in Landover, Prince George's County. Under the terms of the Agreement, MNCPPC agreed to sell 200 acres of the Wilson Farm tract to the Redskins for $4.1 million for the construction of a state-of-the-art 78,600 seat stadium for use by the Redskins for a period of 30 years. Construction of the stadium, which was completed in time for the 1997 football season, was the sole obligation of the Redskins.

The Agreement contained specific funding formulas applicable to both on-site and off-site infrastructure costs for the stadium. Construction of on-site infrastructure was the responsibility of the Redskins, subject to the obligation of Prince George's County to reimburse a portion of these costs for public roadways and parking areas. The County's obligation to reimburse the Redskins, however, was contingent on the State making a corresponding payment to the County for this purpose. Both the State and the County were held responsible for the costs of off-site infrastructure for the stadium project. The County's financial obligation for off-site infrastructure was subject to the State's payment of corresponding funds to the County for this purpose. As a contribution to the public road construction that is part of the off-site infrastructure, the County was to forego part of its share of State highway user revenues that would otherwise be payable to the County. The total State infrastructure contribution was capped at $70.5 million.

Additional provisions of the Agreement provided for a minimum of 25% of the total costs of the project to be incurred pursuant to contracts with minority business enterprises and a minimum of 30% of project employees to be residents of Prince George's County. The Agreement further required the construction of a community recreation complex on the Wilson Farm property that the MNCPPC will operate and construct at its expense with the aid of a contribution of $5 million from the State and specified in-kind contributions from the Washington Redskins. Prince George's County was required to establish a foundation to provide scholarships and other educational benefits and funding for students and public schools in the vicinity of the stadium to which the Redskins will contribute $4.4 million. The Agreement also granted the County and the State, at no cost, the use of one "sky suite" each at the stadium and provided for a Redskins community outreach program involving personal appearances or participation of Redskins team players at public schools and at other facilities or activities in the County.

- ***Fiscal 1997 Budget***

Language added to the fiscal 1997 budget provided that no more than $70.5 million is allowed to be spent in any fiscal year from the Transportation Trust Fund or from any other State source for the construction of State or County roadways or for grants relating to infrastructure required for the Redskins stadium. All responsibility for cost overruns beyond the $70.5 million was placed upon Prince George's County and the Redskins. The Maryland Department of Transportation was required to ensure that all design, safety, operational, and quality assurance standards are maintained to the Department's satisfaction. The State was held responsibile for constructing $26.8 million in specified road projects for which the State has construction management authority.

The Secretary of Transportation was authorized to grant $12.5 million to Prince George's County for construction or improvements to county roads that are not directly located on the Wilson Farm property if the County agreed to repay the Transportation Trust Fund $1 million annually and to be responsible for any cost overruns on the County road projects for which the County has construction management responsibility. The County may make this repayment either in quarterly installments or by deductions from the County's share of highway user revenues.

Funding for eligible on-site improvement projects for which the Redskins have management authority was to be provided through a grant from the Department of Transportation to Prince George's County. The grant had to be used

only to reimburse the Redskins up to $31.2 million if the Redskins agreed to provide at least $2.5 million towards the cost of on-site improvements that are ineligible for coverage under the Transportation Trust Fund and to be responsible for any cost overruns.

TOURISM

Heritage Areas

During the 1996 Session, the General Assembly undertook a major initiative aimed at fostering economic development by facilitating "heritage tourism." Developing the State's historic, natural, and recreational assets as tourist destinations is considered an important component of the State's efforts to increase overnight stays by tourists, reversing a trend in recent years of shorter overnight stays. Increasing tourism in these areas is meant to generate jobs, stimulate the creation of new businesses, and increase tax revenues for the State and local jurisdictions. ***Chapter 601 of 1996*** created the Maryland Heritage Areas Authority (Authority), an independent unit of State government within the Department of Housing and Community Development. Through the Authority, the State may provide a variety of financial resources and incentives to areas of Maryland that have been designated by the Authority as certified heritage areas. Becoming a certified heritage area is a multi-step process requiring the involvement of the local jurisdiction or jurisdictions in which the heritage area is identified. The financial incentives involve matching grants and income tax credits for qualified rehabilitation expenditures to heritage structures within a certified heritage area.

Ocean City Center Renovation and Expansion

Ocean City has long been a favorite destination both Maryland residents and out-of- state tourists. ***Chapter 603 of 1995*** authorized the Maryland Stadium Authority to expand the Ocean City Convention Center and to renovate the existing convention facilitates.

Montgomery County Convention Center

A study completed by the Stadium Authority ranking areas of the State that would benefit most from a new conference center placed Montgomery County only second to Ocean City as the area of the State to most benefit from a new conference center. Montgomery County is the home of many trade organizations, federal agencies, and high technology companies, yet there was a shortage of quality meeting and conference space. The largest meeting facility in the county then only had 16,000 square feet of meeting space. To address this issue, the General Assembly enacted ***Chapter 364 of 1995***. The legislation authorized the State to issue revenue bonds for the purpose of financing a portion of the construction costs for a conference center in Montgomery County.

Maryland Tourism Development Board

Chapter 471 of 1997 represented the State's commitment to improving its efforts in tourism advertising and promotion. The legislation required the Governor to include an appropriation for the Maryland Tourism Development Board Fund in the annual budget of $4 million in fiscal 1999, $5 million for fiscal 2000, and $6 million for fiscal 2001 and subsequent fiscal years. This funding compares to $3 million funding in fiscal 1998. Additionally, the legislation required the Office of Tourism Development to spend on tourism marketing in each year no less than the portion of the fiscal 1995 budget appropriation.

COMMUNITY DEVELOPMENT

In the legislative arena, the years from 1995 through 1998 were quiet for the Department of Housing and Community Development and community development. However, several new initiatives were undertaken.

Neighborhood Business Development Program

Chapter 115 of 1995 established the Neighborhood Business Development Program and Fund in the Department of Housing and Community Development. The Program was created for the purpose of establishing a pool of funds for community-based economic development activities in distressed areas. Funds are available for gap financing and other

forms of credit enhancement for small business development and related initiatives. The Program emphasizes the use of State dollars to leverage other sources of private and public financing. In 1997, ***Chapter 355*** allowed the Program to be more flexible by expanding criteria for eligible small businesses.

Neighborhood and Community Assistance Program

The Neighborhood and Community Assistance Program was established by ***Chapter 636 of 1996*** to encourage private investment to revitalize Maryland's older neighborhoods through tax credits of up to $125,000 which are made available to corporations and other business entities that are either subject to the financial institution franchise tax, the public service company franchise tax, or the insurance premiums tax that commit funds or other designated services for an approved project. The projects, to be developed by non-profit organizations, include redevelopment assistance, employment training, education, and crime prevention. No more than $2 million may be approved in each fiscal year. The Program created by ***Chapter 636 of 1996*** was modeled after similar initiatives in Pennsylvania and Virginia. In 1998, ***Chapter 578*** was enacted to allow businesses that are subject to individual income tax such as partnerships and sole proprietorships to receive the credits. However, the cap did not change on the annual amount.

St. Mary's City Commission

State efforts to protect historic St. Mary's City, the site recognized as Maryland's first capital, began in 1966 with the Creation of the Historic St. Mary's City Commission. The Commission's original mission was to preserve the historic areas of St. Mary's City, to interpret findings related to the history of the City, and to educate the public about the historical events which occurred in, or were related to, St. Mary's City. Since then, the emphasis has been on public educational programming and visitor attraction. However, for a variety of reasons, efforts to broaden the tourist appeal of St. Mary's City have not been successful. Consequently, in 1996 Governor Glendening convened a task force to consider a proposal to align historic St. Mary's City with St. Mary's College. ***Chapter 583 of 1997***, largely a product of the work of the task force, removed Historic St. Mary's City from the Department of Housing and Community Development and reauthorized it as an independent unit of State government in the Office of the Governor.

African American Museum Corporation

The Governor's Fiscal Year 1999 Capital Budget included $1.58 million in bonds to be administered by the Department of Housing an Community Development for the preparation of detailed plans to construct an African American Museum. As a result of this initiative, the General Assembly enacted ***Chapter 429 of 1998*** which established the Maryland African American Museum Corporation as an independent unit in the Executive Branch. The mission of the Corporation is to plan, develop, and manage a Maryland Museum of African American History and Culture in Baltimore City with the support of the Mayor and City Council of Baltimore City. The total capital project costs have been estimated at $24.7 million, and the completion date is expected in August, 2001.

PART H
BUSINESS AND ECONOMIC ISSUES

WORKERS' COMPENSATION

During the 1995-1998 term, the General Assembly enacted a multitude of measures impacting workers' compensation benefits and coverage and rates, and the proceedings of the Workers' Compensation Commission, the Subsequent Injury Fund, and the Workers' Compensation Benefit and Insurance Oversight Committee.

BENEFITS AND COVERAGE

Use of Controlled Dangerous Substances and Alcohol

After several attempts to adopt a lower standard for the denial of benefits for injuries caused by drug or alcohol use, legislation on the issue was enacted during the 1998 Session ***(Chapter 64 and 108)***. The *current* standard which remains law with the passage of the 1998 legislation provides that if an injury that would be compensable under the workers' compensation law is caused "solely" by the effect of drugs or alcohol, an employee is not entitled to any workers' compensation benefits.

However, ***Chapters 64 and 108 of 1998*** added a new standard for the denial of workers' compensation benefits if a workplace injury was caused by drug or alcohol use. Under the *new* standard, wage replacement benefits would be denied to a covered employee if the "primary cause" of an accidental personal injury was: (1) the intoxication of the employee while on duty; or (2) the effect on the employee of a controlled dangerous substance and the use of the substance was not in accordance with a prescription of a physician. Wage replacement benefits are calculated on the basis of the employee's wages. The employee continues to be entitled to medical treatment. There is a presumption that the effect of the controlled dangerous substance or intoxication was not the primary cause.

Insurance and employer representatives claimed that there was a reluctance to raise the issue of drug or alcohol use in a workers' compensation case to deny benefits because the current "sole cause" standard was difficult to prove. However, the main objection to the passage of legislation centered around the belief that an additional "primary cause" standard would insert fault into a "no-fault"; system for workers' compensation benefits. The legislation considered by the General Assembly over the past several years focused on encouraging employers to adopt a drug-free and alcohol-free workplace program, although the 1998 enacted legislation did not require the creation of one.

Death Benefits for Partly Dependent Individuals

Under the workers' compensation law, the Workers' Compensation Commission is charged with determining all questions of partial or total dependency with regard to the payment of death benefits. The Commission looks at the facts that exist at the time of the occurrence of the accident that caused the death or the date of the disablement that caused the death from an occupational disease. A partly dependent individual is one who received part of his or her subsistence from the deceased employee and had reasonable expectation that the support would continue if the employee had survived.

Partly dependent individuals may be entitled to an award even though there are wholly dependent claimants, although the Commission may apportion the amount of benefits payable to the dependents in each category. The maximum weekly death benefit payable equals two-thirds of the average weekly wage of the deceased covered employee, but may not exceed two-thirds of the State average weekly wage. A *totally* dependent spouse may collect a maximum of $45,000. The weekly death benefit payable to a partly dependent individual is equal to a percentage of the maximum weekly death benefit.

Chapter 690 of 1998 increased the total maximum amount that may be paid in workers' compensation death benefits to *partly* dependent individuals from $17,500 to $45,000. This amount is the total benefit amount that is to be apportioned among all of the partly dependents. The increase also applies to payments made to a partly dependent spouse who remarries and does not have dependent children.

Funeral Expenses

Under the workers' compensation law, death benefits are paid to dependents to compensate for the loss of income support whenever a covered employee is killed by a work-related accident or due to occupational disease. Benefits also are provided to cover funeral expenses. According to the 1997 National Funeral Directors Association Survey of Funeral Home Operations, the average cost for an adult, full-service funeral was $4,782. In 1988 the General Assembly increased the benefit payments provided to cover funeral expenses under workers' compensation from $1,200 to $2,500. ***Chapter 725 of 1998*** further increased the benefit payment to $5,000.

Notice on Termination of Medical Benefits and Temporary Total Benefits

During the 1997 legislative interim, the Workers' Compensation Benefit and Insurance Oversight Committee of the General Assembly heard testimony that medical payments had been stopped suddenly by an insurer without notice to the injured employee. Payments were stopped when the insurer determined that part of the treatment was for an injury that was unrelated to the workers' compensation injury. As a result of the lack of communication between the insurer, the injured employee, and the employee's treating physician, there may have been an unnecessary delay of the workers' compensation process.

Chapter 408 of 1998 required an insurer to notify an employee and the employee's treating physician, where treatment had been authorized by the insurer, when the insurer terminates the employee's workers' compensation medical benefits. The notice needs to include the reasons for the termination, a statement that the employee has a right to request a hearing, and any medical record relied upon by the insurer. Under the 1998 enactment, self-insurers are also subject to the notice of termination requirement.

Under the prior law, an insurer was only required to notify the injured employee when temporary total disability benefits were terminated. The notification requirement did not apply if the employee had returned to work, a treating physician advised the employee that the employee has reached maximum improvement, or the termination was after the termination date in an order of the Workers' Compensation Commission.

Multiple Employers

Under the workers' compensation law, an employee's workers' compensation disability benefit is based on the wages in the employment where the employee was injured. Concerns were raised in 1997 about the catastrophic losses of employees who work for multiple employers, especially if an injury occurs at a part-time job when the employee also holds a full-time job.

Chapter 350 of 1997 required the wage benefit for an injured employee with multiple employers to be based on the employment where the highest wages were earned. The employer where the injury occurred remains liable for compensation regardless of how the average weekly wages are calculated, and other employers are not held liable. Wages of the multiple employments may not be combined in calculating the average weekly wage.

The benefit is based on the highest wages only if the employee: (1) suffered a serious permanent partial disability or a permanent total disability; (2) worked, on average, less than 20 hours per week in the employment where the employee was injured; and (3) as a result of the injury, is unable to work at any employment the employee held at the time of injury. The provisions apply only to accidental personal injuries and not to occupational diseases.

If the employment where the injury occurred is not employment for which the employee receives the highest wage, the Subsequent Injury Fund must reimburse that employer or its insurer for any additional benefits that result from paying the employee based on the highest wages from other employment. The Fund retains its rights to be impleaded as a party and to defend cases involving payment by the Fund.

The wage calculation provisions of ***Chapter 350*** applied retroactively to injuries occurring on or after July 17, 1995; however any additional compensation may only be applied prospectively. The Workers' Compensation Commission and the Subsequent Injury Fund are required to report by December 1, 1998 on the nature and extent of additional

compensation.

Independent Contractors

State law requires an employer to maintain a workers' compensation insurance policy to cover all employees entitled to benefits for work-related injuries. Insurers charge premiums for workers' compensation insurance based on employee payroll. An issue of employee status often arises when an insurer audits an insured and seeks premium payments on workers whom the insured classifies as independent contractors rather than employees.

The test to determine whether an employer/employee relationship exists is well established in case law and often is applied retrospectively by the Workers' Compensation Commission. Even if an employer and worker sign an agreement indicating that the worker is an independent contractor, the employer's insurer may be responsible for paying workers' compensation benefits if a claim is filed arising from an injury and the Commission determines that an employer/employee relationship exists.

A number of bills were introduced during the 1996 Session to clarify the status of certain workers as independent contractors and to establish when a working relationship is a contractor/ subcontractor rather than employer/employee relationship.

- *Corporate officers, partners, and sole proprietors*

Chapter 437 of 1996 clarified that a principal contractor is not liable for workers' compensation coverage for corporate officers and members of a limited liability company who elect to be exempt from coverage, or partners in a partnership and sole proprietors who do not elect to be covered under the workers' compensation law. The measure established a presumption for a determination as to whether an individual is a sole proprietor.

- *Individuals Engaged in Farming Services*

Chapter 238 of 1996 excluded as a covered employee under workers' compensation an individual engaged in a farming service business who performs services for a farmer as an independent contractor. For the exclusion to apply, the individual must be engaged customarily in an individual business occupation of the same nature as the service performed for the farmer. Additionally, the individual must also be free from control and direction by the farmer, own the equipment used to perform the service, and receive compensation from which the farmer has not withheld any employment taxes. The exclusion does not apply to migrant farm workers.

- *Owners of Trucks*

Chapter 113 of 1996 clarified that an owner operator of a Class E (truck) vehicle is not a covered person as a subcontractor, nor is an owner operator considered a covered person of the entity that the individual operator owns and is not entitled to compensation from a principal contractor. Class E trucks are single unit trucks with two or more axles, and include dump trucks.

- *In-Home Health Care Providers*

During the 1995 Interim, several small home care agencies testified before the Workers' Compensation Benefit and Insurance Oversight Committee that individuals (such as nursing aides) who provide in-home care pursuant to a referral by an agency should be considered independent contractors. According to the Commission, there is no specific rule or policy regarding cases of in- home care providers. Each claim is adjudicated by the Commissioners on the basis of its own factual setting. In some instances, the provider may be held to be an independent contractor, not an employee, and therefore is not covered. In other instances, a provider will be held to have been an employee and, therefore, entitled to workers' compensation benefits. These differing results flow from the application of various factors identified by the courts as being relevant to the issue of the employment relationship. ***House Bill 876 of 1996*** (failed) would have provided that in-home care by an individual to another individual under certain circumstances is not covered employment under workers' compensation laws.

Lower Tier of Benefits

As part of the major reform legislation enacted in 1987, several changes were made to the workers' compensation benefit structure for permanent partial disabilities. One of the major features of that legislation was the creation of a lower tier of benefits for minor injuries. Under the 1987 legislation, loss of a thumb, finger, or great toe was exempted from the lower benefit tier until January, 1990. The exemption has been extended several times and ***Chapter 405 of 1996*** delayed the termination until January 1, 2001.

RATES

Scheduled Rating

In Maryland, private insurers operate under a "modified file and use" rate setting system. Workers' compensation rates consist of two components. The National Council of Compensation Insurance (NCCI) files one of the rate components annually with the Maryland Insurance Administration (MIA) on behalf of all private insurers. This component, called the "pure premium", is submitted for each job classification and must be no more than adequate to cover claim costs. Pure premiums act as a floor for workers' compensation rates. The MIA must approve all pure premium rate changes or must instruct the NCCI how large the change may be for a particular year.

The second component of the rate, called the "multiplier", reflects class code risk factors, as well as the profit margin and expenses of the insurer. An insurer cannot differentiate between different employers within the same class code system. Within this component, however, an insurer may adjust premium rates paid by employers to reflect the risk of the class code for whom the carrier provides coverage. Prior to the enactment of 1998 legislation, the only adjustment to premium rates allowed was through the use of a "uniform experience rating plan". This exclusive means of providing rate incentives allows insurers to adjust premiums prospectively, based on the measurement of the loss-producing characteristics of an employer. However, this form of adjustment only applies to employers with premiums of at least $5,000.

Chapter 737 of 1998 allowed a workers' compensation insurer to file a rate plan that provides another form of premium adjustments and would apply to all employers. The insurer's plan, generally referred to as "schedule rating", must be pursuant to guidelines filed by the rating organization and approved by the Insurance Commissioner. Under this form of adjustments, a carrier can look at a particular employer and give that employer a prospective premium adjustment based on any factor which the carrier deems appropriate for the risk characteristics of that employer. These adjustments, of up to 25%, would be different from those allowed under the uniform experience rating plan. The carrier assumes the risk associated with any scheduled rating adjustments.

WORKERS' COMPENSATION COMMISSION

Rehabilitation Practitioners

In 1986 the Governor's Study Commission on Workers' Compensation Reform raised questions regarding the need for rehabilitation practitioner certification or licensing. A rehabilitation practitioner provides vocational rehabilitation services. Under the 1987 workers' compensation reforms, a rehabilitation practitioner and businesses employing practitioners was required to register with the Workers' Compensation Commission in order to be reimbursed for services provided. In an effort to require additional regulatory oversight, legislation was enacted in 1997.

Chapter 625 of 1997 established educational and experience requirements for rehabilitation practitioners. All rehabilitation practitioners who are registered with the Commission by October 1, 1997 were waived from the requirements. All registration and renewal fees must be paid to a special fund to be used only to cover the costs of regulating the rehabilitation practitioner industry. Unless registered with the Commission, a rehabilitation practitioner may not be reimbursed for services rendered for workers' compensation injuries.

The 1997 Act established a seven-member Advisory Committee on the Registration of Rehabilitation Practitioners within the Commission to review and evaluate registration applications for rehabilitation practitioners. Practitioners must renew their registration every three years. ***Chapter 625 of 1997*** also provided a disciplinary mechanism for

registrants who do not comply with the rules and regulations governing the standards of practice for the delivery of vocational rehabilitation services. The Advisory Committee must submit a report to the Senate Finance and House Economic Matters committees of the General Assembly on its activities and the effect of this Act by October 1, 1999.

Collective Bargaining - Construction Carve-Out

Under the claims settlement process for workers' compensation cases, after a claim has been filed by a covered employee or the dependents of a covered employee, the covered employee or dependents may enter into an agreement for the final compromise and settlement of any current or future claim with: (1) the employer; (2) the insurer of the employer; (3) the Subsequent Injury Fund; or (4) the Uninsured Employers' Fund. The final compromise and settlement agreement may not take effect unless it has been approved by the Workers' Compensation Commission. When the Commission approves the agreement, it is binding on all parties.

Chapter 591 of 1997 allowed an employer and an exclusive bargaining representative of employees under the purview of the Building and Construction Trades Council to agree, through collective bargaining, to an alternative dispute resolution system. The collective bargaining agreement also may include: (1) the use of an agreed list of health care providers for medical treatment; (2) the use of an agreed list of health care providers to conduct independent medical examinations; (3) a return to work program; and (4) a vocational rehabilitation or retraining program. The agreement may include mediation and binding arbitration. Once an agreement has been filed with and determined by the Commission to be in compliance with the provisions of the bill and the Workers' Compensation Act, it is considered valid and binding on the employer and the bargaining unit.

Chapter 591 required all settlements and claims resolutions under an alternative dispute resolution system to be submitted to the Commission for approval. The Commission is required to approve settlements and claims resolutions that it determines to be in compliance with the Workers' Compensation Act. Once approved by the Commission, settlements and claims resolutions are subject to assessments payable to the Subsequent Injury Fund and the Uninsured Employers' Fund.

Notwithstanding the use of an agreed list of providers, an injured employee whose injury or treatment is related to a medical condition for which the employee is being or has been treated may continue to seek treatment from that health care provider. Furthermore, the agreement must include an appeal mechanism for a covered employee who wishes to use a health care provider who is not on the agreed list.

The bill also required the Commission and representatives of the parties involved with these collective bargaining agreements to report to the General Assembly the status of using such collective bargaining agreements by October 1, 1999.

Jurisdiction During Appeals of Penalty

An employer, a covered employee, or any other interested person who is aggrieved with a decision of the Workers' Compensation Commission may appeal to a circuit court. On appeal, the court conducts a "de novo" proceeding, which generally means a new trial on any of the matters heard and ruled upon by the Commission. At all times during the appeal, the Commission retains the authority to consider a request for additional medical treatment and attention. During any appeal, the circuit court has jurisdiction over the entire case except for a Commission order for further medical treatment.

Chapter 641 of 1997 allowed the Commission, whenever a party appeals a penalty imposed by the Commission, to retain jurisdiction of all issues in the case except the penalty that is being appealed.

SUBSEQUENT INJURY FUND

The purpose of the Subsequent Injury Fund is to encourage employers to hire disabled workers, usually those who have been previously injured in the workplace. Subsequent injury laws assure employers that if a worker with prior impairment is hired and the worker suffers a compensable injury on the job, the employer is not held liable for paying compensation for the total resulting disability. The employer is liable only for the effect of the subsequent injury, not

for the cumulative effect of the prior and subsequent injuries.

Chapter 292 of 1995 extended, from June 30, 1995 to June 30, 1999, the termination date of the 6.5% assessment, payable to the Subsequent Injury Fund, that is imposed on each award against an employer or its insurer for permanent disability or death, including awards for disfigurement or mutilation and each amount payable under a settlement agreement approved by the Workers' Compensation Commission.

Chapter 293 of 1995 also required the Fund to impose a 6.5% assessment on each amount paid by the Property and Casualty Guaranty Corporation on behalf of an insolvent insurer for: (1) each award for permanent disability or death; and (2) each award payable under any settlement agreement approved by the Workers' Compensation Commission. The Property and Casualty Insurance Guaranty Corporation was created to provide a mechanism for the payment of unpaid claims to residents of Maryland who are policyholders of insolvent insurers.

Chapter 293 also clarified that a Subsequent Injury Fund assessment is for payment of claims submitted to the Fund and is not a tax intended to benefit the State. The Maryland Court of Appeals held in Workers' Compensation Commission v. P.C. Ins. that assessments levied against employers or their workers' compensation carriers, in order to support the Fund, are in the nature of "taxes" and that the distinction, if any, between a tax and an assessment does not depend on the label used by the legislature. With such a ruling, Maryland insurance companies can be charged retaliatory taxes by other states. This measure provided clarification needed to reverse the court ruling and avoid the retaliatory taxes.

WORKERS' COMPENSATION BENEFIT AND INSURANCE OVERSIGHT COMMITTEE

The Workers' Compensation Benefit and Insurance Oversight Committee of the General Assembly was established in 1987 legislation for the purpose of reviewing workers' compensation issues. At the time it was established, its membership comprised several legislators and representatives of the various interest groups, including business, labor, insurance, medical, and the public. ***Chapter 405 of 1996*** expanded the membership to include two lawyers, one who represents plaintiffs in workers' compensation cases, and one who represents defendants.

PART H
BUSINESS AND ECONOMIC ISSUES

UNEMPLOYMENT INSURANCE

During the 1991-1994 term of the General Assembly, unemployment insurance taxation and charging underwent significant reform. However, during the 1995-1998 term, there were relatively few significant legislative initiatives.

UNEMPLOYMENT INSURANCE TRUST FUND

Maryland's unemployment insurance law requires the level of the Unemployment Insurance Trust Fund, which pays benefits to eligible unemployed individuals, to be maintained at a level between 4.7% and 5.5% of the total taxable wages of the State. In order to maintain relatively stable tax rates, the Trust Fund balance ideally must hover in this range.

EMPLOYER CONTRIBUTIONS AND SURCHARGE

With some limited exceptions, Maryland employers must contribute to the Unemployment Insurance Trust Fund. Approximately 95% of all employers make contributions. The employer's contribution is based on the first $8,500 in wages paid to an employee. Generally, the basic rate of an employer's contribution is determined by the amount of benefits charged to that employer in the immediately preceding three years. A different formula is applied to new employers who are not yet eligible for an earned rate. In addition to the basic contribution, an employer may be assessed a surcharge when the ratio between the Trust Fund balance and the total taxable wages of the State falls below 4.7% on September 30 in any given year. On September 30, 1994, the Trust Fund balance was approximately $394 million and the total taxable wages were approximately $13.8 billion, establishing a Trust Fund to wages ratio of 2.85%. Under the then current rate schedule, each contributing employer would be required to a surcharge of 1.7%.

Early in the 1995-1998 term, there was some measure of confidence that the Trust Fund could support a reduction in the surcharge. So, ***Chapter 1 of 1995*** was enacted to cap the surcharge for one year only. The reduction in the surcharge reduced the unemployment insurance contributions for 1995 by approximately $85 million dollars, a substantial savings to the business community. Subsequently, as the Trust Fund increased, the surcharge decreased to 0.6% in 1996 and 0.0% in 1997 and 1998.

BENEFITS

Maximum Weekly Benefits

The maximum weekly benefit of an eligible worker is set by statute. This amount has remained static from 1991 until 1994. However, ***Chapter 1 of 1995*** provided an increase in the maximum weekly benefit amount from $223 to $250 and adjusted the wage schedule accordingly. The maximum weekly benefit amount had not been changed since 1991. In 1995, the $250 maximum weekly amount represented approximately 47% of the average weekly wage.

Penalties for Aggravated Misconduct

In the 1992 Session, the General Assembly enacted legislation that created the category of aggravated misconduct from which a suspension of unemployment insurance benefits may be based. Under the 1992 law, in order to be penalized for aggravated misconduct, an employee would have to have been fired for conduct that resulted in physical assault or bodily injury or loss or damage to property. Penalties for aggravated misconduct conduct were added to the existing provisions governing misconduct and gross misconduct. The standard adopted in 1992 was increasingly identified as overbroad and unworkable. Labor interests argued that even insignificant property losses were producing unduly harsh penalties. To address these concerns, the General Assembly enacted ***Chapter 529 of 1995*** which altered the standard for a finding of aggravated misconduct. The new standard required a finding of actual malice and deliberate disregard for the property, safety, and life of others. The legislation also increased the penalties for aggravated misconduct.

SELF EMPLOYMENT ASSISTANCE PROGRAM

As part of a series of initiatives towards the creation of a new nationwide re-employment system, federal legislation was enacted in 1993 enabling states to implement programs to provide jobless workers with the training needed to start their own businesses. ***Chapter 332 of 1995*** authorized the then Department of Economic and Employment Development (whose oversight of the Unemployment Insurance Division has been since transferred to the Department of Labor, Licensing, and Regulation) to provide allowances in lieu of unemployment benefits to individuals for the purpose of assisting those individuals in becoming self-employed. The Program (1) applies only to persons who are eligible for unemployment insurance benefits, (2) substitutes the requirement that program participants participate in approved training instead of looking for work while receiving benefits, (3) waives the $70 per week limit on supplemental earnings while receiving unemployment benefits, and (4) limits to 5% the total number of claimants authorized to participate in the Program at any one time. The termination date for the Program is in 1999.

PART H
BUSINESS AND ECONOMIC ISSUES

LABOR AND INDUSTRY

During the 1995-1998 term, the General Assembly enacted several measures impacting the occupational safety and health program, the construction apprenticeship program, the wage and hour law, and the alcohol-free and drug-free workplace program at the Port of Baltimore.

OCCUPATIONAL SAFETY AND HEALTH

Issuance of Citations for Violations

The Division of Labor and Industry in the Department of Labor, Licensing, and Regulation is responsible for Maryland's Occupational Safety and Health Program (Program), which enforces the federal Occupational Safety and Health Administration (OSHA) program in Maryland, with the exception of maritime industries and federal employment. The OSHA program requires that each employer provide a safe and healthful workplace by complying with occupational safety and health regulations and preventing injuries and illnesses. Maryland's Program is required to be at least as effective as the federal OSHA program. To that end, the Program inspects workplaces and issues citations and assesses penalties when violations are found.

Chapter 496 of 1998 altered the time within which the Commissioner of Labor and Industry must issue citations for violations of the Maryland Occupational Safety and Health laws. The bill required the Commissioner to issue a citation for a Maryland Occupational Safety and Health Act (MOSHA) violation with reasonable promptness, not to exceed the earlier of 90 days from the date of the closing conference on the investigation or inspection or 6 months from the occurrence of the violation. If the incident investigated by the Commissioner involves a fatality or serious physical harm, the Commissioner must issue the citation with reasonable promptness, not to exceed 6 months from the occurrence of the violation.

The law prior to the enactment of ***Chapter 496*** did not specify the 90-day time line. According to the Division of Labor and Industry, a survey of citations issued within the past 2 years shows that 73% of all citations have been issued within 60 days of the closing conference. Ninety- one percent of all citations were issued within 90 days from the closing conference.

Assessment of Civil Penalties - Minor Violations

Under current law, the Commissioner of Labor and Industry must assess a civil penalty against an employer that receives a citation for a violation of the Maryland Occupational and Safety Act (MOSHA), an order passed under MOSHA, or a regulation adopted to carry out the provisions of MOSHA. Effective January 1992, maximum penalties for violations increased sevenfold to conform to federal law. Today, the maximum civil penalty is set for $7,000 for each violation. In accordance with the federally mandated increase in penalty assessment, the Division of Labor and Industry adopted regulations to govern determination of penalty amounts. A violation is considered a serious violation if there is a substantial probability that death or serious physical harm may result from a condition or a practice adopted or in use by an employer, unless the employer did not know and, with the exercise of reasonable diligence, could not have known of the violation.

During the last several years, the business community has complained that penalties were being assessed on minor first offenses when employers were not even aware of the violations until an inspection had taken place. During the 1995 Session, ***Senate Bill 270/House Bill 259 of 1995 (vetoed)*** were introduced that would have prohibited the Commissioner from imposing civil penalties against an employer that violates MOSHA if the Commissioner had not previously notified the employer of the violation, the violation is not a serious violation, and the employer corrects the violation within 10 days of the issuance of the citation. Because Maryland's authority to administer and enforce occupational health and safety depends on its system of civil penalties being as stringent as the federal system and the

operation of its regulatory system being at least as effective as the federal program, the bill also provided that if any of its provisions resulted in the loss of Maryland's administrative and enforcement authority, those provisions were abrogated and of no further force and effect. Based on the prospect of the loss of Maryland's authority, the Governor vetoed the legislation.

Reporting Injuries and Fatalities

Under current law, if an employment accident results in the death of an employee or the hospitalization of at least five employees, an employer must report the accident orally or in writing to the Commissioner of Labor and Industry. ***Chapter 334 of 1995*** reduced the time frame for reporting occupational fatalities and injuries involving employees to 8 hours after the accident occurs and eliminated the option to report the accident in writing. Additionally, the bill lowered the number of hospitalized employees required to trigger the reporting requirement to three employees. According to the Division of Labor and Industry, the bill tracked changes made to federal Occupational Health and Safety Act regulations.

CONSTRUCTION APPRENTICESHIP ASSISTANCE PROGRAM

Chapter 729 of 1998 established the Construction Apprenticeship Assistance Program (Program) in the Department of Labor, Licensing, and Regulation for the purpose of developing a well-trained, productive workforce which meets the needs of Maryland's construction industry. The Division of Employment and Training administers the Program. The Program awards grants to eligible private sector entities that operate apprenticeship programs; the grants are based on the number of participants in each program. Under the bill, to become eligible, a private sector entity must be approved by the Maryland Apprenticeship Training Council.

By regulation, the Secretary of Labor, Licensing, and Regulation must establish an application process and criteria to determine the eligibility of private sector entities. A grant awarded under the Program may not exceed $1,000 for each apprentice in an eligible private sector entity. Grants are awarded at the end of a program year to the extent that each apprentice completes the program year. In early calendar 1998, there were 3,631 active apprentices in the building and construction trades. Of these, 1,815 worked for a qualified private sector entity.

WAGE AND HOUR LAW

Prevailing Wage -- Overtime

Maryland is one of 30 states with a prevailing wage law. Maryland's prevailing wage rate is the hourly rate of wages paid to workers involved in the construction of certain public works (including those with a contract value over $500,000 or that part of a project utilizing federal funds where the federal law applies). The rate, which varies by occupation and locality, is determined by the Commissioner of Labor and Industry who is advised by the Advisory Council on Prevailing Wage Rates. The Advisory Council consists of members of management and labor organizations involved in the building and construction industry as well as the general public.

Chapter 687 of 1997 changed the overtime requirement under the State prevailing wage law so that overtime is paid to an employee for each hour worked in excess of 10 hours in any single calendar day and each hour worked in excess of 40 hours during one workweek. Prior to this measure, a prevailing wage worker was entitled to overtime for each hour worked in excess of 8 hours a day on any single calendar day and on a Sunday or legal holiday. The bill did not change the requirement that a prevailing wage employer must pay overtime on Sunday or a legal holiday.

The bill also: (1) created a penalty for a failure to post prevailing wage rates; (2) doubled the penalty for failure to pay the appropriate prevailing wage rate; (3) increased from one to two years the length of time a contractor can be barred from bidding on State projects for persistent and willful violations of the prevailing wage law; and (4) added uncodified language requesting the Governor include five wage and hour inspectors in the prevailing wage unit in the Fiscal Year 1999 Budget and applied the bill to contractsresulting from requests for proposals made after the effective date of the bill. The budgetary provision of the bill were effective October 1, 1997, while the remainder of the bill takes effect January 1, 1999.

Chapter 687 of 1997 was intended to give contractors more flexibility in work scheduling so that, for example, if they lose a day on a job because of bad weather they could catch up on subsequent days without having to pay overtime after 8 hours of work on a particular day.

Tipped Employees

Under current law, an employer may use tips that an employee receives as part of the employee's job in calculating total pay, for purposes of satisfying minimum wage requirements. The "tip-credit" applies only to employees who are engaged in an occupation through which they usually receive more than $30 each month in tips, have been informed by the employer about provisions of the law relating to tipped employees, and keep all of the tips that they receive. In Maryland, the amount that an employer may use to represent tips in total hourly wage calculation may be no more than 50% of the minimum wage. Under the current minimum wage of $4.75 an hour, the amount that an employer may use to represent tips may not be more than $2.37 an hour (50% of $4.75). Consequently, an employer is required to pay $2.38 an hour in wages. If an employee does not receive sufficient tips to reach the minimum wage, the employer must pay an amount sufficient to bring the employee to the minimum wage level.

However, when the federal law was changed in 1996 to increase the minimum wage from $4.25 an hour to $4.75 an hour ($5.15 an hour effective September 1, 1997), states were authorized to retain the $4.25 an hour minimum wage as the basis for determining the cash portion of the wage of a tipped employee. Under the current minimum wage of $4.75 an hour, the amount an employer may use to represent tips in total hourly wage calculation may not be more than $2.62 an hour, requiring the employer to pay $2.13 an hour (50% of the prior $4.25 an hour rate). Retained under the federal law is the requirement that an employer must pay the employee an amount sufficient to satisfy the current minimum wage, if an employee receives insufficient tips to reach the minimum wage.

Chapter 688 of 1997 provided that the current cash wage paid by employers to tipped employees shall be retained after the change in the minimum wage scheduled for September 1, 1997.

ALCOHOL-FREE AND DRUG-FREE WORKPLACE - PORT FACILITIES

Modern port facilities utilize sophisticated machinery that requires highly skilled, attentive workers. Marine cargo handling is a dangerous activity that results in a high incidence of injuries and property damage. An alcohol-free and drug-free workplace program is important in maintaining the safe operation of marine facilities while safeguarding the rights of workers.

As an important element in attracting and maintaining major shipping lines in Maryland, ***Chapter 651 of 1996*** required marine facilities in the Port of Baltimore to establish Alcohol-Free and Drug-Free Workplace programs. The programs must generally comply with the guidelines for a drug-free workplace program established by the Maryland Center for Workplace Safety and Health, a nonprofit educational institution created to assist Maryland businesses. Its mission is to promote, support, and encourage safety and health awareness and the prevention and elimination of substance abuse in the workplace.

WORKPLACE SMOKING BAN

In August 1994, the Commissioner of Labor and Industry adopted regulations that prohibited smoking in enclosed workplaces. ***Chapter 5 of 1995*** allowed smoking in specified areas in the hospitality industry (e.g., bars, hotels, and restaurants). For further information about changes to the law regarding smoking in the workplace, see the Public Health subheading in Part J.

PART H
BUSINESS AND ECONOMIC ISSUES

ALCOHOLIC BEVERAGES - STATEWIDE LAWS

Most of the legislative activity in the area of alcoholic beverages legislation concerns the sale and distribution of alcoholic beverages within individual political subdivisions of the State. These bills create licenses, alter existing licensure requirements, set license fees, and regulate hours and days of sale. Other local legislation concerns the compensation and duties of the members of the various boards of license commissioners. Relatively few bills are applicable statewide. There were, however, several notable statewide bills that were considered and enacted during the 1995-1998 term of the General Assembly.

RETAIL DELIVERIES AND DIRECT SHIPMENTS TO CONSUMERS

Until 1995, five counties (Howard, Kent, Montgomery, Queen Anne's and Talbot) allowed retail delivery of alcoholic beverages to a purchaser to be made only by a retail dealer who is licensed to sell and distribute alcoholic beverages. ***Chapter 472 of 1995*** extended this licensing requirement statewide and required the retail license holder to obtain a letter of authorization from the local licensing authority to make deliveries and comply with any regulations of the authority.

The ability to sell products directly to consumers through the Internet has concerned State alcoholic beverages officials, who believe that direct sales of alcoholic beverages may result in a loss of tax revenue and greater possibilities that persons under 21 years of age might consume alcoholic beverages, because monitoring who orders products through the Internet is not possible. ***Joint Resolution 11 of 1998*** urged the President and the United States Congress to enact legislation that would enable states to have access to federal court to enforce their own anti-direct delivery laws. In addition, the joint resolution required the Department of Legislative Services to study the regulation of alcoholic beverages in Maryland and on any restrictions on business practices in the sale of alcoholic beverages by manufacturers, wholesalers, and retailers, including the direct shipment of alcoholic beverages to consumers.

MICRO-BREWERY LICENSE AUTHORITY

Small, local beer/ale-brewing establishments that operate in conjunction with a restaurant are increasingly popular throughout Maryland. These micro-brewery licenses are State-issued, not locally issued. ***Chapter 417 of 1997*** expanded the privileges of a Class 7 micro-brewery licensee by: (1) increasing from 10,000 to 22,500 the total number of barrels that a licensee may brew per calendar year; (2) authorizing a licensee to bottle and store at off-site locations under certain conditions; and (3) authorizing a licensee to contract with another brewery in Maryland or a nonresident dealer to brew and bottle malt beverages on the licensee's behalf. If a licensee wishes to brew more than the maximum number of barrels allowed, the licensee must divest itself of any retail license held before obtaining a manufacturer's license. The bill also limited to 4,000 the total number of barrels that a licensee may sell to customers for consumption on the licensed premises.

Micro-breweries wishing to supply beer festivals or wine and beer festivals with their product had to operate under the State's Beer Franchise Fair Dealing Act, which mandates long-term franchise agreements between manufacturers and their distributors. ***Chapter 641 of 1998***, however, allowed a holder of a Class 7 micro-brewery license to enter into a one-time only agreement with a distributor for delivery of beer to a beer festival or wine and beer festival and the return of unused beer if: (1) the beer festival or wine and beer festival is in a sales territory for which the holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act; and (2) the temporary delivery agreement is in writing.

BEER AND WINE SAMPLING PRIVILEGES

Chapter 322 of 1996 authorized the holder of a Class 5 (major brewery) manufacturer's license to serve up to 6 ounces of beer brewed at the licensed premises as a sample to anyone of legal drinking age who has taken a tour of the

brewery. The licensee may also sell beer brewed at the brewery for off-premises consumption to anyone of legal drinking age who has taken a tour of the brewery, with purchases limited to 144 ounces of beer per person, per year. The brewer must keep appropriate records and periodically forward them to the State Comptroller.

Chapter 279 of 1998 authorized a licensed winery to serve free samples of up to six ounces of wine produced at the facility to tour participants who are 21 years of age or over. Under current law, wineries may sell up to one quart of wine per year from products grown in Maryland at a retail price to each tour participant who is 21 years of age or over.

FAMILY BEER AND WINE FACILITIES

Chapter 315 of 1996 established a Family Beer and Wine Facility permit. This permit authorizes the holder to establish a facility for the production of beer or wine that is for home consumption and not for sale by the permit holder or the consumer for whom the beer or wine is produced. The permit holder may provide equipment, raw materials and instructions to the consumer but may not engage in the actual production or manufacturing of beer or wine except to test equipment or recipes. Under the Act, the State Comptroller is to issue the permit and may restrict the permit holder to the production of either family beer or family wine. The holder of this permit is also prohibited from holding another alcoholic beverages license. Finally, the Act authorized the Comptroller to promulgate regulations regarding limits on quantities produced, requirements for record keeping, and any other activities relating to the operation of a family beer and wine facility.

Chapter 419 of 1997 increased the fee for a Family Beer and Wine Facility permit from $100 to $400. The Act also allowed the permit holder to offer for consumption at the facility up to five samples, not to exceed two ounces each, to a person who has a nonrefundable contract to brew or ferment at that facility. The Act also expanded the authority of the permit holder to produce beer or wine to provide as samples.

VALUE OF ADVERTISING

Chapter 480 of 1996 increased from $75 to $150 the value of a premanufactured advertising item or materials and labor for the custom manufacture of an advertising display that may be furnished by a brandowner for each of its individual brands for use in a retail alcoholic beverages establishment at any one time.

CONFERENCE CENTERS - STADIUM AUTHORITY

Chapter 626 of 1997 authorized a local board of license commissioners to issue a special Class B alcoholic beverages license to the management company of any conference center facility: (1) if the facility is physically connected to an adjacent hotel and jointly owned, operated, or financed by the Maryland Stadium Authority and a political subdivision or an instrumentality of that subdivision; and (2) the facility provides food and beverage service to registered guests at the hotel. License privileges are on-sale only at the facility and the adjacent hotel. The annual license fee is $2,500.

In 1996 the General Assembly granted funding to the Maryland Stadium Authority and Montgomery County for the development of a conference center and hotel facility in the White Flint area. In planning for the new facility, it became apparent that the physical layout and management plan were unique with respect to the issuance of a liquor license. The architectural design of the center specifies that the food and beverage service be located in the conference center portion of the facility. Hotel guests will receive food and beverage service from the conference center section, rather than from within the hotel building. Therefore, the special liquor license for a conference center facility authorized by ***Chapter 626 of 1997*** needs to held by the operators of the conference center, not the hotel.

PRIVATE BULK SALE PERMIT

Chapter 50 of 1997 established a private bulk sale permit for the sale of a specific inventory of alcoholic beverages. The permit carries a $25 fee and a 60-day expiration. The Act also established certain criteria for qualification for the permit and specifies the restrictions on the use of the permit. Finally, the Act expanded the authority of a retail dealer to allow purchase of alcoholic beverages from a permit holder and authorized the Comptroller to promulgate regulations regarding record-keeping, reporting requirements, and any other activities related to a private bulk sale

permit.

PERMIT RENEWAL DATES

Chapter 52 of 1997 altered the expiration date for most statewide alcoholic beverage permits issued by the Comptroller from May 31 to October 31 following their date of issue. In addition, the Act established a mechanism for permit terms and fees to be appropriately prorated so that permit holders will not have to apply for a permit twice in 1998.

"MEGASIZE" RETAIL STORES - LIMITATIONS

Chapter 383 of 1997 imposed a statewide limitation of 10,000 feet on the amount of floor space that a retail alcoholic beverages licensee may devote to the off-sale use of alcoholic beverages, subject to certain exceptions. Under the Act, boards of license commissioners may issue a license for use in a premises that exceeds the limitation only if a board: (1) holds a public hearing and makes a determination that the issuance of the license would serve the public need; (2) makes a determination that the issuance would not adversely impact existing retail licensees in the immediate vicinity of the premises; and (3) obtains a written review and approval of the Comptroller. Prince George's County was specifically exempted from the limitation and the City of Annapolis was specifically included. The Act also exempted licensed businesses that were in operation and exceeded the limitation on or before the effective date of the Act, October 1, 1997.

CATERER'S LICENSE

Chapter 757 of 1998 created a statewide caterer's (SCAT) license to be issued by the State Comptroller to qualified caterers. The Act established a general SCAT license which may be used throughout the State, and a limited SCAT license, which may only be used in up to three contiguous political subdivisions. In addition, the Act established a graduated fee scale for the licenses, depending on the population of the jurisdiction of the licensee, and provides for a credit for licensees who hold a permanent retail license or a special catering license. A SCAT license thus enables a holder for the first time to serve alcoholic beverages at a catered event in political subdivisions other than the one in which the caterer's principal office is located. The SCAT license, however, prohibits a caterer from serving alcoholic beverages at the caterer's principal office or serving alcoholic beverages at any event for which the caterer is a sponsor or promoter, unless the caterer operates under a permanent on-premises retail alcoholic beverages license issued by a local licensing authority.

SALES BY MINORS

Chapter 301 of 1998 prohibited a person under the age of 18 from being *engaged* in the sale of alcoholic beverages. The prohibition thus covers retail owners' family members who do not come under the current law banning "employees" under 18 from selling alcoholic beverages.

PART I
FINANCIAL INSTITUTIONS, COMMERCIAL LAW,
AND CORPORATIONS

FINANCIAL INSTITUTIONS

THE COMMISSIONER OF FINANCIAL REGULATION

Reorganization

Chapter 326 of 1996 established the new office of the Commissioner of Financial Regulation as a unit of the Department of Labor, Licensing, and Regulation. The Commissioner is appointed by the Secretary of Labor, Licensing, and Regulation with the approval of the Governor and the advice and consent of the Senate.

Chapter 326 abolished the Office of the State Bank Commissioner and the Office of the Commissioner of Consumer Credit and transferred the duties, responsibilities, authority, and functions of those offices to the office of the Commissioner of Financial Regulation. ***Chapter 326*** vested supervisory and regulatory authority over financial services in the State to the new Commissioner of Financial Regulation, with the assistance of a deputy commissioner. This consolidated structure is similar to the financial regulatory system utilized in about 7o% of the other states

Confidentiality of Information about Credit Unions

Chapter 569 of 1997 prohibited the Commissioner of Financial Regulation, and the employees of and the attorney for the Commissioner's office from disclosing confidential information about credit unions, except under limited circumstances. ***Chapter 569*** also prohibited any person from making any untrue statement that is derogatory to the financial condition of, or that affects the solvency or financial standing of, any credit union in the State, or to counsel, aid, procure, or induce another person to make, circulate, or send to another any such statement. ***Chapter 569*** also imposed penalties for violations of these standards. The confidentiality standards are similar to those standards imposed on bank employees.

AUTOMATED TELLER MACHINES - FEE DISCLOSURE

During the 1996 and 1997 Sessions, the General Assembly passed legislation to address the growing frustration among the public about the fees that banks and other institutions were charging customers for using an automated teller machine (ATM). A recently adopted industry rule had brought about increased focus on this issue as banks were then permitted to charge noncustomers an extra fee to access their accounts via an ATM. Many banks already charged their own customers a transaction fee each time the customer used an ATM outside the bank's system. Under the new industry rule, an additional fee could be charged by the owner of the ATM as well.

During the 1996 Session, the General Assembly enacted ***Chapter 205*** to require the Commissioner of Financial Regulation to conduct a study of the technological feasibility of listing, on the screen of an ATM at the time that the customer initiates a transaction, the amount of money the customer would be charged for using the ATM.

In response to the suggestion of the Commissioner, the General Assembly enacted ***Chapter 181 of 1997*** to require the operator of an ATM to disclose to the person using the ATM, at or before the time a transaction is initiated, the amount of the fee to be charged by the operator for use of the ATM by persons not using access devices issued by the operator. The goal of the proponents of this system was to allow a customer to make an informed choice about whether to continue the ATM transaction, given the fee that will be charged, or to terminate the transaction and not incur the fee.

BANK ACQUISITIONS AND BRANCHING

In response to the passage by the United States Congress of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (P.L. 103-328), which greatly expanded the right of banks to engage in interstate banking and

branching subject to some limited state regulation, the General Assembly enacted ***Chapter 213 of 1995***. The Riegle-Neal Act became effective September 29, 1995 and repealed the states' authority to limit bank acquisitions by out-of-state bank holding companies. One of the primary purposes of the federal law was to create a seamless, nationwide banking system that allows customers to bank more easily across state lines.

Interstate Banking

Chapter 213 of 1995 repealed provisions of Maryland law relating to the acquisition of stock in banks located in Maryland by out-of-state bank holding companies and regional reciprocal interstate banking acquisitions. In turn, ***Chapter 213*** established an application and approval process through the State Bank Commissioner for bank holding companies that want to acquire Maryland banks or Maryland bank holding companies.

Chapter 213 also amended various examination and reporting requirements under State law to ensure that an other-state bank that maintains a branch in Maryland complies with the requirements of the Community Reinvestment Act; submits financial reports required by the Bank Commissioner; and is subject to any penalties and fees applicable to banks generally that operate in Maryland.

Branch Banking

Chapter 213 of 1995 allowed an out-of-state bank to establish branches in Maryland and a banking institution in Maryland to establish branches within or outside of Maryland.

A banking institution in Maryland may establish a branch in another state by any means permitted by the laws of that state or by federal law. A banking institution that establishes a branch in another state may exercise at that branch all powers and rights permitted to banks in that state unless the Bank Commissioner determines that the exercise of a power or right would threaten the safety and soundness of the banking institution.

An other-state bank that establishes a branch in Maryland may exercise at the branch all powers and rights permitted to banking institutions in Maryland unless that bank's home state regulator determines that the exercise of a power or right would threaten the safety and soundness of the other-state bank.

An out-of-state bank proposing to establish a branch in Maryland must qualify under current State law requirements relating to foreign corporations wanting to do business in the State and must provide the Commissioner with a copy of the branch application within 15 days after filing a branch application with the appropriate bank supervisory agency.

Chapter 213 also altered the branch application process for Maryland-chartered banks and consolidated the procedures and requirements for branching in one part of the statute, and added a 30% deposit concentration limit to the interstate branching provisions that is similar to the limit established for a Maryland bank holding company.

COMMERCIAL BANKS

Lending Limits

In order to establish parity between Maryland-chartered commercial banks and national banks with regard to the total liability of any one borrower, ***Chapter 595 of 1995*** changed the definition of "unimpaired surplus" to include 100% (rather than 50%) of a commercial bank's reserves for loan losses. The effect of this change was to raise the limitation on the total liability of any one borrower to the bank. The change brought State law into conformity with federal law.

Capital Stock and Surplus Requirements

Chapter 593 of 1995 clarified that a commercial bank may not increase its capital stock unless its surplus will equal at least 20% of its capital stock following the increase. In addition, a commercial bank must transfer to surplus annually at least 10% of its net earnings any time its surplus is less than 100% of its capital stock.

Chapter 593 was intended to clarify existing law governing the capital stock and surplus requirements of commercial

banks and to remove uncertainty regarding the amount of surplus a commercial bank must lawfully maintain and what amount should be transferred to surplus annually.

Bank Charter Conversion

Chapter 689 of 1998 altered the process by which a national banking association, a federal stock savings and loan association, or a federal stock savings bank may convert to a State-chartered commercial bank. ***Chapter 689*** clarified when these financial institutions may convert to a State-chartered commercial bank, and streamlined the application process by eliminating the requirement that the converting institution first form as a State-chartered savings and loan before ultimately converting to a State-chartered commercial bank. ***Chapter 689*** also allowed any interested person to request the Commissioner of Financial Regulation to conduct a hearing regarding a proposed conversion.

Chapter 689 addressed one of the many issues that is still being considered by the Task Force to Study Bank Charter Modernization that was established by the General Assembly under ***Chapter 302 of 1997***. The Task Force, an 11-member panel chaired by the Commissioner of Financial Regulation and including industry representatives, regulators, and consumers, is expected to complete its review in the 1998 Interim and submit comprehensive bank charter reform legislation to the General Assembly for consideration in the 1999 Session.

CREDIT UNIONS

Mergers, Conversions, and Voluntary Receivership

Several bills relating to extraordinary actions involving credit unions were enacted in the 1995 Session: ***Chapter 408*** pertained to mergers; ***Chapter 358*** pertained to voluntary receivership; ***Chapter 357*** pertained to conversion of a foreign credit union to a State credit union; and ***Chapter 409*** pertained to the conversion of a State credit union to a federal credit union.

Each of these chapters required a majority of the board of directors of the credit union to adopt a resolution declaring that the extraordinary action is advisable. The proposal must then be set for a vote by the membership of the credit union on or before a date designated in the resolution. Balloting must be done by mail, unless the Bank Commissioner approves the request of the board of directors to substitute another reasonable method of determining the vote of the members. The matter voted upon will be deemed passed if approved by a majority of the members of the credit union who vote on the proposal.

Unsecured Loans to Members

Chapter 679 of 1997 permitted a credit union to make a loan to a member without security in any amount if the Commissioner of Financial Regulation has approved a policy for the credit union that covers all unsecured lending and the loan is made in accordance with the approved policy. Prior to 1997, the law allowed a credit union to make an unsecured loan of $400 or less to a member, or up to $20,000 with the approval of the Commissioner. ***Chapter 679*** also repealed the requirement that each written application for a loan to a member state the purpose for which the loan was requested.

Examination Fees and Assessments

As of 1997, the 12 State-chartered credit unions paid about $16,000 in annual fees, while the Commissioner of Financial Regulation reported that it was costing approximately $350,000 annually to regulate those institutions. ***Chapter 585 of 1997*** raised the annual assessments to approximately $135,000, thus bringing the fees more closely in line with the cost of regulating the credit unions and covering the expense of conducting annual safety and soundness examinations.

In particular, under ***Chapter 585***, small credit unions (institutions with less than $300,000 in assets) must pay a modest annual fee, while those credit unions with assets of $300,000 and over must pay an annual assessment of $1,000, plus 8 cents for each $1,000 of the credit union's assets over $1 million. The assessment must be based on assets stated in the credit union's most recent financial report and shall be paid on or before the February 15 after the assessment is

imposed.

SELLERS OF PAYMENT INSTRUMENTS - LICENSING REQUIREMENTS

The General Assembly enacted two significant measures concerning the licensing requirements for sellers of payment instruments (e.g., money orders or traveler's checks). ***Chapter 432 of 1995*** altered the qualifications for an applicant for a license to require that the applicant have a net worth of at least $100,000 as computed according to generally accepted accounting principles. In addition, the amount of the bond that must be filed with the Bank Commissioner (or the fair market value of "permissible investments" to be deposited with the Commissioner) was increased to $100,000 plus an additional amount of not less than $10,000 for each agent of the licensee, but in no event to exceed $350,000 as set by the Commissioner.

In addition, ***Chapter 432*** allowed a holder to consider a money order dormant or inactive for purposes of imposing a service charge if the owner, within 1 year of the date of issuance of the money order, has not corresponded in writing with the banking or financial organization or business association concerning it or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association.

The General Assembly made further changes in ***Chapter 23 of 1997*** by reducing paperwork and administrative costs involved in the licensing of agents engaged in money transmission. ***Chapter 23*** also simplified and clarified the currency exchange law for the money transmission industry, and increased consumer protection by lengthening, from 60 days to 5 years, the surety bond's liability period.

MORTGAGE BROKERS AND LENDERS - REGULATORY REFORM

During the 1996 Interim, the Commissioner of Financial Regulation convened an ad hoc workgroup to review the State's mortgage broker and lending laws. The recommendations of the workgroup were embodied in ***Chapter 588 of 1997***. The Act made a number of significant changes in the law to enhance the power and authority of the Commissioner of Financial Regulation over mortgage brokers and lenders where appropriate, and relaxed regulation where it was unnecessary and duplicative of the efforts of other regulatory bodies. ***Chapter 588*** provided significant additional measures designed to enhance consumer protection such as:

(1) increased bond requirements for mortgage lenders;

(2) enhanced experience requirements for brokers;

(3) criminal background checks for broker applicants;

(4) a reduction in the number of loans that an individual may broker without obtaining a license;

(5) significantly enhanced enforcement penalties made available to the Commissioner of Financial Regulation;

(6) a reduction of duplicative licensure and oversight by the Commissioner of Financial Regulation; and

(7) a 2-year licensing scheme implemented to improve administrative efficiency.

Chapter 588 also established the Task Force to Examine the Mortgage Lending Business to consider several controversial issues that the General Assembly had been unable to resolve completely during the 1997 Session, including: the cap on secondary mortgage fees; the location to receive an application and sign secondary mortgage documents; mortgage fraud; and the funds presented at settlement. During the 1997 Interim, the Task Force considered those unresolved issues and other mortgage-related issues and, as a result, ***Chapter 760 of 1998*** enacted additional mortgage lending reforms:

(1) changing the manner in which origination points may be charged by a lender on second mortgage loans by replacing the separate 2% interest cap for the lender and the additional 8% points cap for broker fees, with a *combined* points cap of 10% for broker fees and lender fees;

(2) eliminating a dual licensing requirement by specifying that lenders who have some form of consumer lending license do not also need an installment loan license;

(3) allowing a prospective borrower to receive an application for a mortgage loan by mail, telephone, electronic means, or at a location requested by the borrower, and requiring that loan closing be conducted at the lender's location, at the title insurer's office, at the attorney's office for either party, or at another location requested by the borrower on account of sickness;

(4) requiring the Commissioner of Financial Regulation to adopt regulations establishing continuing education requirements for mortgage lenders;

(5) expanding felony fraud penalties to include an employee or agent of a mortgage lender who willfully misappropriates or intentionally and fraudulently converts a borrower's money, and making a lender or its employees or agents who otherwise commit a fraudulent act in the course of engaging in the mortgage lending business subject to the fraud penalties; and

(6) clarifying and strengthening loan closing provisions.

PART I
FINANCIAL INSTITUTIONS, COMMERCIAL LAW,
AND CORPORATIONS

COMMERCIAL LAW

UNIFORM COMMERCIAL CODE

Major Revisions

Many commercial practices are governed by uniform laws that are adopted by many or all of the states. Since 1892, the National Conference of Commissioners on Uniform State Laws has worked towards the uniformity of many areas of state law. The National Conference is a non-profit organization comprised of members of the bar from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands. Each state is responsible for establishing a commission and selecting its representatives. The commissioners volunteer their services to determine which areas of the law would benefit society by being uniform and to draft, study, and revise uniform state laws. Over many years, the National Conference has undertaken the revision of the Uniform Commercial Code. During the 1995 -- 1998 term, the Maryland General Assembly considered and enacted legislation to update and revise three full titles of the Maryland Commercial Code to maintain uniformity with other states and to respond to the changing commercial environment. With minor exceptions, the revisions conform the Maryland laws to revisions recommended by the National Conference.

- *Negotiable Instruments*

Chapter 91 of 1996 revised Titles 3 and 4 of the Maryland Uniform Commercial Code (UCC) which governs negotiable instruments. Negotiable instruments include drafts (e.g., checks) and notes (e.g., certificates of deposit and promissory notes). The legislation adapted the law to changes in the marketplace, including technological advancements such as electronic check truncation. The revision also clarified ambiguities in the law by specifying the types of contracts that are considered negotiable instruments under the UCC and by revising provisions governing liability and defenses in disputes over negotiable instruments. The new law enhanced negotiability and established uniform statutes of limitation for the laws governing negotiable instruments.

- *Investment Securities*

Chapter 92 of 1996 revised Title 8 of the Maryland Uniform Commercial Code (UCC) which governs the transfer of investment securities. Among other changes meant to update the law, the legislation provided for a security "entitlement" which is a right that a person has in a security account with a "securities intermediary." A securities intermediary may be a bank, broker, or other person who, in the ordinary course of business, maintains securities accounts for another person. A security entitlement gives the entitlement holder a priority in that account over a securities intermediary or a creditor of the securities intermediary. The legislation also set out the mechanisms by which ownership and other interests in securities are recorded and changed.

- *Letters of Credit*

Chapter 652 of 1997 revised Title 5 of the Maryland Uniform Commercial Code (UCC) which governs letters of credit. The primary element of the commercial utility of letters of credit is the certainty of payment, independent of other claims, underlying agreements or other causes of action. When the original Article 5 of the Uniform Commercial Code was drafted 40 years ago, it was written for paper transactions and before many innovations in letter of credit transactions. Now electronic and other media are used extensively. Since the 1950s, standby letters of credit have developed in the marketplace and by 1997 nearly $500 billion standby letters of credit were issued annually worldwide, of which $250 billion were issued in the United States. The use of deferred payment letters of credit had also increased greatly. The evolution of customs and practices for letters of credit were reflected in the Uniform Customs and Practice (UCP). The UCP is usually incorporated into a letter of credit, particularly international letters of

credit. Since the 1950s, the UCP had seen four revisions but Article 5 had not been updated to address these practices until the 1990s. The purpose of the revision was to clarify certain aspects of the law, update the law, and conform the rules to current customs and practices. The revision accommodated new forms of letters of credit and evolving technology, particularly the use of electronic media. The revision also resolved conflicts among reported judicial decisions. Finally, the revision recognized international law and practice which was anticipated to facilitate international trade.

Secured Transactions (Title 9)

Chapter 43 of 1997 authorized a creditor to file, by submitting information by "electronic data interchange", any financing statement that must be filed with the State Department of Assessments and Taxation in order to perfect a security interest in collateral under Title 9 (Secured Transactions) of the Maryland Uniform Commercial Code. Electronic data interchange is a process by which one computer may transmit digital information to another computer. The legislation was intended to make these filings more convenient, especially for persons outside the Baltimore metropolitan area. Documents filed by transmission are subject to all fees that would apply if the filing were accomplished by other means.

CREDIT REGULATION

Credit Cards - Consumer Identification

Chapter 505 of 1995 allowed a person accepting a credit card or device as payment for consumer credit, goods, realty, or services to request the credit card holder to display a form of identification. The legislation was intended to reduce the fraudulent use of credit cards which, according to the Maryland Chiefs of Police Association, had recently increased. Under the legislation, a person is prohibited from recording the address or telephone number of a credit card holder, except under limited circumstances such as taking special orders.

Origination Fees

Under the law prior to 1996, lenders could charge a 2% "origination" fee for closed end second mortgages. However, lenders were prohibited from charging borrowers with origination fees on open end second mortgages (e.g., home equity lines of credit). ***Chapter 510 of 1996*** allowed lenders to charge an origination fee not to exceed 2% of the initial advance made under the open end credit plan.

Mortgage Lenders and Brokers

Chapter 588 of 1997 reformed the laws relating to the licensing and regulation of mortgage brokers and lenders in Maryland. ***Chapter 588*** established a task force to address issues left unresolved during the 1997 Legislative Session. ***Chapter 761 of 1998*** further altered the regulation of the mortgage lending industry. For further information about this issue, see Subpart "Financial Institutions" under this Part.

CONSUMER PROTECTION

Consumer Motor Vehicle Leasing Contracts

The Consumer Motor Vehicle Leasing Contracts Act (Act) was enacted in 1987 to regulate the leasing of motor vehicles. From the time of its enactment through 1994, the Division of Consumer Protection of the Office of the Attorney General received numerous complaints from lessees of motor vehicles concerning issues not addressed in the Act. ***Chapter 602 of 1995***, which applies to leases entered into after January 1, 1996, was intended to address some of those issues. Among many other changes, the legislation extended the application of the Act to consumer motor vehicle leases for used motor vehicles and to leases that do not include an option to purchase the leased vehicle at the expiration of the lease term. The scope of the Act was expanded to include leases that were at least 4 months in length. The former law only applied to leases that were at least 6 months in long. Additionally, ***Chapter 602*** contained a number of provisions intended to provide additional protections for consumers.

Kosher Products Law

State laws governing the sale of kosher products became constitutionally suspect in light of the federal decision in *Barghout v. Bureau of Kosher Meat and Food Control*, 66 F.3d 1337 (4th Cir. 1995). In *Barghout*, a Baltimore City ordinance was found unconstitutional under the Establishment Clause of the First Amendment. Under the ordinance, in order to evaluate whether a violation of the ordinance had occurred, Baltimore City authorities were required to determine whether a food product represented as kosher was indeed kosher, applying the standards of Orthodox Judaism. The court found that the ordinance resulted in an unconstitutional entanglement of governmental and religious authority. In an attempt to cure similar constitutional defects in the State law, the General Assembly enacted ***Chapter 377 of 1997*** which revised the Maryland Kosher Products Law.

The Act repealed those provisions of law that required State officials to determine, when enforcing the law, whether unpackaged foods and other specified products were kosher. The legislation required any individual or business entity to prominently and conspicuously display a disclosure statement if representing to the public that unpackaged foods are being sold or served as kosher, kosher for Passover, or under rabbinical or other supervision. The disclosure statement must specify the basis for the representation that the food or product is kosher and be displayed on the premises in which the food or products are sold or served. Additionally, the legislation required merchants who advertise that they sell kosher foods to clearly state in their advertisements whether they sell only kosher foods or a combination of kosher and nonkosher foods. The intent of ***Chapter 379 of 1997*** was to eliminate the role of State officials in determining whether food is kosher under the standards of Orthodox Judaism.

The Lemon Law

The Maryland Automotive Warranty Enforcement Act (the Lemon Law) provides consumers with a number of rights and remedies to aid in the enforcement of manufacturers' warranties on new motor vehicles. Under the Lemon Law, a motor vehicle is considered a "lemon" if, during the manufacturer's warranty period, it has a defect or condition that substantially impairs its use and market value and which cannot be repaired after a reasonable number of attempts. A consumer must provide notice of the defect or condition to the manufacturer or factory branch and give the manufacturer or factory branch the opportunity to repair the defect or condition. If the manufacturer or factory branch or its authorized dealer is unable to repair the motor vehicle after a reasonable number of attempts, the manufacturer or factory branch must replace it or accept return of the motor vehicle and refund the full purchase price less a reasonable allowance for its use. A motor vehicle is not considered a "lemon" if a defect or condition is caused by abuse, neglect, or unauthorized modifications of the motor vehicle.

- *Motorcycles*

Chapter 676 of 1998 extended the consumer protections provided by the Lemon Law to motorcycles. Prior to the passage of these bills, the Lemon Law applied only to new cars, small trucks, and multipurpose vehicles.

- *Notices*

Chapter 340 of 1998 required the Maryland Motor Vehicle Administration to develop and make available to dealers that sell new motor vehicles a notice that describes a consumer's rights under the Lemon Law. The notice must be given to a purchaser of a new motor vehicle by a dealer at the time of the sale or delivery.

TRADE REGULATION

Equipment Dealer Contracts

In 1987, the General Assembly enacted the Equipment Dealer Contract Act. Under the former provisions of the Act, small equipment dealers often have been surprised by suppliers' terminations or amendments of contracts with little or no notice and with minimal recourse. ***Chapter 33 of 1998*** amended the Act as it relates to the termination of contracts by requiring a supplier to have "good cause" and to provide prior notice to a dealer before terminating, canceling, or failing to renew a contract, except under specified circumstances. The legislation also required a dealer to submit to a

supplier a written request to sell or transfer any portion of the dealer's business before the sale or transfer. The request must include the financial information, personal background, character references, and work history of the potential transferee. Under the new law, the supplier is required to respond to the request within 90 days of receiving it. If the supplier refuses the request, it must provide the dealer with a written statement of its reason for refusal. The legislation also contains provisions allowing for the temporary operation of a dealership upon the death of the dealer.

Copyright Royalties

While Congress has enacted a federal copyright statute to protect works of art, literature, and music, a state may enact trade regulation that does not conflict with the Copyright Act. ***Chapter 611 of 1995*** was intended to address disputes that arose between performing rights societies (associations or corporations that license the public performance of non-dramatic musical works on behalf of copyright owners) and the proprietors of business establishments and professional offices that provide musical and other copyrighted works.

Chapter 611 regulated the terms and procedures under which performing rights societies may enter into contracts with proprietors for the payment of royalties. For example, the legislation required a performing rights society to provide specified information to a proprietor at least 72 hours before entering into a contract with the proprietor for the payment of royalties. The information includes a schedule of the rates and terms of royalties under the contract, a schedule of the rates and terms of royalties under agreements executed by the performing rights society and proprietors of comparable businesses in the area, a toll free number the proprietor can use to get information about specific musical works and the copyright owners represented by the performing rights society, and, if discounts are offered by the performing rights society, the amounts and terms of those discounts. Under the 1995 legislation, these contracts must be in writing, be signed by the parties, and include specified information, including the duration of the contract and the schedule of rates and terms of the royalties to be collected under the contract. A 1-year contract must be offered to a proprietor, but the parties may agree to a different term.

The legislation was also intended to protect proprietors from unfair, arbitrary, and harassing practices by performing rights societies. In addition to other changes, ***Chapter 611 of 1995*** prohibited the use of an unfair or deceptive act or practice in dealing or negotiating with a proprietor and the charging or collecting of a royalty which is unreasonable in comparison to the royalties for similar licenses in the area. The legislation also established remedies for violating the law, including damages, attorney's fees, and injunctive relief.

MARYLAND UNIFORM DISPOSITION OF ABANDONED PROPERTY ACT

Under the Maryland Uniform Disposition of Abandoned Property Act (the Abandoned Property Act), several types of personal property held by banking organizations, financial organizations, or business associations may be considered "abandoned" if there has been no activity in regard to the property for 5 years and the holder of the property has attempted to notify the named owner of the property. Once considered abandoned, the funds are placed in the hands of a special administrator in the Office of the Comptroller who must undertake further efforts to notify the property owners. The administrator is responsible for repaying rightful claimants of the abandoned property and for distributing unclaimed funds to the State.

During the 1995 -- 1998 term of the General Assembly, the Abandoned Property Act was revised for a variety of purposes. Most of the changes focused around clarifying and narrowing those categories of property that could be considered abandoned under the Abandoned Property Act.

Aggregate Amounts

Until 1995, the owner of property that is presumed to be abandoned under the Abandoned Property Act was required to send an annual report to the Comptroller of the State. Items of property that were worth less than $50 could have been reported by the holder in an aggregate amount. However, if an item was worth more than $50, it had to be identified in the report by the name and last known address of any owner. When the Office of the Comptroller received the report, the Office was required to mail a notice individually to each person for whom an address had been listed in the report and who appeared to be entitled to the property valued at $50 or more. Then the Office was required to publish notification in a newspaper of general circulation in the county of the owner's last known address. ***Chapter***

100 of 1996 increased from $50 to $100 the value of the property that is subject to individual reporting and notice requirements.

Scope of the Abandoned Property Act

Under the law prior to 1996, gift certificates were treated as items of personal property that had to be reported to the Office of the Comptroller as abandoned if the owner of the gift certificate had not redeemed the gift certificate for merchandise within 5 years after the date the gift certificate was purchased. Within 20 days after reporting the abandoned property, the store that sold the gift certificate was required to pay the Comptroller the value of the abandoned property (the amount of the gift certificate). ***Chapter 584 of 1996*** exempted gift certificates from the requirements of the Abandoned Property Act.

In 1997 and 1998, the General Assembly took further steps to narrow and clarify the Abandoned Property Act for the purpose of easing administrative burdens on businesses. Primarily, the legislation focused on property that may appear to be abandoned through accounting practices or errors and specified business to business transactions. ***Chapter 732 of 1997*** clarified that credits issued in connection with the sale of consumer goods to wholesalers or retailers in the ordinary course of business will not be considered abandoned property for purposes of the Abandoned Property Act. ***Chapter 732*** was intended to respond to particular practices in the commercial chain between the manufacturer and wholesaler or retailer. ***Chapter 663 of 1998*** again narrowed the applicability of the Abandoned Property Act by excluding (1) outstanding checks or credits issued to vendors or commercial customers in the ordinary course of business; (2) credit balances in vendor or commercial customer accounts that occur in the ordinary course of business; and (3) purchase price rebates issued to customers in the ordinary course of business.

Enforcement

Chapter 663 of 1998 prohibited the special administrator in the Comptroller's Office from examining a person's records relating to abandoned property from 5 years after the date the person filed an abandoned property report, absent a finding of fraud or gross negligence. Additionally, the legislation decreased the penalty for failing to pay or deliver abandoned property to the administrator as required by the Abandoned Property Act from 25% to 15% of the value of the property.

PART I
FINANCIAL INSTITUTIONS, COMMERCIAL LAW,
AND CORPORATIONS

CORPORATIONS AND ASSOCIATIONS

BUSINESS ORGANIZATIONS

During the 1995-1998 term, the General Assembly overhauled the Limited Liability Company Act of 1992 and the Maryland Uniform Partnership Act and made a number of other changes in the laws governing business organizations operating in the State, including limited liability partnerships, limited partnerships, corporations, and real estate investment trusts.

Limited Liability Companies

- *Limited Liability Company Reform Act of 1997*

Chapter 659 of 1997 made a number of changes intended to update the Maryland Limited Liability Company Act of 1992. The major changes made by the Act related to the formation, operation, continuity, and dissolution of, and conversions to, limited liability companies.

Under the prior law, two or more persons were required in order to form a limited liability company (LLC). However, an LLC was able to attain one-person membership by forming with two or more persons and then dissolving, leaving one member to carry on as the LLC. ***Chapter 659*** allowed formation by one person, thereby eliminating the need for dissolving the LLC.

The Act repealed the requirement that a written operating agreement may be amended only by a writing signed by an authorized person. However, the requirement that a signed writing is necessary when an amendment is adopted without unanimous consent of the members, or an interest in the LLC has been assigned to a person who has not been admitted as a member, was retained. The Act also repealed a provision of the former law that required the unanimous consent of the members of an LLC to confess a judgment or submit a claim or liability of the LLC to arbitration or reference.

As a result of changes in federal tax laws, it is no longer important for an LLC to lack the characteristic of "continuity of life". In light of these changes, ***Chapter 659*** amended various provisions of the former law affecting the dissolution and continuity of an LLC. The Act allowed an LLC to have perpetual existence, repealed a requirement that the articles of organization state the latest date on which the LLC is to dissolve, allowed assignees of members to elect to become members if the LLC otherwise would have no members, allowed an LLC to limit in its operating agreement the circumstances under which a person will automatically cease to be a member of the LLC, and repealed the default rule than an LLC is automatically dissolved upon the withdrawal of a member, substituting the default rule that an LLC is automatically dissolved if it has had no members for 90 consecutive days.

Chapter 659 of 1997 also simplified the process by which sole proprietorships, general partnerships, and limited partnerships may convert to an LLC, and extended to LLCs the prohibitions against fraudulent conveyances by partnerships contained in the Maryland Uniform Fraudulent Conveyance Act (Title 15, Subtitle 2 of the Commercial Law Article of the Annotated Code of Maryland).

- *Taxation of Limited Liability Companies*

Two 1997 Acts made several changes in the laws governing taxation of LLCs. ***Chapter 683 of 1997*** exempted certain transfers of real property to an LLC from recordation taxes and State and county transfer taxes. ***Chapter 603 of 1997*** revised State income tax filing requirements for certain LLCs and exempted from motor vehicle excise taxes certain transfers of vehicles to and from an LLC.

Revised Uniform Partnership Act

Chapter 654 of 1997 repealed the existing Maryland Uniform Partnership Act (MUPA), Title 9 of the Corporations and Associations Article, and enacted the Revised Uniform Partnership Act (RUPA) effective July 1, 1998. The purpose of the revision was to conform the law to the current development of business entities.

The RUPA, as contained in ***Chapter 654***, gives supremacy to the partnership agreement in most situations and, therefore, is largely a series of "default rules" that govern the relations among partners in situations that have not been addressed in a partnership agreement. The primary focus of the RUPA is the small, often informal partnership, since larger partnerships generally have a partnership agreement that addresses, and often modifies, many of the provisions of the statutory laws governing partnerships.

The RUPA enhances the entity treatment of partnerships to achieve simplicity for State law purposes, particularly in matters concerning title to partnership property. However, the aggregate approach, as opposed to the entity approach, is retained for some purposes, such as partners' joint and several liability. The RUPA also gives greater stability to partnerships by abandoning the traditional rules that a partnership is dissolved every time a member leaves. Under the RUPA, the withdrawal of a partner is a "dissociation" that results in a dissolution of the partnership only in certain limited circumstances. Finally, the RUPA provides a voluntary system for filing statements about a partnership with the State Department of Assessments and Taxation, clarifies the fiduciary duties that partners have to one another, and provides for statutory mergers of general partnerships with and into other entities.

Chapter 743 of 1998 temporarily recodified the text of the MUPA, which was superseded by the RUPA. This recodification was necessary because under RUPA, a partnership formed before July 1, 1998 continues to operate under the provisions of MUPA until the end of the year 2002, unless the partnership elects to be governed by RUPA. The recodification terminates after December 31, 2002 and, effective January 1, 2003, all partnerships in Maryland will be governed by RUPA.

Limited Liability Partnerships

- *Liability of Partners*

In 1994, the General Assembly enacted legislation that created the limited liability partnership (LLP), a new form of partnership that affords its members protection from personal liability that partners in a traditional general or limited partnership do not have. ***Chapter 439 of 1995*** expanded the protection from liability of a partner of a registered limited liability partnership. Under the Act, a partner is not liable or accountable, directly or indirectly, by way of indemnification, contribution, or otherwise, for debts, obligations, or liabilities of or chargeable to the partnership or another partner.

The liability limitation applies to any debts, obligations, or liabilities of the partnership or another partner that: (1) arise in tort, contract, or otherwise; (2) are incurred, created, or assumed by the partnership while the partnership is a registered limited liability partnership; and (3) arise solely because the partner: (i) is a partner in the partnership; (ii) acts or omits to act in that capacity; (iii) renders professional services; or (iv) otherwise participates as an employee, consultant, or contractor in the conduct of the business or activities of the partnership.

The Act also expanded the scope of a partner's protection from liability for the acts or omissions of another partner, employee, or agent of the partnership. The Act made a partner liable for the negligent or wrongful acts or omissions of the other individual only if the partner is negligent in appointing, *directly* supervising, or cooperating with the other individual.

- *Limited Liability Limited Partnerships*

Chapter 382 of 1996 extended the protection of an LLP to members of a limited partnership by allowing a limited partnership to register, on or after January 1, 1997, as an LLP. Registration as an LLP protects any partner in the partnership, including a general partner and a limited partner who takes part in the management of the partnership,

from personal liability for any debts and obligations of the partnership arising out of a negligent or wrongful act or omission of another partner or an employee or agent of the partnership, unless the first partner was negligent in appointing, supervising, or cooperating with the other partner, employee, or agent.

A limited partnership registered as an LLP is known as a limited liability limited partnership. To register as an LLP, a limited partnership must:

(1) include in its certificate of limited partnership or in an amendment to its certificate of limited partnership the information that is currently required under the Corporations and Associations Article to register as an LLP; and

(2) use the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP" as the last words or letters of its name.

Limited Partnerships

Chapter 758 of 1998 made three changes in the laws governing limited partnerships. Under prior law, the certificate of limited partnership filed with the State Department of Assessments and Taxation was required to state the latest date on which the limited partnership was to dissolve. ***Chapter 758*** created a default rule for perpetual existence by providing that if no dissolution date is stated in the partnership agreement, the limited partnership will have a perpetual existence, which must be explicitly stated in the certificate of limited partnership.

The Act also altered the circumstances under which a limited partner may withdraw from a limited partnership when the partnership agreement does not specify the time or the events on the occurrence of which a limited partner may withdraw. The Act prohibited withdrawal before dissolution and winding up of the limited partnership under these circumstances. However, provisions of the former law, which allowed a limited partner to withdraw by giving at least six months' prior written notice to each general partner, were retained for limited partnerships formed prior to October 1, 1998.

Finally, ***Chapter 758 of 1998*** clarified the manner of determining the fair value of a withdrawing limited partner's partnership interest. Currently, if the partnership agreement does not provide otherwise, a limited partner is entitled to receive the fair value of the partner's partnership interest in the limited partnership as of the date of withdrawal. The Act specified that fair value is based on the partner's right to share in distributions from the limited partnership.

Corporations and Real Estate Investment Trusts

Under current law, a real estate investment trust (REIT) may be formed either as a regular corporation or as a special statutory trust. ***Chapter 564 of 1995*** made changes to a number of provisions of the law governing REITs to conform these provisions to the corresponding provisions of the Maryland General Corporation Law. The major changes made by the Act related to the required contents of a REIT's declaration of trust, the removal of a trustee of a REIT, and the procedures for amending a REIT's declaration of trust.

Chapter 717 of 1997 authorized a REIT to execute and file articles of amendment, articles supplementary, articles of restatement, and articles of amendment and restatement with the State Department of Assessments and Taxation under the same procedures followed by Maryland corporations. Prior law did not state explicitly how a REIT could execute and file these documents. The Act also authorized a corporation to include in its charter restrictions on transferability, including restrictions designed to permit the corporation to qualify as a REIT under the Internal Revenue Code or as an investment company under the Investment Company Act of 1940.

In addition, ***Chapter 717*** made two changes in the law regulating corporate mergers. Prior law permitted, without stockholder approval, only an "upstream" merger of a subsidiary corporation into a parent corporation that owns at least 90% of the subsidiary's stock, and was silent on mergers of REITs and their subsidiaries. ***Chapter 717*** authorized a "downstream" merger of a parent corporation into a subsidiary, and of a REIT into a subsidiary, provided the parent corporation or REIT has at least a 90% ownership interest in the subsidiary at the time of the merger. The Act also increased from 15% to 20% the amount of stock a successor corporation or REIT may issue or deliver in a merger

without shareholder approval, bringing Maryland into conformity with the rules of the New York Stock Exchange.

Business Entities Generally

- *Resident Agents*

Under current law, a Maryland corporation, a foreign corporation registered in Maryland, a limited liability company, a limited liability partnership, and a limited partnership are required to designate a resident agent. ***Chapter 397 of 1998*** altered the existing law, which allowed a person to be designated as a resident agent without the person's consent, by prohibiting an entity from designating a person as a resident agent, on or after October 1, 1998, without first obtaining the person's written consent. Under the Act, the entity is required to file the written consent with the State Department of Assessments and Taxation (SDAT), and the consent is effective upon acceptance by the SDAT. The Act also allowed a resident agent to resign without paying the $10 recording fee currently charged by SDAT to record a notice of a change of the name or address of a resident agent.

For a discussion of ***Chapter 397*** *of 1998* as it relates to directors of investment companies, see the heading, "Corporate Stock, Stockholder Rights, and Directors", below.

- *Name Requirements*

Chapter 222 of 1998 consolidated and standardized the business entity name requirements and restrictions for different business entities that under prior law were located in various parts of the Corporations and Associations Article. The Act also changed the standard that the State Department of Assessments and Taxation uses to reject a business entity name because of its similarity to another business entity name. Under the Act, an entity name must be "distinguishable" from another entity's name, while prior law prohibited an entity name from being "misleadingly similar" to another entity's name. Under ***Chapter 222***, if an entity name is recorded, registered, or reserved prior to October 1, 1998, the entity name may continue to be used even if the name does not comply with the requirements established by the Act.

CORPORATE STOCK, STOCKHOLDER RIGHTS, AND DIRECTORS

Preemptive Rights

A preemptive right allows an existing stockholder to maintain the same percentage of stock in a corporation when new stock is issued. The "opt-out" approach to preemptive rights presumes that all stockholders have preemptive rights unless the corporate charter expressly provides otherwise. ***Chapter 449 of 1995*** reversed the "opt-out" approach to preemptive rights, embodied in the prior law, by providing that stockholders do not have preemptive rights unless such rights are expressly granted in the corporation's charter. Under the Act, the charter of a corporation may grant stockholders the preemptive right to subscribe to: (1) any or all additional issues of stock; or (2) any securities of the corporation convertible into additional issues of stock. The Act also permitted a stockholder to waive preemptive rights and provided that a written waiver is irrevocable even if it is not supported by consideration.

Voting Trusts

Under prior law, one or more stockholders of a corporation could transfer the right to vote or otherwise represent their shares of stock to a trustee for a period not exceeding ten years. The ten-year period could be extended, but only in very limited circumstances. Since extensions were limited, and since there was no prohibition under prior law on entering into subsequent voting trust agreements, some trustees transferred the shares in the voting trust back to the stockholders at the end of the ten-year agreement, for one day only, and then re- executed a new voting trust. ***Chapter 723 of 1997*** eliminated the need for this formality by repealing the ten-year limit on voting trust agreements. The Act also authorized shareholders of real estate investment trusts to enter into voting trust agreements.

Transfer of Assets to Wholly Owned Entities

Current law generally requires a corporation to obtain stockholder approval and file articles of transfer when

transferring corporate assets. ***Chapter 450 of 1995*** established an exception to these requirements by allowing a corporation, unless its charter or bylaws provide otherwise, to transfer assets to one or more persons whose equity interests are owned, directly or indirectly, by the corporation without obtaining stockholder approval and without filing articles of transfer. The Model Business Corporation Act, adopted by many states, exempts such transfers from the requirement of stockholder approval. The assets still remain within the ultimate ownership and control of the stockholders of the parent.

Stockholder Meetings

Under the former law, a special meeting of the stockholders of a corporation was required to be held on the written request of stockholders entitled to cast at least 25% of the votes that could be cast at the meeting. Since, under Maryland General Corporation Law, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at a meeting constitutes a quorum, the holders of only half the number of shares constituting a quorum were able under the former law to put the corporation to the time and expense of calling and holding a special stockholders meeting, without any assurance that even a quorum would attend.

Chapter 628 of 1996 altered the former law by allowing the charter or bylaws of a corporation to set a greater or lesser percentage of stockholder votes necessary to call a special meeting of the stockholders. The percentage set, however, may not be greater than a majority of all the votes entitled to be cast at the meeting. The Act also allowed stockholders to participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time.

Directors of Investment Companies

In a recent federal district court case, Strougo v. Scudder, Stevens & Clark, Inc., 964 F. Supp. 806 (S.D.N.Y. 1997), the court denied a motion to dismiss a shareholder suit that alleged that fund directors, who served on multiple boards of funds managed by the same investment adviser, breached their fiduciary duties of due care and loyalty under the federal Investment Company Act of 1940 and Maryland common law by conducting a rights offering that was not intended primarily to take advantage of investment opportunities, but rather to increase the managing investment advisor's (Scudder's) fees. In allowing the plaintiff's claims for breach of fiduciary duty to proceed, the court found that the "close and financially rewarding relationship with Scudder" alleged by the plaintiff was sufficient to call into question the independence and disinterestedness of the directors with respect to a rights offering that admittedly would benefit Scudder and dilute nonparticipating shareholders' interests.

In response to Strougo, ***Chapter 397 of 1998*** provided that a director of a corporation that is an "investment company" as defined by the federal Investment Company Act of 1940, who, with respect to the corporation, is not an "interested person" as defined by the Act, is considered independent and disinterested when making any determination or taking any action as a director. An "interested person" under the Act includes a person who has had, at any time since the beginning of the last two completed fiscal years of the investment company, a material business or professional relationship with: (1) that company; (2) its principal executive officer; (3) any other investment company having the same investment adviser or principal underwriter; or (4) the principal executive officer of the investment company. However, a person may not be deemed an "interested person" in an investment company *solely* by reason of being a member of its board of directors or advisory board or an owner of its securities. While ***Chapter 397*** will not affect the court's decision in Strougo, it does apply retroactively to any case filed on or after January 30, 1998.

For a discussion of ***Chapter 397*** as it relates to resident agents, see the heading, "Business Organizations", above.

MARYLAND SECURITIES ACT REVISION

Under current law, the Division of Securities of the Office of the Attorney General regulates investment advisers and offers and sales of securities in the State through a system of registration and registration fees. In general, a person may not transact business in the State as an investment adviser unless the person is registered and pays a registration fee. Similarly, a person may not offer or sell any security in the State unless the security is registered, or the security or transaction is exempt from registration, and the person filing the application to register the securities pays a filing fee for the registered securities.

The National Securities Market Improvement Act of 1996 (NSMIA) reallocated the regulatory authority of the federal Securities and Exchange Commission and the states, preempting certain state registration laws, including fee provisions. ***Chapter 613 of 1997*** made several changes in the Maryland Securities Act to conform to NSMIA.

To implement the division of regulatory authority imposed by NSMIA, ***Chapter 613*** created a category of "federal covered advisers", defined as persons registered under § 203 of the Investment Advisers Act of 1940, and a category of "federal covered securities" that includes mutual funds, securities listed on national exchanges, and limited offering private placement securities. ***Chapter 613*** exempted federal covered advisers and federal covered securities from State registration laws, and substituted a system of notice filing and notice filing fees that are equivalent to current registration fees. The Act also established uniform reporting, record keeping, and bonding requirements for broker-dealers and investment advisers consistent with NSMIA.

In addition to NSMIA-related changes, ***Chapter 613*** made a number of revisions intended to facilitate administration of the Maryland Securities Act, and adopted three recent amendments to the Uniform Securities Act. These amendments specify when the Securities Commissioner is stopped from taking disciplinary action against a licensed broker-dealer, agent, investment adviser, or investment adviser representative, add restitution and rescission as remedies that the Securities Commissioner may request from a court for the benefit of investors, and establish a catch-all exemption from broker-dealer registration requirements that will allow the Securities Commissioner to create a limited registration so that Canadian broker-dealers can serve existing Canadian customers who are temporarily in the State.

PART J
HEALTH

PUBLIC HEALTH - GENERALLY

MEDICAID MANAGED CARE

- *Background*

Growing concern about the escalating costs of the Medicaid Program and the fragmentation of services provided to Medicaid recipients led to the enactment of ***Chapter 500 of 1995***, which began the process of Medicaid reform in Maryland. The law authorized the Department of Health and Mental Hygiene (Department) to develop a program to move Medicaid recipients into managed care, much as the private sector was doing with employee health insurance coverage. The law also required the Department to obtain legislative approval of the program before it could be implemented.

Chapter 352 of 1996 granted the Department legislative approval to implement the Medicaid Managed Care Program (since named "HealthChoice"), pending the receipt of a waiver from the federal Health Care Financing Administration. The waiver was granted on October 30, 1996. Under HealthChoice most Medicaid recipients are required to enroll in a managed care organization or "MCO". An MCO is a certified health maintenance organization (HMO) or a managed care system that is authorized to receive Medicaid prepaid capitation payments, enrolls only Medicaid recipients, and is subject to specified solvency requirements. The law also provided a structural framework for the operation of the HealthChoice. The following are the major components of ***Chapter 352***.

- *Quality Standards*

MCOs must meet stringent performance, access, and quality standards, and are subject to a range of penalties for failure to meet those standards. They must submit to the Department service-specific data and utilization and outcome reports. MCOs must have enrollee and provider grievance systems, enrollee hotlines, and consumer advisory boards and must conduct enrollee and provider satisfaction surveys.

The law enhanced continuity of care for MCO enrollees by authorizing the Department of Health and Mental Hygiene to guarantee eligibility for up to six months, unless an enrollee obtains health insurance from another source. ***Chapter 352*** prohibited MCOs from directly enrolling HealthChoice recipients and instead required the Department or its contractor to conduct the enrollment process. The bill also established a Medicaid Advisory Committee to advise the Department on HealthChoice. At least half of the members of the Committee must be consumers.

- *Historic Providers*

One important goal of HealthChoice is to ensure that "historic providers", defined as health care providers who have demonstrated histories of providing care for Medicaid patients, are included in the new managed care system. ***Chapter 352*** required the Secretary of Health and Mental Hygiene to establish a mechanism to initially ensure that each historic provider has an opportunity to continue to serve Medicaid recipients as a subcontractor of at least one MCO.

- *Solvency*

MCOs that are not certified HMOs must meet solvency standards similar to those for HMOs, but ***Chapter 352*** allowed the Insurance Commissioner to adjust the standards under certain circumstances. When adopting these standards, the General Assembly attempted to strike a balance between encouraging MCOs that are not certified HMOs to participate in HealthChoice and protecting the financial interests of the State and continuity of care for enrollees.

- *Mental Health*

MCOs are responsible for providing "primary mental health services" under HealthChoice. The law permitted specialty mental health services to be provided either by a delivery system run by the Mental Hygiene Administration, or by MCOs that meet certain quality standards and contract with the Mental Hygiene Administration to provide those services. Departmental regulations subsequently established a specialty mental health system run by the Mental Hygiene Administration with services provided on a fee-for-service basis.

- *Special Needs Populations*

Chapter 352 permitted the Secretary to exclude, or "carve out", specific populations from the HealthChoice Program and to provide services to these populations separately. The Department has established a Rare and Expensive Case Management Program for individuals with specific medical conditions and pays for services to these individuals on a fee-for- service basis. MCOs are responsible for serving individuals with special health care needs who do not qualify for the Rare and Expensive Case Management Program. The law requires MCOs to employ appropriate personnel to assure that individuals with special needs obtain needed services and to coordinate these services.

- *Dental Care*

Chapter 352 also permitted the Secretary to exclude specific services, including dental services, from HealthChoice. The Department was reluctant to carve out dental services, because the dental benefit under the Maryland Medicaid program was very limited. However, ***Chapter 113 of 1998*** required the Department to increase access to dental services for all enrollees in order to increase utilization of dental services. The fiscal 1999 budget provides $2.15 million for oral health care services required by the bill. ***Chapter 113*** also required the Department to issue a request for proposals for the administration of dental services, to compare the cost and performance of dental managed care companies and MCOs.

CHILDREN AND FAMILIES HEALTH CARE PROGRAM

More than 12% of children in Maryland do not have health insurance coverage. Individuals without health insurance often delay or do not receive needed medical care. When medical care is provided, it is often in higher cost settings, such as hospital emergency departments. According to the Health Services Cost Review Commission, the cost of uncompensated care in Maryland hospitals, financed through the all-payor rate-setting system, is almost $1.2 million per day. Additionally, many uninsured children live in families with parents who are working or who are making the transition from welfare to work.

In 1997, the Governor submitted ***Senate Bill 233/House Bill 506*** (both failed) which would have created a "Thriving by Three" program of primary and preventive health coverage for pregnant women and children up to three years of age with family income below 250% of the federal poverty level. The program would have been funded entirely with State general funds.

Following the failure of the administration bills, the federal government enacted the Balanced Budget Act of 1997, committing $20.25 billion towards comprehensive health insurance coverage for uninsured, low-income children through block grants to states over a period of five years. The law allows states to implement a State Children's Health Insurance Program (SCHIP) through: (1) an expansion of the Medicaid program; (2) enrollment in a private health insurance plan; or (3) a combination of the two options. Federal funds will cover 65% of the cost of the plan and State general funds must cover the remaining 35%.

Chapter 110 of 1998 created in the Department of Health and Mental Hygiene a new Children and Families Health Care Program (Program) meeting the requirements for federal SCHIP funding. ***Chapter 110*** also expanded Medicaid eligibility to pregnant women with family income at or below 200% of the federal poverty level. The estimated cost in fiscal 1999 of the new Program and expanded coverage is $69.1 million, including $30.6 million in State general funds. The cost is expected to rise to $94.0 million, including $41.0 million in general funds, in fiscal 2000. The estimated cost includes an anticipated surge in enrollment in the regular Medicaid program, as a result of new outreach efforts to potentially eligible individuals.

The Program extends coverage for comprehensive medical care and other health care services to children from birth up to the age of 19 whose family income is at or below 200 % of the federal poverty level. To provide uninsured children with access to health care as soon as possible, and to begin to draw down federal funds, the Program will initially be implemented through the existing Medicaid "HealthChoice" program.

On or before July 1, 1999, children with family income between 185% and 200% of the federal poverty level will be required to enroll in an employer-sponsored health plan or an individual plan, if dependent coverage is available through the plan and if the plan meets the requirements of the law. The plan must meet federal standards, include a benefit that is substantially equivalent to the Medicaid Early and Periodic Screening Diagnosis and Treatment benefit, and be certified by the Secretary of Health and Mental Hygiene. If no qualifying employer-sponsored or individual health plan is available, the individual will enroll in HealthChoice.

Chapter 110 also required the Secretary to seek from the federal government a determination on the ability of the State to employ a refundable tax credit in the Program and to extend the use of an employer-sponsored plan or individual plan on a voluntary basis to individuals with income at or below 185 % of the poverty level.

Also by July 1, 1999, the Secretary will develop a family contribution schedule for the Program. For individuals with family income at or above 185 % of the poverty level, the family contribution must be between 1 and 2 % of annual family income.

To prevent people from dropping existing insurance coverage to qualify their children for the new program - referred to as "crowd-out" - ***Chapter 110*** required that an individual not voluntarily terminate employer-sponsored coverage within the past six months before applying.

To cut through the red tape that often discourages people from applying for benefits, ***Chapter 110*** provided for an expedited eligibility determination and required the Secretary to designate organizations to do outreach and assist individuals in applying for the Program. The Department must implement a school-based outreach program and permit applications by mail.

Chapter 110 directed the Maryland Health Care Foundation to develop programs to expand the availability of health insurance coverage to low income uninsured children, involve the private health insurance market in the delivery of health care coverage, and pursue funding for these alternatives. The Department, the Foundation, and others were required to study private health care coverage to uninsured children and their families that would qualify for enhanced federal funding and report back to the General Assembly by December 1, 1998. The bill authorized $500,000 in State funding for the Foundation.

MARYLAND HEALTH CARE FOUNDATION

Chapter 180 of 1997 established a statewide, nonprofit Maryland Health Care Foundation to solicit and receive moneys and in-kind contributions to support programs that expand the availability of health care services for uninsured Marylanders. A similar foundation in Virginia has contributed more than $24 million in private and state funds to projects such as helping establish a physician assistant school in a medically underserved area and providing funding for free health clinics, school-based health centers, and mobile units in rural areas.

Chapter 110 of 1998 directed the Maryland Health Care Foundation to develop programs to expand the availability of health insurance coverage to low income uninsured children, involve the private health insurance market in the delivery of health care coverage, and pursue funding for these alternatives. The Department of Health and Mental Hygiene, the Foundation, and others must study private health care coverage to uninsured children and their families that would qualify for enhanced federal funding and report back to the General Assembly by December 1, 1998. The law authorized $500,000 in State funding for the Foundation.

BREAST CANCER PROGRAM

Chapters 114 and 115 of 1998 established a Breast Cancer Program (Program). The Program is to be administered by the Department of Health and Mental Hygiene through grants to the local health departments. Individuals eligible for

the Program include those whose family income does not exceed 250% of the federal poverty level and who do not have access to health insurance that covers screening mammograms and clinical breast examinations. The Program must provide at least biennial screening mammograms and clinical breast examinations to qualified women aged 40 years to 49 years and annual screening mammograms and clinical breast examinations to qualified women aged 50 years and older. In addition, the Program must provide further diagnosis and treatment for individuals who are identified by the Program as being in need.

For each fiscal year, subject to the availability of State funds, the Governor must include an appropriation of general funds to the Program in an amount not less than the amount appropriated for breast cancer screening, diagnosis, and treatment in the State budget for fiscal 1999. The Fiscal Year 1999 Budget appropriates approximately $2.6 million for breast cancer screening, diagnosis, and treatment.

ORGAN AND TISSUE DONATION

Chapters 1 and 2 of 1998, the William H. Amoss Organ and Tissue Donation Act, enacted into law the recommendations of the Joint Legislative Task Force on Organ and Tissue Donation, co-chaired by the late Senator William H. Amoss. ***Chapters 1 and 2*** required that:

1. on or before each death in a hospital, the hospital contact the appropriate organ, tissue or eye recovery agency in order to determine the suitability of the patient for organ, tissue, and eye donation;

2. requests to donors' families for consent to organ and tissue donation be made only by an appropriate organ, tissue or eye recovery agency or by a hospital employee who has completed a course offered by an organ, tissue or eye recovery agency on how to approach donor families and request organ and tissue donation;

3. the Secretary of Health and Mental Hygiene publish guidelines that establish uniform hospital procedures for making referrals to an appropriate organ, tissue or eye recovery agency;

4. the Department, or an organ, tissue or eye recovery agency designated by the Department, conduct annual reviews of hospital death records;

5. organ and tissue donation language be included in the statutory health care decision making forms;

6. 16 and 17 year old minors be allowed, with parental consent, to be designated as organ and tissue donors on their driver's licenses or identification cards;

7. a decedent's next-of-kin not be asked to consent to organ or tissue donation if the decedent has a donor card, driver's license, or advance directive evidencing an anatomical gift;

8. the Department and the Motor Vehicle Administration report specified information annually to the General Assembly; and

9. all persons applying for or renewing a driver's license be given the option to make a $1 voluntary contribution to be deposited into an Organ and Tissue Awareness Fund.

NEEDLE EXCHANGE PROGRAM

The AIDS Prevention Sterile Needle and Syringe Exchange Program (Program) was established in 1994 as a three-year pilot program in Baltimore City. The Program provides participants with the one-to-one exchange of used hypodermic needles and syringes for sterile ones. The Program also provides counseling and information regarding drug treatment programs and education about the human immunodeficiency virus (HIV), tuberculosis, and sexually transmitted diseases. A Johns Hopkins University study indicated a 39.7 % decrease in the number of reported cases of HIV in Baltimore City since the Program's inception.

In 1997, ***Chapters 177 and 178*** extended the Program indefinitely and removed its "pilot" status.

Chapter 251 of 1998 was modeled after the Program. The bill authorized Prince George's County to establish a local needle exchange program to reduce the incidence of HIV, acquired immune deficiency syndrome (AIDS), and hepatitis B. A similar bill, ***Senate Bill 309*** (failed) would have allowed each county in the State to establish its own needle exchange program.

HEALTH RECORDS

Doctors, hospitals, health insurers, nonprofit health service plans, health maintenance organizations, and government agencies maintain information concerning the health care services rendered to Maryland residents. Although Maryland has a law governing the confidentiality of medical records, issues concerning the scope of the law and the adequacy of the remedies for a violation of the law have been raised.

Medical Care Database

Upon its creation in 1993, the Health Care Access and Cost Commission (HCACC) was mandated to establish and develop a medical care database on health care services rendered in Maryland. Current law authorizes HCACC to collect information on types of patient encounters with certain designated health care practitioners. The purpose of the database is to provide purchasers of health care and policy makers with accurate information concerning how health care dollars are spent and to enable policy makers to compare trends and variances in costs and utilization among health care practitioners, patients, regions of the State, and types of insurance.

Numerous concerns about the confidentiality and security of the medical care database were raised during the 1996 and 1997 Sessions. ***Senate Bill 529/House Bill 1031, Senate Bill 530/House Bill 1030, and Senate Bill 702/House Bill 557 of 1996*** (all failed) would have prohibited HCACC from collecting more than the month and year of birth when identifying the date of birth of a patient, required HCACC to eliminate any encrypted patient identifier after editing the data, prohibited HCACC from collecting patient information for the medical care database for self-pay patients, and required informed consent for collection of data for the database. ***Senate Bill 813/House Bill 834 of 1997*** (failed) would have prohibited the Health Care Access and Cost Commission from collecting data on the patient's month and day of birth, social security number, and last 2 digits of a patient's zip code for the medical care data base. The bill also would have required patients to be notified that data would be collected and required patients to provide consent for collection of the data.

Disclosure of Medical Records

Chapter 580 of 1997 made the State and its agencies subject to the penalties for violating the laws governing the confidentiality of medical records. It also substantially increased the criminal penalties for knowingly and willfully disclosing a medical record or requesting or obtaining a medical record under false pretenses. These increased penalties are commensurate with the penalties imposed by the United States Congress in the Health Insurance Portability and Accountability Act of 1996, which was signed into law on August 21, 1996.
In Warner v. Lerner, 115 Md App.S. 428 (1997), the Maryland Court of Special Appeals raised issues concerning specific provisions of State law governing the disclosure of medical records. In its decision, the Court encouraged the General Assembly to revisit the issue of disclosure of medical records of a patient who is not a party to a lawsuit without the authorization of the patient. On appeal, the Court of Appeals disagreed with the reasoning of the Court of Special Appeals. Legislation was introduced during the 1998 Session to clarify the issue of disclosure of medical records.

Chapter 630 of 1998 clarified the circumstances under which a health care provider must disclose medical records to a provider's insurer or legal counsel without the patient's authorization. Under the bill, medical records may be disclosed to a provider's insurer or legal counsel for the sole purpose of handling a potential or actual claim against a provider, if the patient or interested person is a party to the legal action.

Chapter 415 of 1998 clarified that accrediting organizations must adhere to confidentiality provisions when they access the records of medical review committees to examine a health facility's accreditation status. The bill prohibited accrediting organizations, health maintenance organizations, and the Department of Health and Mental Hygiene from

releasing these health records to third parties. Any third party requesting medical records must give the medical review committee the opportunity to obtain a protective order preventing release of the information.

ABORTION

Partial Birth Abortion

Senate Bill 145 of 1998 (failed) was a reintroduction of ***Senate Bill 493/House Bill 426*** (both failed) from the 1997 Session. The bills would have prohibited "partial-birth" abortions, which were defined as abortions in which the person performing the abortion partially delivers a living fetus vaginally before killing the fetus and completing the delivery. A person convicted of performing a partial-birth abortion would have been guilty of a misdemeanor and subject to a fine of $1,000 or imprisonment for not more than 2 years or both. The penalties would not have applied if a partial-birth abortion were necessary to save the life of a mother whose life was endangered by a physical disorder, illness, or injury, if there was no other medical procedure available to save the mother's life.

This bill was modeled after H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, which passed the U.S. Congress, but was vetoed by President Clinton on October 10, 1997. The President vetoed the bill because he stated that it did not contain an exception that would "adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury."

State Funding for Abortion

Each year the State budget bill contains budget language regarding restrictions on expenditure of State funds for abortions for Medicaid recipients. The budget language for all four years of the legislative term was identical to the language in previous years, permitting funding for abortion only upon the judgment of a physician that the procedure is necessary under one of the following conditions:

1. continuation of the pregnancy is likely to result in the death of the woman;

2. the woman is a victim of rape, sexual offense, or incest which has been reported to a law enforcement agency or a public health or social agency;

3. there is a reasonable degree of medical certainty that the fetus is affected by genetic defect or serious deformity or abnormality;

4. there is a reasonable degree of medical certainty that termination of pregnancy is medically necessary because there is substantial risk that continuation of the pregnancy could have a serious and adverse effect on the woman's present or future physical health; or

5. on the grounds of mental health, provided the physician or surgeon certifies in writing that in his or her professional judgment there exists medical evidence that continuation of the pregnancy is creating a serious effect on the woman's present mental health and if carried to term there is a substantial risk of a serious or long lasting effect on the woman's future mental health.

Controversy arose over the language during consideration of the new Children and Families Health Care Program in the 1998 Session. Funding for the program was provided as a new line item in the Fiscal Year 1999 Budget, and the Governor added in a supplemental budget the same restrictions on funding for abortion as in the Medicaid budget. Amendments to alter the language were considered in action both on the budget bill and on the children's health bills (***Chapter 110 of 1998 and House Bills 4 and 97*** (failed)). Ultimately, the language in the supplemental budget remained unchanged.

SMOKING

Smoking in the Workplace

In 1994, the Commissioner of Labor and Industry within the (then) Department of Licensing and Regulation adopted regulations that restricted smoking in enclosed workplaces. The regulations were occupational safety and health standards that were adopted as a means of protecting workers in the State from the effects of tobacco smoke.

The regulations generally prohibited smoking in all enclosed workplaces, with narrow exceptions. Employers could allow smoking only in specially constructed designated smoking areas; however, no employees could be required to work in the designated smoking areas.

The regulations were challenged in court but upheld by the Court of Appeals, taking effect in March 1995.

In response to the Court's ruling, ***Chapter 5 of 1995*** was enacted as emergency legislation that created certain exceptions to the regulations. The law provided that, notwithstanding the adoption of Maryland Occupational Safety and Health regulations, smoking was allowed in certain enclosed workplaces, including certain home offices, bars, clubs, some hotel rooms, the bar areas of restaurants with alcoholic beverage licenses, and enclosed rooms in other restaurants. The also allowed smoking in up to 40% of the premises of a non-profit fraternal, religious, patriotic or charitable institution, or corporation of a fire company or rescue squad during an event that was open to the public.

While the exception for the non-profit organizations permitted smoking during bingo games, the same exception did not apply to for-profit bingo establishments. ***House Bill 132 of 1996*** (vetoed) would have "leveled the playing field" by treating all bingo establishments the same in terms of smoking requirements.

Cigarette Vending Machines - Minor's Access to Tobacco Products

During the past two terms of the General Assembly, bills were introduced to limit or place restrictions on the availability of cigarettes to minors. In 1997, the federal Food and Drug Administration (FDA) began to regulate nicotine-containing cigarettes and smokeless tobacco as restricted devices under the Federal Food, Drug, and Cosmetic Act. Under the FDA regulations, retailers must verify a purchaser's age by photographic identification to ensure that purchasers are at least 18 years of age. The regulations also prohibit the sale of tobacco products through vending machines and self-service displays, except in facilities where individuals under the age of 18 are not present or permitted at any time.

Despite these new federal regulations, and the fact that State and local requirements pertaining to tobacco products may be preempted by them, the issue of minors' access to tobacco products continued to be debated in the General Assembly.

House Bill 1044 and Senate Bill 161/House Bill 998 of 1995, ***House Bill 331 of 1996, House Bill 711 of 1997, and House Bill 172 of 1998***(all failed) would have restricted the placement of tobacco vending machines to limit minors' access to the machines. The bills would have prohibited a person from selling or dispensing a tobacco product through a vending machine unless (1) the machine was located in a tavern, hotel, private club, tobacco shop, or establishment in which a minor would be prohibited from entering by law; or (2) the machine could only be operated with a token, card, or similar device. ***House Bill 1045 of 1995 and House Bill 326 of 1996*** (both failed) would have repealed the provision that exempts, under certain circumstances, owners of vending machines from certain penalties relating to the sale or distribution of tobacco products to minors. ***House Bill 224 of 1996 and Senate Bill 765/House Bill 271 of 1997***(all failed) would have prohibited a person from selling or offering to sell a tobacco product by means of a vending machine or other mechanical device.

PART J
HEALTH

HEALTH CARE FACILITIES AND REGULATION

Debate in the health care arena for the past quarter century has centered on cost vs. quality. Cost concerns arose out of the absence of traditional market forces in health care, caused largely by widespread availability of health care insurance and demand for increasingly sophisticated and expensive treatment. During the 1990s, the spectacular growth of managed health care has shifted the focus of the debate. Managed care organizations do not just pay for health care; they are prudent buyers of health care on behalf of their members. Managed care has caused health care providers, especially hospitals, to compete for business on the basis of cost, as well as quality. Competition for the health care dollar and the health care industry's response to managed care shaped legislation during the four-year legislative term.

Health care regulation in Maryland has evolved over the last three decades into a highly developed regulatory structure that incorporates the Department of Health and Mental Hygiene (DHMH), the Maryland Insurance Administration (MIA), and three independent commissions - the Health Resources Planning Commission (HRPC), the Health Services Cost Review Commission (HSCRC), and the Health Care Access and Cost Commission (HCACC). The cost of health care regulation by these agencies is approximately $22 million, supported by a combination of user fees, general funds, and federal funds.

The DHMH provides oversight for quality and services of facilities, practitioners, and health maintenance organizations; the MIA regulates all aspects of insurance, including financial solvency for insurance carriers and health maintenance organizations, and contracts that insurers and health maintenance organizations enter into with providers and health consumers; the HRPC oversees needs of the health care system by considering access, quality, and efficiency issues as it adopts the State Health Plan, projects future State health care needs, and administers the certificate of need process. The HSCRC regulates hospital rates and maintains the all-payor system. The HCACC oversees the comprehensive standard health benefit plan established for the small group market in Maryland, the provider encounter data system, quality and performance report cards for health maintenance organizations, and other measures enacted under the Maryland Health Insurance Reform Act of 1993 that are still under development, including provider practice parameters and the provider payment system.

HEALTH CARE REFORM ACT OF 1995

Chapter 499 of 1995 addressed a variety of health care regulatory issues, including coordination of the health care regulatory commissions, streamlining the requirements for the certificate of need process, requiring licensure of freestanding ambulatory care facilities, providing for a mechanism to determine the most appropriate setting for subacute care, and studying the equitable financing of hospital uncompensated care and graduate medical education.

Coordination of the Three Commissions

In an effort to ensure appropriate communication between the HRPC, HSCRC, and HCACC, ***Chapter 499*** required the three Commissions to coordinate their activities and duties. To the extent appropriate, the three Commissions must involve the Secretary of Health and Mental Hygiene and the Insurance Commissioner in coordination activities.

Certificate of Need (CON)

Until 1995, Maryland law and regulation provided incentives for the creation of ambulatory health care services, particularly surgical capacity, in non-hospital settings. Exemption from CON requirements fueled growth in the number of single-specialty ambulatory surgical centers far outstripping the demand for additional capacity. To constrain ambulatory surgical capacity and level the playing field between regulated hospitals and largely unregulated freestanding health care facilities, ***Chapter 499*** created new CON requirements for ambulatory surgical facilities. The law removed exemptions for single- specialty centers and required a CON for any ambulatory surgical facility with

two or more operating rooms. Exemptions were retained for dental offices and offices with only one operating room. Offices with two operating rooms could be exempted by the HRPC.

The bill also streamlined the CON process by allowing an evidentiary hearing only when the HRPC determines that a hearing is appropriate due to the magnitude of the impact the proposed project may have on the health care delivery system. If there is no evidentiary hearing, a decision on a CON must be made within 90 days after the docketing of the application. In all other cases, a decision must be rendered within 150 days after docketing. Ambulatory surgical facilities are not subject to an evidentiary hearing.

Licensing of Freestanding Ambulatory Care Facilities

Since the mid-1980s there has been a dramatic growth in providing increasingly complex care outside hospitals. Despite the growth in the number of freestanding ambulatory care facilities, there were no mandated quality standards for the facilities before 1995. ***Chapter 499*** required freestanding ambulatory care facilities to be licensed. Facilities requiring licensure include ambulatory surgical facilities, freestanding endoscopy facilities, freestanding facilities operating major medical equipment, freestanding birthing centers, and freestanding dialysis centers.

Subacute Care

Due to increased technology and decreased length of stay in hospitals, the subacute care industry has grown. For some time nursing homes have been providing subacute care. However, as more patients with complicated care needs are discharged from the hospital, a hospital setting may be a more appropriate setting for the provision of subacute care services in some cases. Because subacute care beds are included with skilled nursing home beds in terms of determining need, hospitals have had difficulty obtaining a CON for establishing these services. ***Chapter 499*** required the Health Resources Planning Commission to adopt regulations on the development of subacute care units. The regulations must take a comprehensive approach to subacute care and provide hospitals the opportunity to obtain a CON for these services. The Commission may not approve more than 10 hospital-based units within a subacute bed pool of comprehensive care beds that does not exceed 175 beds statewide.

Diagnostic Testing Fees

Law enacted in 1993 allowed physicians to bill only for the actual cost of a laboratory test plus a $5 collection and handling fee. The law prevented physicians from recouping the cost of professional services and, as a result, encouraged physicians to send patients to an outside laboratory, where services are more costly. ***Chapter 499*** repealed the limitation on physician charges for diagnostic lab testing that is processed outside the physician's office.

Uncompensated Care and Graduate Medical Education Costs

The costs associated with graduate medical education are currently only factored into the rates of teaching hospitals. Similarly, costs associated with uncompensated care are factored into the rates of those hospitals that treat the uninsured population. In today's price sensitive market, managed care organizations are able to choose lower cost hospitals, thereby avoiding the costs associated with graduate medical education and uncompensated care.

Chapter 499 required the Department of Fiscal Services, in consultation with the Health Services Cost Review Commission (HSCRC), to examine financing of graduate medical education and uncompensated care.

HEALTH CARE REGULATORY REFORM

Generally

Recent developments in health care delivery and financing, including the growth of managed care and the evolution of provider networks, have obscured the boundaries of the five regulatory agencies. Both health care provider and payor organizations have criticized the regulatory system for not keeping pace with developments in the industry.

Consolidation of Health Regulatory Commission

Senate Bill 521/House Bill 2 of 1998 (both failed) would have consolidated the health care regulatory commissions, deregulated certain functions, and required several studies. The bills would have merged the three commissions into a new nine-member Maryland Health Regulatory Commission (HRC), effective January 1, 2000. The HRC, like the current regulatory commissions, would have been supported by user fees assessed on third party payors and health care providers. The bills also would have transferred the health planning function from the HRPC to the DHMH.

Certificates of Need

To promote efficiency and eliminate excess hospital beds, the bills would have made a number of changes to the certificate of need (CON) program. For hospitals that are components of a merged asset organization located within the same health service area, the bills would have permitted changes:

- in bed capacity without a CON, as long as the changes did not involve comprehensive or extended care beds, or involve a hospital that is the sole provider of medical services in a county; and

- in the type or scope of a health care service, as long as the change did not establish a new medical service, expand or eliminate an existing medical service, involve comprehensive or extended care beds, or involve a hospital that is the sole provider of medical services in a county.

The bills also would have exempted from CON changes affecting State hospitals, hospital closures that did not involve a single hospital jurisdiction, and the conversion of a hospital to a limited service hospital. As defined in the bills, a limited service hospital would have been a health care facility that was licensed as a hospital on or after January 1, 1998 and eliminated its capability to admit or retain patients for overnight care. As a prelude to possible further deregulation, the bills would have required studies of the CON program with regard to home health and hospice care, facility mergers and consolidations, and specialized medical services.

In another attempt to reduce regulation, ***House Bill 1023 of 1998*** (failed) would have exempted home-based hospice care from CON.

Licensed Hospital Bed Capacity

Senate Bill 521/House Bill 2 also would have required the DHMH, in consultation with the regulatory commissions, to study and develop a methodology for calculating hospital licensed bed capacity. Before July 1, 1999, the DHMH would have had to delicense any hospital beds determined to be excess bed capacity under the methodology. The bills would have revised existing law to prevent hospitals from adding beds under the "10 beds or 10%" rule that may not be necessary (Health - General Article, § 19-115(h)(2)).

Outpatient Surgical Rates

Hospitals face competition from freestanding ambulatory surgical facilities and nonrate regulated hospitals in adjacent states and the District of Columbia, which offer discounts to HMOs and other third party payors. The HSCRC regulates the rates for outpatient services provided at Maryland hospitals. To avoid rate regulation and become more competitive, hospitals have been moving outpatient services away from hospitals and building their own freestanding ambulatory surgical facilities. To some, this is viewed as incurring unnecessary capital expenditures and duplicating existing capacity. In response, the bills would have authorized hospitals in one metropolitan and one rural region of the State to charge rates below those approved by the HSCRC for outpatient surgical services. The HSCRC would have continued to set the maximum rate for these outpatient surgical services and would not have recognized any revenue losses associated with the lower rates as reasonable costs for reimbursement. The rate deregulation pilot projects would have terminated in three years.

A departmental bill, ***House Bill 344 of 1998*** (failed) would have deregulated outpatient surgical rates statewide and authorized the HSCRC to permit hospitals to charge below HSCRC-approved rates for other outpatient services.

Uniform Payment System; Practice Parameters

Responding to changes in the health care marketplace, ***Senate Bill 521/House Bill 2*** would have repealed two responsibilities of the HCACC: the uniform payment system for health care services and the Advisory Committee on Practice Parameters. The HCACC would have been authorized to prohibit the unbundling of procedural codes and to require payors to use rebundling edits and make the standards for rebundling available to the public on request. With regard to practice parameters, the bills would have required the HCACC to report on their uses in private industry. A departmental bill, ***House Bill 272*** (failed) would have altered the process in which specialists vote for the adoption of a practice parameter, but would have permitted the HCACC to continue to adopt practice parameters.

Subjects for other studies and reports would have included downstream risk arrangements, health care performance outcomes, uncompensated care in ambulatory settings, and the management and organization of the new Health Regulatory Commission.

Health Care Facility Deregulation

Senate Bill 485/House Bill 647 of 1998 (both failed) also dealt with health care facility deregulation. To promote consolidations and improve efficiency, the bills would have exempted from CON the relocation of certain health facilities, beds, or services.

The bills also would have exempted from CON a new open heart surgery service if:

- The HSCRC determined that there would be a net saving to the health care system;
- The open heart surgery service would be consistent with the health care facility's license; and
- There was no expansion in the total number of inpatient beds in the facility, except as permitted under current CON law, or in the total number of operating rooms in the facility.

The bills also would have directed the Secretary of Health and Mental Hygiene to adopt regulations that set quality of care standards for special services, those services that are critical to patient life or health, including open heart surgery, offered by hospitals.

CRIMINAL HISTORY RECORD CHECKS

Growing concern about abuse of vulnerable adults in nursing homes and community programs led the General Assembly to require employers to investigate the backgrounds of potential employees.

Chapter 572 of 1996 required all "adult dependent care programs", at their expense, to perform criminal history records checks or background checks on their employees. As defined under ***Chapter 572***, an adult dependent care program includes: (1) an adult day care facility; (2) a domiciliary care facility; (3) a group home; (4) an alternative living unit; (5) a home health agency; (6) a hospice facility; and (7) a related institution, which includes a nursing facility. Under ***Chapter 572***, State criminal history records checks and background checks are limited to employees who: (1) for compensation, work for an adult dependent care program; (2) have routine, direct access to dependent adults in the adult dependent care program; and (3) are not licensed or certified under the State law. In addition to the State criminal history records check or the background check, the adult dependent care program must request a reference from the employee's most recent employer. At a minimum, the required reference must seek information about any history of physical abuse on the part of the employee. ***Chapter 572*** prohibited an employer who provides a reference for an employee from being held liable for disclosing any information about the employee's job performance or the reason for the termination of employment if the reference was provided in good faith.

House Bill 801 of 1998 (failed) would have required adult dependent care programs to apply and pay for national and State criminal history records checks for prospective employees. Most of the programs have been contracting with private firms to do the background checks permitted under current law.

PART J
HEALTH

HEALTH OCCUPATIONS

MASSAGE THERAPISTS

According to the *New England Journal of Medicine*, massage therapy ranks third among the most frequently used forms of alternative health care. To ensure that massage therapists who practice in the State are appropriately trained and educated, ***Chapter 678 of 1996*** authorized the State Board of *Chiropractic Examiners to certify and regulate massage therapists.* ***Senate Bill 215 of 1995*** (failed) would have put massage therapists under the State Board of Nursing.

OPTOMETRISTS

Since 1989, optometrists have been authorized to use diagnostic agents to diagnose eye diseases. However, they were required to refer patients to an ophthalmologist for treatment of diagnosed disorders because current law does not permit optometrists to use therapeutic agents. ***Chapter 521 of 1995*** sought to improve the quality of eye care and access to cost-effective eye care in the State by authorizing optometrists who meet specified requirements to use limited therapeutic agents and to perform limited procedures related to the eye. Specifically, the bill authorized a narrow scope of practice for the prescribing, administering, and dispensing of topical drugs and removal of foreign bodies from the eye.

BOARD OF PROFESSIONAL COUNSELORS

Certification of Alcohol and Drug Abuse Counselors

Chapters 576 and 577 of 1996 established a three-tiered system of certification for alcohol and drug abuse counselors under the State Board of Examiners of Professional Counselors. The law also eliminated the exemption from the prohibition against the unlicensed practice of psychology for people working in certified or accredited alcohol and drug abuse treatment programs as of October 1, 2001. The law defined alcohol and drug counseling, specified the education and training requirements for certification under each of the three tiers, and established supervision requirements for the lower two tiers. An individual must be certified by the Board before representing to the public that the individual is a certified alcohol and drug counselor.

Clinical Professional Counseling

Until 1998, State law required professional counselors to be certified but not licensed. Confusion about the ability of certified professional counselors to diagnose and treat mental and emotional disorders was "problematic" for some managed care organizations which, in turn, kept certified professional counselors off their provider panels.

House Bill 1403 of 1997 (failed) would have allowed an individual to render a diagnosis and use psychotherapy to treat disorders if the individual had received a certificate of clinical endorsement from the Board.

Senate Bill 736 of 1997 (failed) would have established two categories of licensure for professional counselors: professional counselors-clinical and professional counselors- marriage and family therapists-clinical. The education and training that would have been required of these licensed professional counselors would have been equal to that required of licensed certified social workers-clinical. The bill also would have expanded the scope of practice to include the rendering of a diagnosis based on a recognized manual of mental and emotional disorders and the use of psychotherapy to treat disorders.

Chapters 131 and 132 of 1998 established licensing requirements for clinical counseling. An individual must be licensed by the State Board of Professional Counselors (Board) before the individual may practice clinical professional counseling in Maryland. This includes clinical counseling, clinical marriage and family therapy, and clinical alcohol

and drug counseling. Clinical counselors must meet additional requirements for licensure beyond those established for certified professional counselors. The Board is authorized to waive licensing for any person who is currently certified, has filed a letter of intent by October 1, 1999, and meets practice requirements. The requirements must be met by October 1, 2001. The State Board of Examiners of Professional Counselors and the State Board of Examiners of Psychologists are required to jointly develop regulations outlining minimum training standards.

BOARD OF NURSING

Nursing Assistants

The Licensing and Certification Administration in the Department of Health and Mental Hygiene currently regulates and maintains a registry of geriatric nursing assistants, as required by Medicare. For other types of nursing assistants, however, consumers do not have a source of information about employment history or credentials of the nursing assistants caring for them. Furthermore, an increasing number of patients are being cared for at home by family and friends, who may not recognize the signs of poor care or abuse. There are increased numbers of nursing assistants caring for patients, with a decrease in the number of nurses providing supervision.

Chapter 194 of 1997 directed the State Board of Nursing (Board) to develop a legislative proposal for certification and regulation of nursing assistants and report to the General Assembly by January 1, 1998. ***Chapter 393 of 1998*** was developed from the recommendations of the Board.

Chapter 393 established a certification and regulatory process for nursing assistants. An individual must be certified by the Board before the individual may practice as a nursing assistant in the State, use the title "certified nursing assistant" or "C.N.A.", or represent to the public that he or she is certified. Certified nursing assistants who wish to practice as certified medicine aides must meet additional training requirements. ***Chapter 393*** set forth provisions for the renewal of licenses and grounds for discipline of nursing assistants. The Board is responsible for approving each nursing assistant training program and must consult with the Department of Health and Mental Hygiene, the Maryland Higher Education Commission, and the nursing industry when developing regulations for the training program.

The State Board of Nursing must set certification fees which approximate the cost of maintaining the certification program. Special fund expenditures to establish certification are estimated to be about $250,000 in fiscal 1999.

HMO MEDICAL DIRECTORS

Although a medical director of a health care facility may be disciplined by the State Board of Physician Quality Assurance (Board) for duties performed under the current statutory definition of the practice of medicine, the Board has no statutory authority to discipline a physician for actions performed as a medical director (Health Occupations Article, § ºÇ¥ Ç²º). ***Senate Bill 654/House Bill 1166 of 1998*** (both failed) would have clarified that those who are responsible for medical or dental supervision or direction in health maintenance organizations, hospitals, ambulatory care facilities, or other venues, are engaged in the practice of medicine and are subject to oversight by the Board and the State Board of Dental Examiners. The bills would have expanded the practice of medicine or dentistry to include medical or dental supervision or direction.

During the 1996 and 1997 Sessions, failed legislation would have authorized the Board to take disciplinary action against a medical director of a health plan for protocols or procedures that fail to meet standards for delivery of quality medical care as determined by appropriate peer review. ***Senate Bill 274/House Bill 1345 of 1998*** (both failed) would have authorized the Board to discipline a physician medical director who is responsible for establishing or supervising protocols or procedures for a health care delivery system, such as a health maintenance organization.

Chapters 111 and 112 of 1998 required HMO medical directors to be certified by the Maryland Insurance Administration. For an extensive discussion of these bills, please see Part H - Business and Economic Issues, under the Subpart "Insurance".

PART J
HEALTH

HEALTH MAINTENANCE ORGANIZATIONS

For a discussion of bills, including bills regulating reimbursement for hospital emergency department services and communications between payors and providers, affecting health maintenance organizations, please see Part H - Business and Economic Issues, under the Subpart "Insurance". For a discussion of bills affecting liability of health maintenance organizations, please see Part F - Courts and Civil Proceeding, under the Subpart "Civil Actions and Procedures".

PART K
NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

NATURAL RESOURCES - GENERALLY

CHESAPEAKE BAY CRITICAL AREA

The Chesapeake Bay Critical Area, created in 1984, consists of a 1,000-foot shoreline strip around the Bay and its tributaries and was identified as an area that needs to be environmentally protected to ensure the survival of the Bay's tidal waters, fish, wildlife, and plant habitats. Currently, the regulatory authority of the Chesapeake Bay Critical Areas Commission and local jurisdictions overlap, and a permit from each agency is required for activities in or affecting construction in tidal waters and the Chesapeake Bay Critical Area.

Bulkheads and Piers

Chapter 525 of 1995 required the Department of Natural Resources to work with the Chesapeake Bay Critical Areas Commission to review existing regulations on the construction of bulkheads and piers in tidal wetlands and the Critical Area in order to establish a more streamlined, consolidated permit process.

Marinas

Often times, marinas build or upgrade their properties over several years, during seasons when boats are not covering their yards. ***Chapter 626 of 1995*** created a water quality banking system that provides for the accumulation of credits for a person who takes steps, prior to constructing or altering a marine development in the Critical Area, to minimize any adverse impact on water quality that may result from the completion of the development. The Act required a local jurisdiction to provide credits, during the project approval process, to an applicant for a permit for steps taken to minimize or avoid adverse impacts on water quality before beginning work on the marina. The purpose of the program is to allow marina development to proceed in stages, under several building permits, after erosion and sediment control measures for the entire project are in place.

Impervious Surfaces

To reduce the negative impact of development near the Chesapeake Bay, the amount of man-made impervious surfaces that may cover a lot or parcel of land are regulated according to formulas established in the Chesapeake Bay Critical Area criteria. ***Chapter 410 of 1996*** required local jurisdictions to amend their local critical area protection programs to limit impervious surfaces for properties in existence before December 1, 1985 based on the size of the property rather than the use of the property. The Act provided flexibility and simplified the building permit review of property by allowing impervious surface limits to be exceeded if water quality impacts have been minimized and the property owner performs on-site mitigation or pays a fee-in-lieu of mitigation.

Commercial Timber Harvesting

A corrective measure to the Chesapeake Bay Critical Area Protection Act of 1984, ***Chapter 248 of 1997***, restored the original intent of the Critical Area Criteria by allowing some commercial timber harvesting in the Critical Area. Except where the Critical Area Buffer and a designated Habitat Protection Area overlap, timber harvesting is allowed under an approved Timber Harvest Plan in the landward 50 feet of these areas. By allowing harvesting in these areas of overlap, the Act provided landowners the opportunity to derive economic gain while ensuring that the habitat protection areas are protected.

FOREST CONSERVATION ACT

In an effort to streamline and improve the Forest Conservation Act of 1991, ***Chapter 559 of 1997*** codified several recommendations made by the Advisory Group on Forest Conservation. The law authorized forest mitigation banking, established a simplified procedure for forest stand delineations, altered the preferred sequence for afforestation and

reforestation, and provided more time for the use of moneys in the Forest Conservation Fund. Linear utility or public service projects that do not involve a change of land use are exempt from the reforestation requirements. Forest mitigation banking allows forests to be created and acreage to be held in reserve until "credits" are withdrawn, compensating for authorized loss of forests elsewhere. Forest mitigation banks are intended to reduce the impact on the State's forests by compensating for impacts through replacement of forest resources.

In response to a conflict between State and federal regulations regarding tree cover within the navigable air space of airports, ***Chapter 630 of 1995*** exempted from the requirements of the Forest Conservation Act of 1991 those trees that the Federal Aviation Administration (FAA) requires to be cut down because they pose a hazard to aviation.

NONTIDAL WETLANDS

State Assumption of Federal Permit Program

Section 404 of the federal Clean Water Act of 1972 governs the deposition of dredged or fill materials in navigable waters, and activities which may directly impact wetlands. It also provides for states to assume the authority to issue Section 404 permits in nontidal wetlands adjacent to nonnavigable waters. In Maryland, all activities that may affect nontidal wetlands must be evaluated by both the U.S. Corps of Engineers and the State, and both federal and State permits are issued for approved activities.

In the 1989 enacting legislation for the State nontidal wetland program, the General Assembly declared Maryland's intention to evaluate the possibility of the State assuming the authority to issue Section 404 permits. To assist the State with proceeding with assumption of the Section 404 Program, the Environmental Protection Agency identified several changes that needed to be made to the State's nontidal wetlands program. Unsuccessful legislation containing these modifications was introduced by the Schaefer Administration in the 1994 Session. In the 1995 Session, the Glendening Administration proposed similar legislation, ***Senate Bill 649/House Bill 820*** (both failed).

Following the defeat of the legislation authorizing State assumption of the Section 404 Program, the Baltimore District of the U.S. Army Corps of Engineers (Corps) developed and issued a State Programmatic General Permit for activities conducted in tidal and nontidal wetlands in the State, effective July 1, 1996. Under the general permit, activities with minimal individual and cumulative environmental impacts, as specified by the criteria and terms of the general permit are eligible for authorization through a joint permit application process. Additionally, under the general permit, State and federal resource agencies have the opportunity to review and comment on any application and the Corps retained discretion to require an individual permit on a case-by-case basis.

PROGRAM OPEN SPACE

Program Open Space, established in 1969, coordinates the purchase of State natural resource lands and provides funding for the development of recreational facilities throughout the State. Financial support for the Program comes primarily from the collection of a 0.5% State property transfer tax and funds made available to local jurisdictions for open and recreational space from the National Park Service of the U.S. Department of the Interior.

Chapter 584 of 1995 provided that counties that have not met their open space acquisition goals, established by approved local recreation and parks master plans, may apply 20% of half of their Program Open Space funds for acquisition or development toward capital renewal projects. If their acquisition goals have been met, the county may apply 20% of 75% of their funds for acquisition or development toward capital renewal projects. In an effort to increase efficiency, the Act authorized local jurisdictions or subdivisions to submit to the Office of Planning a master plan for a "block" grant for several projects which must be approved by the Department of Natural Resources. This replaced a former requirement that applications must be submitted and approved on a project by project basis. The Act also authorized the Department of Natural Resources to sell property with easements, after giving the first right of refusal first to the municipality in which the property is located, and second to the county.

Chapter 659 of 1996 authorized the Department of Natural Resources to use up to 12.5% of the State's share of Program Open Space funds available for capital improvements for certain operating costs in fiscal 1997 only. The funds available for this purpose did not include the proceeds of bond issues. Of the 12.5%, the only wages that could

be paid were the wages of seasonal employees in the State forests and parks.

The Fiscal Year 1998 Operating Budget passed by the General Assembly during the 1997 Session contained nearly $48 million for Program Open Space land acquisition and development projects, the largest portion of which (almost $25 million) was earmarked for grants to local governments for land acquisition purposes. The Program also included several State development projects, such as the Ocean City Beach Maintenance Program. In addition, fiscal 1998 funds for Program Open Space included $4 million for the new Rural Legacy Program.

Funding for Program Open Space projects generally comes from property transfer tax revenues.

Chapter 672 of 1997 allowed up to $1 million for fiscal 1998 (and up to $1.2 million for fiscal 1999 and each fiscal year thereafter) of the State's share of Program Open Space funds available for capital improvements to be used to operate State forests and parks. However, the Act provided that this use of Program Open Space funds is allowed only if the funds spent for operating costs do not exceed the portion of the State allocation that is derived from current revenues, as distinguished from the proceeds of bond issues.

RURAL LEGACY PROGRAM

In an effort to control sprawl development and enhance protection of Maryland's natural resources, agricultural industry, and the environment, ***Chapters 757 and 758 of 1997*** provided funding to local governments and conservation organizations for the purchase of property and conservation easements within designated "rural legacy" areas. Local jurisdictions voluntarily participating in the program may purchase interests from willing sellers located in designated rural legacy areas. The Rural Legacy Board, established by the new legislation within the Department of Natural Resources, was required to adopt regulations for implementing the program, establish a method for appraisal of fair market value of real property interests, and review applications. Local jurisdictions may apply to designate rural legacy areas in accordance with a schedule established by the Board, but may not apply for or approve an application for a rural legacy area outside of its jurisdiction without approval from that jurisdiction. Sponsors of rural legacy areas are required to submit contracts for easements or fee estate acquisitions to the Board, which must be approved by the Board of Public Works.

Chapters 757 and 758 required the Governor to budget a minimum of $5 million in the annual capital budget for the Rural Legacy Program, and provide that $4 million in State Program Open Space funding could be transferred to the Rural Legacy Program in fiscal 1998, $5 million in fiscal 1999, $6 million in fiscal 2000, $7 million in fiscal 2001, and $8 million in fiscal 2002 and each year thereafter. The Acts also altered the distribution of State transfer tax revenues.

STATE LANDS

Wildlands

The State wildlands preservation system was created in 1971 to preserve and administer wildland areas for the use and enjoyment of the people of Maryland in a manner that will leave them unimpaired for future use and enjoyment. As of 1995, 11 separate wildlands had been designated on over 14,000 acres of State park and State forest land in nine counties throughout Maryland. Wildland areas are designated by an Act of the General Assembly and protected by limiting construction, prohibiting commercial enterprise, prohibiting the transplantation of nonnative wildlife, prohibiting most mineral extraction, phasing out the use of motor boats, and limiting the prospecting for water sources. Other activities conditionally restricted in State wildlands include construction of roads, use of motorized equipment, motor vehicles, transplanting of nonnative wildlife, cutting of trees and shrubs, and reforestation. The Department of Natural Resources has the authority to control visitor management, camping, signs, and nonstructural shore erosion control.

Activities allowed in wildlands include hunting, fishing, trapping, hiking, boating, and snow skiing, provided these activities are not prohibited by State law, regulations, or administrative policy.

Chapter 350 of 1996 created four new Type 1 (primitive) wildland areas and thirteen new Type 2 (important ecological) wildland areas in nine counties, and allowed for maintenance and certain extension of utility lines in

wildlands. Concern over potential impacts to Garrett and Allegany Counties resulted in provisions for protecting privately owned adjoining land from fires and disease, protecting mineral rights, and addition of a mechanism for establishing 1,800 additional acres of wildland in counties other than Garrett and Allegany Counties.

Chapters 568 and 567 of 1997 added 4,016 acres of Type 2 wildlands to the 35,314 total acres of designated wildlands in the State. During the 1996 Legislative Session, 22,000 acres were designated as State wildlands. The acreage of State designated wildlands added by the bills more than meets the 1,800 acreage requirement established in 1996.

PART K
NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

HUNTING AND FISHING

FISHERY MANAGEMENT

Limited Entry to the Commercial Fishery

Most of Maryland's fisheries are at or exceeding full exploitation. For years the State's fishing resources were exploited by an unlimited number of fishermen. Legislation enacted in 1994 dealt with the issue of overfishing by prioritizing new authorizations for tidal commercial fishing licenses with the creation of two waiting lists (primary and secondary) for tidal fishing licenses. The primary waiting list consisted of persons who were already authorized to engage in one type of commercial fishing activity, had been crew members for at least two years in any commercial fishery, or who were licensed to catch fish for commercial purposes in another state. The secondary list consisted of persons who cannot qualify as primary candidates. The law provided that all primary candidates must receive their licenses before secondary candidates.

This limited entry provision and moratorium on the number of licenses that may be issued was designed to stabilize the number of commercial fishermen at the harvest level necessary to achieve economic viability; limits were imposed to conserve the resource and provide an economic benefit.

Chapters 418 and 419 of 1998 were the product of a workgroup convened by the Department of Natural Resources to develop a viable program that maintains a control on fishing effort and at the same time incorporates an avenue for new participants in the fishery. The Acts repealed the 1994 law and established a new procedure for entering the commercial fishery while continuing to limit the number of new participants.

Chapters 418 and 419 made three major changes to the management of fisheries in Maryland. First, the Acts altered the current process for issuing tidal fish licenses by providing that the individuals on the primary waiting list as of December 31, 1997 will receive a license. Second, an apprenticeship program was established to provide a mechanism for individuals to enter the commercial fishery after acquiring practical experience relating to commercial fishing activities.

In Maryland, no license was required to catch crabs recreationally. More importantly, while all recreational crabbers were limited to one bushel per day, fishery managers have no idea what cumulative impact recreational crabbers are having on crab abundance. The recreational crab catch in Maryland has been estimated at anywhere from 10% to 50% of the commercial harvest levels. No one is sure of the exact amount because fishery managers do not have the resources for surveying people to obtain the necessary information. ***Chapters 418 and 419*** provided for the licensing and regulation of noncommercial crabbing. Additionally, the Acts established recreational crabbing license fees for residents and nonresidents and required all fees collected to be deposited in the Fisheries Research and Development Fund for research relating to the noncommercial crab catch.

Menhaden

Chapter 220 of 1995 required the Department of Natural Resources to prepare a fishery management plan for menhaden. The menhaden fishery is one of the largest and most profitable fisheries in Maryland and along the Atlantic Coast. Menhaden are used to make fishmeal, oil, and condensed soluble proteins, used as food supplements for poultry, swine, and cattle, and used in paints, soaps, lubricants, and cosmetics and as crab bait. A fishery management plan is a document or report developed by the Department establishing objectives and conservation and management measures necessary to prevent overfishing while achieving the most efficient utilization of the State's fishery resource.

Crab Harvesting

Bank traps and channel pounds function much like traditional crab pots, but are intended to be used in shallow water,

usually of 4 feet or less. The use of bank traps has created a controversy between waterfront property owners and watermen in St. Mary's County because when the equipment is not properly set up or maintained aquatic animals can become trapped inside and die. ***Chapter 395 of 1998*** prohibited a person from harvesting crabs with either a bank trap or a channel pound in St. Mary's County after October 1, 2000. It also directed the Department of Natural Resources to study the impact of bank traps and the enforcement of current bank trap regulations and recommend whether the prohibition on the use of bank traps and channel pounds in St. Mary's County after October 1, 2000 should be repealed.

Striped Bass

Legislation enacted in 1994 placed a limit on the total number of striped bass authorizations under a commercial license. The limits are set by regulation at 1,231 participants in the commercial fishery and 499 participants in the recreational charter boat fishery in order to cap fishing effort at the 1994 level. ***Chapter 769 of 1998*** required the Department of Natural Resources to provide by regulation for the monthly allocation of any available striped bass quota, rather than the current seasonal allocation, to assure that all portions of the State have an equal opportunity to catch an equitable portion of that quota.

Pound Nets and Pound Net Stakes

It is believed that the maintenance and removal of pound nets or stakes will reduce fish mortality and boating hazards associated with abandoned nets and drifting or broken stakes. ***Chapter 289 of 1998*** required tidal fish licensees to maintain their stakes in good condition and remove any stakes and nets that are in poor condition. It also required stakes to be removed during the month of January unless the net is being actively fished and notice is provided to the Department of Natural Resources. Penalties for violation of these provisions were provided.

Clams and Clam Dredging

- *Hydraulic Clam Dredging*

In 1998, the Maryland General Assembly addressed the use of hydraulic clam dredges in submerged aquatic vegetation beds. The restoration of sea grass beds has been a continuing goal of the Chesapeake Bay Program since 1989 when the Chesapeake Bay Executive Council established a submerged aquatic vegetation policy. In 1993, the council set forth interim restoration goals for submerged aquatic vegetation. Additionally, in 1997, the Atlantic States Marine Fisheries Commission adopted a special policy calling for the protection of submerged aquatic vegetation because of its fundamental importance to many valuable fisheries.

Sea grass beds provide essential nursery habitat for the vulnerable young stages of many ecologically, commercially, and recreationally important fish and shellfish. Sea grasses are widely regarded as primary indicators of water quality conditions in the Bay. Evidence has shown that the use of hydraulic clam dredges destroys submerged aquatic vegetation by uprooting it from the bottom sediment layer. The Commonwealth of Virginia does not allow the use of hydraulic clam dredges.

To further the protection of sea grass, ***Chapter 385 of 1998*** prohibits the use of hydraulic clam dredges in any submerged aquatic vegetation bed. The Department of Natural Resources must delineate existing beds that are not currently protected, as documented in recent aerial surveys, and periodically update this information.

- *Hard Shell Clams*

During the 1998 Session, the General Assembly also addressed the allowable harvest size of hard shell clams. ***Chapter 280 of 1998*** reduced the transverse dimension of hard shell clams that a person may harvest or possess from one inch to 7/8 of an inch. The law permitted the harvest and possession of smaller hard shell clams, provided that the number of these small clams does not exceed 10 out of every 105 hard shell clams harvested.

HUNTING

Regulated Shooting Areas

By 1995, Maryland had over 100 regulated shooting areas, with the vast majority located on the Eastern Shore. Regulated shooting areas are parcels of land licensed by the State where a person may release and then shoot certain species of game birds. These shooting grounds make a significant contribution to the local economy through employment and local commerce and are Dorchester County's fifth largest industry.

In order to ensure the economic vitality of much of the Eastern Shore, ***Chapter 513 of 1995*** repealed the sunset date on the provision of law that allowed Sunday hunting of pen-reared game birds on regulated shooting areas. The bill also eliminated existing daily bag limits on the number of mallard ducks, including pen-reared mallard ducks, mallard ducks reared by the State, and wild mallard ducks, that may be taken by persons who hunt mallards on regulated shooting areas in the State. Additionally, the legislation restored the Hungarian partridge to the list of pen-reared game birds that may be taken on regulated shooting areas.

PART K
NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

ENVIRONMENT

BROWNFIELDS

The General Assembly took significant steps this term to resolve the problem of "brownfields". A "brownfield" is an unused property which was formerly used for industrial purposes and is contaminated or suspected to be contaminated. Most "brownfield" sites are currently overlooked by buyers and lenders in favor of "greenfield" (uncontaminated and undeveloped) sites because the law imposes strict liability for the costs of cleaning up the contamination. As a result, "brownfields" lie abandoned, contributing to the decay of the inner city and urban sprawl. The development and revitalization of "brownfield" sites was a major issue during the 1996 and 1997 Sessions.

In 1996, ***Senate Bill 205/House Bill 5*** (both failed) were introduced to accomplish the goal of "brownfield" revitalization and development. The basic goal of these bills was to expedite the cleanup of contaminated sites and slow the loss of "greenfield" sites to development, by encouraging cleanup and reuse of old sites, limiting the liability of owners and developers of those sites, and protecting public health and the environment. A task force on brownfields was convened during the 1995 interim to study this issue.

While the 1996 Session ended without a successful resolution of the many issues associated with establishing a brownfields program in Maryland, the situation in the 1997 Session was dramatically different. Throughout the 1996 Interim, various interested parties worked intensively on the development of legislation that would be acceptable to both the business and environmental communities. As a result, many of the issues that were divisive in 1996 were resolved prior to the introduction of legislation in 1997.

Chapters 1 and 2 of 1997, established a voluntary cleanup and brownfield revitalization incentive program to encourage industry to clean up and redevelop contaminated property as an alternative to building new industrial facilities in "greenfields". The Acts were intended to revitalize existing industrial areas and provide new economic development opportunities.

The Acts established a Voluntary Cleanup Program in the Department of the Environment to provide a framework for the cleanup of properties contaminated with controlled hazardous substances. They also provided owners and buyers with the incentive of finality to their potential liability if they clean up and comply with the requirements of the Program. A key component of the Voluntary Cleanup Program is the treatment of persons who may be prospective purchasers of an eligible property. The Acts provided these persons, known as "inculpable persons", with greater liability protection than "responsible persons".

The Acts also established a Brownfields Revitalization Incentive Program in the Department of Business and Economic Development to provide financial incentives intended to encourage buyers and other persons not responsible for contamination to clean up contaminated property.

DREDGING

Hart-Miller-Pleasure Island Dredge Spoil Containment Facility

The Hart-Miller-Pleasure Island Dredged Material Containment Facility, located off the coast of Baltimore County, is used for the redeposit of dredge spoil from dredging operations in Baltimore Harbor. It has been a long-standing source of controversy for citizens in the area.

The facility is divided into a north cell and a south cell. The south cell has been filled to its maximum planned height of 28 feet and plans are now being implemented to turn it into a park and recreation site. On June 5, 1996, the Board of Public Works modified the license for filling the north cell to authorize the Port Administration to fill it to a maximum of 44 feet. The license also provided that the north cell shall not be filled higher than this height and filling may not

continue beyond the year 2009 "without authorization by the Maryland General Assembly and Board of Public Works".

Plans for developing the island into a park and recreation facility have been in the works for the past few years. A memorandum of understanding already exists, as well. Currently, the plan calls for the Department of Natural Resources to operate the facility as a park and recreation facility when it is completed. Moreover, citizens have expressed some skepticism about the Departments' true commitment to completing the conversion of the island and are concerned about the amount of input they are being allowed to have in the process.

Chapters 573 and 574 of 1997 codified the status quo in the south cell and the limits recently placed on the north cell by the Board of Public Works. The Acts prohibited the height of dredged material deposited in the Hart-Miller-Pleasure Island Dredged Material Containment Facility from reaching 44 feet above mean low water in the north cell and 28 feet above mean low water in the south cell, as well as the deposit of any dredge spoil on or after January 1, 2010.

ENVIRONMENTAL STANDING

A matter of contention during previous terms, the issue of standing to challenge environmental permits, returned numerous times during the recent term. ***Senate Bill 557/House Bill 1378 of 1995*** (both failed) would have revised the standards for determining whether a person has standing in order to challenge a final decision of the Department of the Environment or the Department of Natural Resources relating to the issuance of any one of twelve permits. The bills would have established one standard that must be met in order for a person to request either a contested case hearing or judicial review. The legislation also would have required a summary disposition motion to be granted against a person requesting a contested case hearing or judicial review, if the person was unable to provide competent and material evidence establishing that the person met the standing requirements.

The issue of standing to challenge environmental permits returned in 1996 as ***Senate Bill 488***, ***House Bill 1165***, and ***House Bill 1266*** (all failed). These bills would have revised the standards for determining whether a person has standing in order to challenge a final decision of the Department of the Environment relating to the issuance of environmental permits. The bills proposed changing when the Department of the Environment may grant a contested case hearing to persons who are not permit applicants and the rules governing judicial appeals of specific permit decisions.

House Bill 8 of 1997 (failed) would have provided standing to appeal permit decisions by the Department of the Environment to entities that would have standing to appeal a final permit decision by the Environmental Protection Agency. It also would have eliminated the requirements for a contested case hearing in connection with the issuance of a final determination on an environmental permit.

LEAD PAINT

<u>Lead Poisoning Prevention</u>

- *Exterior Surfaces*

Chapter 506 of 1998 clarified that an interior unit that has already been certified as "lead-free" does not have to be continually inspected just because an interior common element may contain lead paint. The Act made these interior common areas subject to the same standards as other exterior surfaces by expanding the definition of exterior surfaces under the Lead Poisoning Prevention Program to include all painted surfaces in stairways, hallways, entrance areas, recreation areas, laundry areas, and garages within a multifamily rental dwelling unit that are common to individual dwelling units and are accessible to a child.

Chapter 507 of 1998 provided that, in order to qualify for an exemption from the lead risk reduction standards, all exterior painted surfaces of an affected property that are chipping, peeling, or flaking must be restored with nonlead-based paint. The term lead- free had been interpreted to mean that all lead-based paint must be removed. The Act clarified that nonlead-based paint may be used to treat chipping or peeling exterior surfaces.

- *Lead-free Housing Exemption*

Chapter 176 of 1996 altered the exemption for lead-free housing from a requirement that all interior and exterior surfaces be certified lead-free to a certification that: (1) the interior is certified lead-free; (2) all exterior painted surfaces of the affected property that were chipping, peeling, and flaking have been restored lead-free; and (3) no exterior painted surfaces are chipping, peeling, or flaking. Additionally, in order to maintain the exemption, the owner is required to submit every two years a certificate from an inspector, accredited by the Department, stating that no exterior painted surface is chipping, peeling, or flaking.

- *Fees, Community Outreach and Education*

Chapter 555 of 1996 extended to December 31, 2000 (from 1999) the requirement for owners of rental dwelling units built after 1949 which the owner opts not to include in the Lead Poisoning Prevention Program to pay the $5 annual fee. This fee for these properties terminates after December 31, 2000.

The Act required that at least 50% of the annual fees, up to a maximum of $750,000, be dedicated to community outreach and education in fiscal 1996 and 1997. For fiscal 1998, 1999, and 2000, in addition to the $750,000 set aside for community outreach and education, the Department of the Environment had to add to the set aside the difference between $1.5 million and the amount dedicated in fiscal 1996 and 1997.

Finally, in response to the one and one-half year delay in implementing provisions of the Lead Poisoning Prevention Program, the Act exempted from the annual fee in calendar year 1996 (or 1997 if the 1996 fee was paid) owners of affected property who paid an annual fee in calendar year 1994 or 1995.

- *Lead Hazard Reduction Grant and Loan Programs*

By restructuring existing special funding programs in the Department of Housing and Community Development, ***Chapter 335 of 1995*** gave the State an opportunity to accelerate the creation of lead-safe housing, at no additional cost. The presence of lead- based paint in Maryland's older housing stock causes unsafe conditions for many children and pregnant woman. Friction surfaces, particularly in windows, are a major contributor of lead dust, which is known to poison children. Under House Bill 760 of 1994, the General Assembly established the Lead Poisoning Prevention Program, which requires property owners to satisfy specific education and notification requirements to tenants and to bring rental units to an established standard for reduced lead risk.

Chapter 335established a Lead Hazard Reduction Grant Program in the Department. The Grant Program targets grant assistance to residential properties in areas with high concentrations of children diagnosed with elevated blood lead levels or pre- 1950 property, and families of limited income, and to programs for testing new methods of lead hazard reduction.

The Act also established a Lead Hazard Reduction Loan Program in the Department to provide loans targeting lead hazard reductions throughout the State. The Loan Program may make loans for any lead hazard reduction activity, defer payment of principal and interest, and set zero interest rates under the Program.

Persons eligible for funds from the grant or loan program include: subdivisions, residential property owners, child care centers, and persons dwelling in rental properties.

Continuing difficulties and delays in the implementation of the Lead Poisoning Prevention Program established under House Bill 760 of 1994, as well as a successful lawsuit by Baltimore City tenants against the Department of the Environment, led to introduction of additional legislation on this issue.

"SMART GROWTH"

Chapter 759 of 1997, the "Smart Growth" and Neighborhood Conservation Act, represented an effort to enhance the Economic Growth, Resource Protection, and Planning Act of 1992 by targeting funding toward designated priority

funding areas, including those regions inside either of the two regional beltways; areas currently zoned as industrial; areas zoned as industrial in the future as long as the area is served by sewer; municipal corporations, including Baltimore City, if all areas annexed after January 1, 1997 meet specified density and water and sewer requirements set forth in the bill; and areas within a locally designated growth area that meets specified density and sewer requirements set forth in the bill.

Since October 1, 1998, the State may not provide funding for any growth related project, as defined in the Act, which is not located within a priority funding area. There are exceptions, however. The State may provide funding for a growth related project not in a priority funding area if the Board of Public Works, at the request of the governing body of the local jurisdiction or the Secretary with approval authority over the project, determines there are extraordinary circumstances and no reasonably feasible alternatives exist. Additionally, the Board may approve certain transportation projects, including projects connecting priority funding areas and projects maintaining an existing transportation system without an increase in highway capacity. The Board of Public Works may request an advisory opinion concerning requests for exception from the State Economic Growth, Resource Protection, and Planning Commission (Growth Commission). A public meeting may then be held at the discretion of the Growth Commission to gather relevant information.

The State may allocate funding for growth related projects not located in priority funding areas without approval from the Board of Public Works for certain transportation projects, projects required for the protection of public health or safety, projects involving federal funds where compliance would be inconsistent with federal law, and growth related projects necessary for specified commercial or industrial activities that, by their nature, need to be located away from other development.

The "Smart Growth" Act required local governments to certify priority funding areas with the assistance of the Office of Planning. Each county and municipality is required to submit a map and description of its priority funding areas consistent with the local comprehensive plan and the criteria established in the bill. Further, the Office of Planning must establish a process to review projects by the appropriate State agencies and provide each appropriate State agency and unit of State and local government with the location of priority funding areas.

The bill does not affect projects or programs which have been granted approval or commitments prior to October 1, 1998. Also not subject to the provisions of the bill are projects or programs: (1) having a valid permit or State commitment for a grant, loan, loan guarantee, or insurance for a capital project; (2) for which final review under the National Environmental Policy Act or Maryland Environmental Policy Act is completed prior to October 1, 1998; or (3) for which final review through the State Clearinghouse for Intergovernmental Assistance is completed by January 1, 1999.

VEHICLE EMISSIONS INSPECTION PROGRAM

Among the most controversial issues facing this General Assembly at the outset of this term were those surrounding the implementation of the "enhanced" Vehicle Emissions Inspection Program (VEIP). The enhanced VEIP was authorized by the General Assembly in 1991 in response to requirements of the 1990 Clean Air Act Amendments.

In compliance with State and federal law and regulations, the Motor Vehicle Administration (MVA) and the Department of the Environment (MDE) proposed regulations establishing the enhanced VEIP in Maryland. Under the regulations, vehicles in additional counties were required to begin submitting to emissions testing. In addition, the enhanced testing procedures involved connecting hoses to the vehicle's emissions control equipment to check for leaks, and placing the vehicle on a specially-designed treadmill (dynamometer) for a 4- minute drive to test emissions under simulated highway driving conditions. In response, citizens expressed their concerns to the General Assembly that the new program was too costly and intrusive.

The legislature responded during by passing ***Chapter 489 of 1995. Chapter 489*** delayed until after May 31, 1996, any of the new test procedures associated with the enhanced VEIP, including the dynamometer. ***Chapter 489*** also lowered the amount of money the owner of a vehicle failing an emissions test must spend for qualifying repairs before becoming eligible for a waiver from the test requirements. The waiver amount was set at $150 through the end of 1997, with the amount raised to the federally established level at the start of 1998. In addition, ***Chapter 489*** limited the

test fee amount to $12 through May 31, 1996, and $14 thereafter.

Senate Bill 174 of 1996 (vetoed) would have extended from May 31, 1996 to May 31, 1997 the prohibition against implementation of the enhanced VEIP. ***Senate Bill 278 of 1997*** (vetoed) would have made permanent the prohibition against requiring enhanced testing procedures for motor vehicles registered in Maryland by requiring the MVA to give vehicle owners the option of submitting their vehicles to dynamometer testing.
Chapter 776 of 1998 extended through December 31, 1999, the $150 repair expenditure amount needed to qualify the owner of a motor vehicle for a waiver from test inspection requirements.

WATER QUALITY

Safe Drinking Water Act

Amendments to the federal Safe Drinking Water Act were enacted on August 6, 1996. The Maryland Department of the Environment is responsible for primary enforcement, or primacy, of the Safe Drinking Water Act in Maryland. In order to retain primacy, changes in the Department's statutory authority were necessary to reflect the provisions of the 1996 amendments to the Act.

The federal Act provides federal penalties for tampering or attempting to tamper with a public water system. New community and nontransient noncommunity water systems that come into operation after October 1, 1999, are required to demonstrate their technical, managerial, and financial capacity. Currently, privately owned community water systems are required to submit a financial management plan when they apply for a construction permit.

As a condition for maintaining primacy, the 1996 amendments to the Safe Drinking Water Act mandate that states have a mechanism for assessing administrative penalties. States are allowed to establish a maximum limitation on the total amount of administrative penalties that may be imposed per violation on public water systems. The amount of the penalty is to be assessed with consideration to factors that evaluate the seriousness of the violations and the past history of the water supplier.

Chapter 533 of 1998 enabled the Maryland Department of the Environment to comply with the 1996 amendments to the federal Safe Drinking Water Act and contains four main provisions: (1) the Act revised the public notification requirement for water systems that fail to meet certain standards; (2) the Act established methods for public notification in line with the federal Act; (3) the Act provided the Department with the authority to evaluate new water systems for financial capability; and (4) the Act authorized the Department to assess administrative penalties on a water supplier serving a population over 10,000 for violations of the provisions of this bill. The administrative penalty provision will become effective when required by federal regulations which are to be promulgated under the federal Safe Drinking Water Act.

PART K
NATURAL RESOURCES, ENVIRONMENT, AND AGRICULTURE

AGRICULTURE

DAIRY INDUSTRY

While dairy production constitutes the third largest sector of the State's agricultural industry, it has experienced a slowdown in recent years. The average price received by farmers for milk products has fluctuated significantly in the last decade. While the federal government plays a large role in setting the price which farmers receive for milk, the federal minimum price for fluid milk has been too low in recent years to fully recover the cost of producing milk on family-sized farms in the mid-Atlantic and northeast regions of the country. This price volatility has placed considerable financial stress on Maryland's dairy farmers. Since 1991, the number of dairy farms in the State has declined by around 25%, and in the last year alone an estimated 82 dairy farms closed.

In response to this problem, ***Senate Bill 458/House Bill 504 of 1997*** (both failed) would have enabled the Secretary of Agriculture, by regulation and with the advice of a seven-member Advisory Committee on Milk Pricing, to determine the minimum prices to be paid to milk producers.

The 1996 federal farm bill authorizes the U.S. Secretary of Agriculture to grant six New England states the authority to enter into a regional dairy compact (Northeast Interstate Dairy Compact) to set the price of milk on a regional basis at a level that reflects the cost of production for the region. Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont have already joined the compact, with several other states in the process of joining.

Chapter 226 of 1998 entered Maryland into the Northeast Interstate Dairy Compact and makes it a member of the Northeast Interstate Dairy Compact Commission. The Commission is authorized to establish a regionally based minimum price for fluid milk to be paid to milk producers by milk distributors (compact over-order price), as opposed to the federally established order price. The bill also established certain requirements on the calculation of the compact over-order price. In addition, the Commission may conduct various studies on dairy industry costs and economic conditions. The Act is effective after it has been ratified by the United States Congress, and will remain effective for a period of two years at which time the General Assembly will determine whether the State should remain in the compact.

INTEGRATED PEST MANAGEMENT

During the four-year term, in an effort to reduce the exposure of school children to potential carcinogens, the General Assembly considered the issues of pesticide application at public schools and the development of integrated pest management programs by local school boards. An agreement was finally reached through the enactment of ***Chapter 461 of 1998***, which required each county board of education to develop and implement an Integrated Pest Management program in each primary and secondary public school in the county. The Integrated Pest Management program must be approved by the Maryland Department of Agriculture. Currently, all 24 local boards of education have some type of Integrated Pest Management program in place. Assuming that the Integrated Pest Management programs approved by the Maryland Department of Agriculture are similar to existing local programs, local school and Maryland Department of Agriculture expenditures should not be affected.

NUTRIENT MANAGEMENT

During the 1997 Interim, members of the General Assembly and the Governor's Blue Ribbon Citizens Pfiesteria Action Commission (the Commission) studied the scientific and public policy issues regarding fish kills which occurred in lower Eastern Shore rivers in late 1996 and the Summer of 1997. Both the General Assembly and the Commission focused on the role of the toxic dinoflagellate, *Pfiesteria piscicida*. Of particular concern was the nutrient over-enrichment of the waters of the State, and its implications for promoting the growth of *Pfiesteria.* Specifically, the Commission focused on the role of the chicken industry and the large quantities of chicken litter generated and

ultimately applied to local agricultural fields as nutrients for the soil. The Commission concluded a series of briefings and public meetings and issued a final report on November 3, 1997. The report included numerous recommendations regarding the safety of Maryland seafood, agricultural and nonagricultural nutrient management strategies, public health strategies, and future research needs.

Chapters 324 and 325 of 1998 addressed the recommendations of the Blue Ribbon Commission, while taking into account the concerns of the agricultural community, by providing for a variety of measures aimed at improving fertilizer application practices and water quality throughout the State.

The Act required farms to develop and implement nutrient management plans by certain dates, depending upon what kind of nutrients are being applied to the land. The commercial application of fertilizer to non-agricultural land of more than three acres is also covered by the Act. The Act provided for certain administrative penalties to be administered by the Department of Agriculture for violations of these requirements.

The Act also provided for the development of new technology to reduce phosphorus levels in and dispose of poultry waste. All contract feed for chickens must contain phytase or other phosphorus-reducing enzymes by December 31, 2000 to the maximum extent commercially and biologically feasible. The Fiscal Year 1999 Capital Budget included $350,000 in general obligation bonds for a cost share program for modifying feed mills to facilitate the application of phytase or other feed additives that reduce the amount of phosphorus in chicken waste. Moreover, an Animal Waste Technology Fund was created in the Department of Business and Economic Development to provide money for the development of technologies to reduce the amount of nutrients in animal waste and find alternative uses for animal waste.

The Act also created a Poultry Litter Transportation Pilot Project to transport excess poultry litter from the lower Eastern Shore to areas of the State that are not over-enriched with phosphorus. The Fiscal Year 1999 Operating Budget included $750,000 for this project.

In order to help defray some of the costs which may be incurred by farmers, the Act provides for a tax credit of 50% of the cost of switching from manure to commercial fertilizer for three years after a nutrient management plan is developed and approved. The maximum credit which can be claimed in any year is $4,500, but any excess can be carried forward for up to five years. The total cost of this tax credit from fiscal 2000 through fiscal 2006 is estimated to be $20.3 million.

PART L
EDUCATION

PRIMARY AND SECONDARY EDUCATION

Primary and secondary education issues remained a priority of the legislature throughout this term, especially with regard to funding issues. Increasing funding for specific student populations, such as at-risk or gifted and talented students, and increasing funding for low performing jurisdictions, such as Baltimore City and Prince George's County, dominated much of the funding discussion. Tied with funding was the issue of increasing financial accountability for local school boards and local governments, which receive over $2.5 billion in state education aid. Other major policy issues focused on school discipline and special education. In addition, funding formulas for both the Maryland School for the Blind and Maryland School for the Deaf were codified this term.

SCHOOL ACCOUNTABILITY FUNDING FOR EXCELLENCE (SAFE) PROGRAM

At-Risk Students

While the State historically has provided significant amounts of funding for programs serving at-risk students, there still remain groups of students who need additional assistance to achieve the State's high academic standards. This is especially true of students who receive Title I or other compensatory education services in the elementary grades, but are not provided the supplemental support when they graduate to middle and high school.

To address this concern, in July 1997, the Governor and the Speaker of the House appointed a task force to undertake a comprehensive review of education funding and programs in grades K-12. One of the main goals of the task force was to determine if inequities or gaps exist in funding programs earmarked for Maryland students who are believed to be at-risk of failing in school. Also, the task force was asked to look at current accountability systems to provide assurances to the General Assembly and to the public that school systems and school leaders are being held accountable for meeting appropriate educational and fiscal standards. At the beginning of the year, the task force submitted its preliminary report which formed the basis for ***Chapter 565 of 1998***.

Chapter 565 established the School Accountability Funding for Excellence (SAFE) Program, which provides additional targeted State funding for education programs serving at-risk students. Specifically, the Act: (1) established a new targeted improvement grant, elementary school library grant, and teacher development program; (2) enhanced State funding for non- and limited-English proficiency programs, aging schools, and extended elementary education programs; and (3) provided Prince George's County with additional funding for effective schools programs, a pilot integrated student support services project, and teacher development initiatives. To receive these funds, each local school system must submit to the Maryland State Department of Education a comprehensive plan outlining ways to increase the performance of at-risk students.

In total, the Act provided an additional $67.8 million in State funding to local school districts, with most of the funding being targeted to programs designed to increase the academic performance of at-risk students. Specifics of the component parts of the SAFE initiative are outlined below.

Non- and Limited-English Proficiency Grants

Chapter 565 increased the current non- and limited-English proficiency grant from $500 to $1,350 per student and repealed the current two-year restriction on students receiving this funding. It also required an annual evaluation of non- and limited-English proficient students to determine eligibility for the special programs. Based on current estimates, there are 16,035 students in this category in the State, with 12,640 receiving services for less than two years. Accordingly, under the existing statutory formula, the State provided no funding for approximately 22% of students identified as having non- or limited-English proficiency; however, the State provided local school districts with $1.9 million in fiscal 1998, as part of the Baltimore City School legislation (see Chapter 105 of 1997 below), to cover expenses for the students affected by the two-year restriction.

Targeted Improvement Grants

Chapter 565 established a new categorical grant program, targeted improvement grants, for students living in poverty. Targeted improvement grant funding is based on 85% of the number of children eligible for free and reduced price meals for the second prior fiscal year multiplied by 2.5% of the per pupil foundation under the basic current expense program. Each county's initial allocation is adjusted by a factor relating each county's wealth per full-time equivalent student to the statewide wealth per student.

Teacher Development in Dealing with At-Risk Students

Chapter 565 provided funds to enhance the ability of teachers to deal with at-risk students in schools with a free or reduced price meal count of 25% or more of their student population. Each eligible school will receive an $8,000 grant for this purpose. Baltimore County will receive an additional $5 million to enhance its teacher mentoring program, which is a pilot program for mentoring at-risk students, and Prince George's County will receive $2 million to fund a teacher mentoring program that will be based on the Baltimore County program. In addition, the bill provided $500,000 for statewide provisional teacher certification and teacher development initiatives. Prince George's County is not eligible for this latter funding because of the $2.5 million the county will receive for this purpose under other provisions of the Act.

School Library Programs

As part of ***Chapter 565***, the Governor is required to include $3 million in the State's annual budget for school library grants for the purpose of enhancing elementary school library programs. As a condition of receiving these grants, each local board of education must match the State grant with new local funds.

Extended Elementary Education Program

The Extended Elementary Education Program supports public school pre-kindergarten programs for four-year-old children who may be at risk of failure. The program is based on the theory that early intervention: (1) increases students' opportunity to realize their educational potential; and (2) reduces future educational and societal costs.

Chapter 565 provided an additional $4.4 million in funding for the Extended Elementary Education Program. There will be 24 additional sites established statewide, increased funding for 204.5 existing sites to a level of $65,000 per site, and $1 million in grants to local school districts to address early intervention strategies for four-year-old children whose needs are not fully met by the existing program.

Aging School Program

Chapter 565 provided $6.02 million in additional funding for the Aging School Program, which was established as part of Chapter 105 of 1997 (see below). That legislation provided $4.35 million annually and identified specific allocations for each of the 24 jurisdictions for a five-year period (through fiscal 2002). The funds were distributed based on a formula which took into account the percentage of pre-1960 square footage in each school system. The Board of Public Works adopted regulations to guide the program, and the Interagency Committee on Public School Construction administers the program as part of the Public School Construction Program.

CHALLENGE GRANTS

Chapter 210 of the Acts of 1992 authorized the establishment of a Schools for Success Fund to award challenge grants to schools to implement school improvement. The law requires the State Department of Education, with the concurrence of county boards of education or the Board of School Commissioners of Baltimore City, to select the public schools that will receive the challenge grants. The recipient schools must have a low percentage of average daily attendance, a high percentage of dropouts, a low percentage of students passing the Maryland Functional Tests, poor performance on criterion reference tests, and other mutually acceptable factors. Challenge grant funds must be used to effect systemic changes in the schools, including interagency activities, computer labs, salary incentive programs,

staffing, and total quality management. Each recipient school must have a school improvement team that establishes outcomes and measures the achievement of the outcomes within a specified time frame. ***Chapter 349 of 1995*** extended the termination date from June 30, 1995 to June 30, 1998 on the Schools for Success challenge grant program, while ***Chapter 677 of 1998*** further extended the program until June 30, 2001.

MARYLAND SCHOOL PERFORMANCE ASSESSMENT PROGRAM (MSPAP)

In 1989, the State Board of Education adopted the Maryland School Performance Assessment Program (MSPAP) as the cornerstone of school reform at the elementary and middle school levels. MSPAP requires students in grades 3, 5, and 8 to demonstrate basic skills and knowledge in reading, writing, language usage, mathematics, science, and social studies. The standards set a goal of 70% of students in each school performing at the satisfactory level by the year 2000. ***Chapter 3 of 1996*** established recognition awards for schools that show substantial improvement toward meeting standards established by the State Board of Education for the data-based areas of the Maryland School Performance Program. The Fiscal Year 1997 Budget included $2.75 million in funding for School Performance Recognition Awards which was contingent on the enactment of these bills.

GIFTED AND TALENTED

According to a 1994 statewide survey conducted by the Maryland Coalition for Gifted and Talented Education and endorsed by the State Department of Education, local school systems reported a significant decline in the availability of program services for gifted and talented students while the need for these services has significantly increased. Nationally, a 1993 United States Department of Education study reported that almost one-half of identified gifted and talented students are not receiving education appropriate to their needs. Other studies estimate that 10% to 15% of the students who drop out of high school are gifted and talented students.

Chapter 109 of 1997 established an Excellence in Education Incentive Grant Program in the State Department of Education for eligible local boards of education for the development of innovative instructional programs and services for gifted and talented students. Each local board of education that receives a grant must develop and implement articulated programs for the early identification of gifted and talented students in grades K through 12. In addition, the legislation required the State Board of Education to adopt regulations establishing criteria for the award of grants and the evaluation of effective programs and services for gifted and talented students.

ADULT EDUCATION

The State Department of Education provides three alternatives for adults to earn a high school diploma: evening high school, the General Educational Development (GED) Tests, and the Maryland Adult External High School Program. Since implementation of the program in 1978, approximately 11,000 adults have earned a high school diploma through the program. Currently, there are 23 program sites in the State, with most counties operating at least one site. ***Chapter 542 of 1997*** required the Governor to include in the annual budget bills for fiscal 1998 through 2001 a General Fund appropriation for the Maryland Adult External High School Program in an amount not less than the General Fund appropriation for the program in fiscal 1996. In addition, the Governor was required to include federal funds, to the extent available, for the program in an amount not less than was provided in fiscal 1996.

LIBRARY FUNDING

Minimum Library Program

During the 1996 Session, the General Assembly increased the amount of State support for local libraries. ***Chapter 8 of 1996*** increased the mandatory funding for local libraries that participate in the County-State Minimum Library Program from $8.25 to $9.25 for each county resident. This increase represented a 12% increase over current law. Then, ***Chapter 575 of 1998*** increased the mandatory funding for each county public library system from $9.25 to $10.75 for each county resident in fiscal 1999. Further, the per capita grant will increase to $11.00 in fiscal 2000, $11.50 in fiscal 2001, and $12.00 beginning in fiscal 2002.

Regional Resource Centers

The State operates three regional resource centers that provide coordination and other services to libraries outside of the State's metropolitan areas. These services include consulting and training, cataloging and materials processing, regional databases, electronic magazine access, automated circulation and catalog systems, electronic networking, and rotating collections. The three regional resource centers are located in Salisbury (Eastern Shore), Charlotte Hall (Southern Maryland), and Hagerstown (Western Maryland). ***Chapter 738 of 1998*** established a mandatory funding formula for the State's regional resource centers in the amount of at least $1.70 for each resident in the area served by the resource center.

BALTIMORE CITY SCHOOL SYSTEM REFORM

Actions Taken In 1996

In 1991 and 1992, a management study of the Baltimore City Public Schools resulted in 39 recommendations for management reform, such as a merit-based, systemwide personnel evaluation system for teachers, principals, and administrators. In response to concerns that the Baltimore City School Administration had not implemented 36 of the 39 recommendations by the end of 1995, the General Assembly passed ***House Bill 608 of 1996***, which the Governor subsequently vetoed.

This bill would have withheld approximately $5.9 million of the State share of school funding to the City, or about 25% of the City's expenditures for salaries, wages, and benefits for administration of the schools during fiscal 1996. This withholding would have continued until 5% salary reductions were made for those administrators identified as responsible for failing to fully implement the management reform recommendations. Once evidence was provided to the State Board that the salary reductions had taken place, the $5.8 million was to be released to the City school system to:

restore to each school the $30 per student systemwide reduction made during the 1995-96 school year;

improve the performance of the City students by offering school improvement team and professional staff development programs; and

purchase additional instructional materials.

The Governor vetoed the bill, citing concerns that withholding $5.9 million of State funds with six weeks left in the fiscal year would cause a "significant financial crisis for Baltimore City." However, in a letter to the City's mayor on the day of the veto, the Governor informed the mayor that $5.9 million would be withheld from the City's fiscal 1997 State aid to education appropriation unless, among other things, the city and State entered into an agreement for joint oversight of the City's schools.

Actions Taken in 1997

In 1985, the Maryland Disability Law Center filed a complaint in federal court against the City on behalf of disabled students. That action was joined by lawsuits brought against the State in 1995 and 1996 by the City of Baltimore and the American Civil Liberties Union (ACLU). The lawsuits alleged that the State had failed to provide children in Baltimore City with an adequate education as provided in the State Constitution. The lawsuits charged that public schools in Baltimore City were inadequately funded and demanded increases in State spending on education. The parties to the lawsuits signed an agreement on November 26, 1996 that provided additional funding for the public schools in Baltimore City and included management and educational reforms. The agreement resulted in two consent decrees issued by the United States District Court and the Baltimore City Circuit Court. The decrees would not be fully effective until: (1) the Governor signed legislation reflecting the terms of the decrees in a form that does not affect the substantive rights of the parties; and (2) the Fiscal Year 1998 Budget was approved with $30 million in additional funds for the public schools in Baltimore City.

Chapter 105 of 1997 incorporated the substantive elements of the consent decrees with respect to the management and

educational reforms. In addition, the Act provided additional funds for the Baltimore City public schools in the following amounts: $30 million in fiscal 1998 and $50 million in each of fiscal 1999 through 2002.

The Act restructured the management and administration of the Baltimore City public school system. It established the New Baltimore City Board of School Commissioners, consisting of nine voting members and one nonvoting student member and transferred to the New Board the functions formerly performed by the Superintendent of Public Instruction and the Board of School Commissioners of Baltimore City. The Mayor of Baltimore and the Governor jointly appoint the voting members of the Board from a list of names submitted by the State Board of Education. The Board must employ a Chief Executive Officer, who selects a management team, including a Chief Academic Officer and a Chief Financial Officer. Chapter 105 further provided that on or before March 1, 1998, the Board had to approve and commence implementation of a Master Plan. The Master Plan was to provide for the improvement of student achievement in the Baltimore City public schools and the management and accountability of the Baltimore City public school system.

Aid to Other Subdivisions

In its passage through the legislative process, ***Chapter 105*** was amended to include additional funding for other subdivisions. In each year that Baltimore City receives money under the Act, the counties also receive specified amounts under four separate programs: a New Targeted Poverty Program totaling $16,563,360 per year; additional funds under the Limited English Proficiency Program totaling $1,903,500 per year; an Aging Schools Program totaling $4,350,000 per year; and an Extended Elementary Education Program totaling $3,290,000 per year.

Additionally, annual grants are provided under the Act to specified counties, as follows:

- $739,498 per year, split among seven community colleges;

- $2,000,000 per year for Gifted and Talented Programs in Montgomery County; and

- $1,100,000 per year for Magnet Schools Programs in Prince George's County.

Actions Taken In 1998

Pursuant to the Baltimore City school legislation enacted during the 1997 Session (Chapter 105 of the Acts of 1997), the Baltimore City Board of School Commissioners had to appoint a permanent Chief Executive Officer by December 21, 1997. In addition, the school board was prohibited from appointing the interim Chief Executive Officer of the school board as the board's permanent Chief Executive Officer. ***Chapter 597 of the Acts of 1998*** extended the statutory deadline for appointment to June 30, 1998, and made the interim Chief Executive Officer eligible for appointment as the permanent Chief Executive Officer.

PRINCE GEORGE'S COUNTY EDUCATIONAL ASSISTANCE

Prince George's County Public Schools, which is the largest school system in the State, has 41.2% of its students approved for free and reduced priced meals. Previous research has shown a correlation between this indicator and poor student performance. Further, since the beginning of the Maryland School Performance Assessment Program, Prince George's schools have consistently ranked near the bottom of Maryland's public school systems. For these reasons, the General Assembly looked closely at whether sufficient funding was being provided to address the particular problems of this school system during this term.

Funding Increases

As part of ***Chapter 565 of 1998***, the State provided $7.5 million for specific programs in Prince George's County. This included $2 million for the effective schools program, $1 million for a pilot integrated student support services project, $2 million for a teacher mentoring program, and $2.5 million for provisional teacher certification and teacher development initiatives. In addition, the Prince George's County Board of Education was required to submit an annual

plan to the Maryland State Department of Education on the use of State funds for effective schools programs and the magnet schools program. A performance audit of the county's school system also must be conducted, with the State providing one-third of the total cost up to $200,000. In addition, a management oversight panel must be established to monitor the progress of the performance and financial audits and the implementation of the audits' recommendations for a four-year period. The management oversight panel will be staffed by a newly created coordination office. The State will be responsible for funding the coordination office up to a maximum of $210,000 each year.

School Construction

The Prince George's County Public School System has been under a court order for 25 years to desegregate its schools. A trial began in federal court in November 1997 to consider motions to end or modify court ordered desegregation remedies. The parties to the case were the Prince George's County School Board, the county government, and the NAACP. In March 1998, the parties reached an agreement to end court ordered busing and settle the lawsuit. The agreement, outlined in a memorandum of understanding called for the State to provide Prince George's County with at least $35 million in annual school construction funding and the county to provide at least $32 million each year for fiscal 1999 through 2002. Over the four-year period, public school construction funding in Prince George's County would total at least $268 million.

Furthermore, the memorandum of understanding required the State to fund 60% of both eligible and noneligible project costs with the county funding 40%. Under current law, the State pays 60% of eligible project costs with the county funding 40% of eligible project costs and 100% of noneligible project costs. Noneligible project costs include architectural and engineering fees, land acquisition, certain off-site development work, removable furniture and equipment, and square footage above the State formula. It is estimated that noneligible costs may account for approximately 30% of the total cost for a new school construction project.

Chapter 704 of 1998 addressed school construction funding for Prince George's County. ***Chapter 704*** required the State to provide Prince George's County with $35 million each year in school construction funding for fiscal 1999 through 2002. Prince George's County must provide at least $32 million for school construction projects. The State will be responsible for 75% of eligible project costs for the first $35 million in public school construction costs with the county funding 25% of eligible project costs and 100% of noneligible project costs. At least $20 million of the State funds must be spent each year on neighborhood school projects. For funding above $35 million, the State will pay 60% of eligible costs. Moreover, Prince George's County Board of Education also may construct school facilities on property owned by a public agency participating in a joint-use agreement with the county board.

FINANCIAL ACCOUNTABILITY

Budgeting

In order to strengthen the fiscal accountability of local school boards, enhance communication between local governments and local school boards, and assist counties during difficult fiscal times, the General Assembly acted favorably on ***Chapter 175 of 1996***. Under this Act, each local school board must provide in its annual budget the number of full-time positions and an explanation of any surplus funds. A local school board must report to the local government concerning transfers among budget categories and the overall financial condition of the school board. ***Chapter 175*** also added the following two budget categories: (1) mid-level administration, including the office of the principal and staff providing administration and supervision to school instructional programs; and (2) textbooks and classroom instructional supplies. Furthermore, reports of school boards on category transfers must include a narrative summary of each transfer. Baltimore City is now required to comply with various annual school budget requirements that have been applicable previously to the counties.

Maintenance of Effort

The current maintenance of effort law requires a local government to appropriate a certain amount of funding to the local board of education as a condition of receiving any increase in State current expense and compensatory formula aid over the prior year. ***Chapter 175 of 1996*** also altered the local funding requirement by authorizing a county to spend less dollars in times of decreasing enrollment. To calculate the highest local appropriation, the bill excluded

nonrecurring costs, if approved by the State Board of Education. The State Board may grant a county government experiencing fiscal problems a temporary or partial waiver of the maintenance of effort requirement.

Performance Audits

On average, a county appropriates approximately one-half of its budget to the local school board. Accordingly, counties have a strong interest in the fiscal accountability of the local school boards but lacked statutory authority to obtain a performance audit of a local school system. ***Chapter 88 of 1996*** subsequently required the Maryland State Department of Education, at the request of a county governing body and in the absence of an agreement between a county governing body and a school board, to contract for a performance audit of the county school system. The purpose of the audit is to evaluate if the school system is operating efficiently. The county governing body and the school system must equally share the cost of the audit.

Comprehensive Plan

To receive any of the funding provided under ***Chapter 565 of 1998***, except the school library and additional aging school funding, each local school system must submit to the Maryland State Department of Education for approval a comprehensive plan on ways to increase the performance of at-risk students. The plan must integrate funding from different programs targeting at-risk students with the goal of providing a more comprehensive and coordinated program.

Nonsupplantation

Chapter 565 of 1998 included a nonsupplantation provision that prohibits local school systems from using the additional State funds provided in the School Accountability Funding for Excellence program to supplant existing education funding for at-risk programs. However, to the extent that a local school system achieves the intended funding level in a particular targeted program for students at risk, the local school system may divert funds to another targeted program if such program is identified in the school system's comprehensive plan and approved by the Maryland State Department of Education.

SCHOOL DISCIPLINE

Both national and State education goals declare that by the year 2000 schools will be free of drugs and violence and will provide a safe environment in which students may learn. However, these goals will not be accomplished until problems concerning disruptive students have been resolved. Disruptive students and the presence of violence in schools has become an issue of growing concern to parents, teachers, and legislators.

In the fall of 1994, the Maryland State Department of Education released a comprehensive study on the problem of disruptive students. The department recommended that schools and local school systems implement a continuum model of programs and services targeted to meet the needs of disruptive students in order to ensure safe schools for all students. Given the broad spectrum of disruptive behavior, schools were encouraged to develop a range of prevention and intervention options both inside and outside the classroom and school setting.

County Prevention and Intervention Models for Disruptive Youth

Chapters 4 and 5 of the Acts of 1996 required each local board of education to provide a continuum model of prevention and intervention programs that encourage and promote positive behavior and reduce disruption. Furthermore, the State Board of Education adopted guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards and assisted each local board of education to implement the guidelines. The Acts increased from five to ten the maximum number of days a principal may suspend a student for cause. A principal may not return a suspended or expelled student to a classroom without conferring with the teacher and other appropriate individuals. Unless a student has been referred to the Department of Juvenile Justice, a student who has damaged school property during the violation of a State or local law or regulation must make restitution consisting of monetary restitution, the assignment of the student to a school work project, or

both.

Weapons on School Property

The federal Elementary and Secondary Education Act requires each state receiving federal education funds to have in effect a state law requiring educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school. State law must also authorize the chief administrative officer of each agency to modify the requirement for a student on a case by case basis. Accordingly, the General Assembly acted favorably on legislation to ensure continued federal funding of more than $100 million. ***Chapter 347 of 1995*** required a county superintendent to expel a student for a minimum of one year if the student has brought a firearm onto school property. The county superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the county board, for the student.

Chapter 323 of 1996 conformed Maryland law with federal law by authorizing a county superintendent of schools to place a student with disabilities who has brought a firearm to school in an interim alternative educational setting for no more than 45 school days. Under the 1994 Jeffords Amendment to the federal Improving America's Schools Act, a student with disabilities may be removed from an educational placement for a maximum of 45 school days.

Pagers on School Property

Chapter 391 of 1995 made it discretionary rather than mandatory for a law enforcement officer to arrest an individual who unlawfully possessed a portable pager on school property. The officer must immediately inquire as to the reasons the individual possesses the pager and may arrest the violator. The law, which was originally passed to combat the drug trade in the schools, had resulted in the arrest of a student who had been given a pager by his parents so that they could contact him in an emergency. ***Chapter 258 of 1997*** allowed students to possess portable pagers on school property if the pagers are contained in vehicles lawfully on public school property and are not found to be connected with criminal activity. ***Chapter 481 of 1997*** made it discretionary for school authorities to contact a law enforcement officer when an individual is found in possession of a portable pager on school property on a first offense. On a second or subsequent offense, school authorities must immediately contact a law enforcement officer.

Baltimore City Alternative Learning Center

Chapter 632 of 1995 established the Baltimore City Alternative Learning Center in the Baltimore City Public School System. A student may be transferred to the Center if the student: (1) assaults a teacher, teacher's aide, student teacher, a professional or paraprofessional school employee, or a student; (2) carries a deadly weapon onto school property; or (3) commits any other act that would be a crime if committed by an adult. Programs within the Center must include elementary and secondary education programs, special education programs that fulfill the social and emotional needs of students and require the participation of the parents or guardians of the students, and vocational and rehabilitative training programs. Planning for the Center, which has not yet been established, is included in the City's Master Plan (see Chapter 105 of 1997 above).

SPECIAL EDUCATION

Transitioning Student

Approximately 300 students with developmental disabilities leave the public school system at the age of 21 each year. The Division of Rehabilitative Services in the State Department of Education provides services to individuals with physical or mental disabilities to enable them to live and work independently. In order to improve the transition services currently available to these students, ***Chapter 435 of 1995*** established an Interagency State Plan for Transitioning Students with Disabilities in the Division of Rehabilitative Services. The purpose of the plan is to undertake changes to improve the structure, quality, and availability of transition services.

Review of Educational Placements of Students with Disabilities

The General Assembly acted favorably on legislation that expedited the appeals process for the review of educational placements for students with disabilities so as to deliver services to students in a more timely manner without affecting the quality of the decision making process and the legal rights of the parties. ***Chapter 190 of 1996*** required that an appeal of a decision concerning the identification, evaluation, or educational placement of a student with disabilities be filed directly with the Office of Administrative Hearings, eliminated the requirement for a local level hearing, and required the appeal to be heard by one administrative law judge rather than a three member panel. In addition, the administrative law judges who hear these cases must receive ongoing specialized training in issues concerning the educational review of students with disabilities.

Reimbursement and Payment Limitations

The costs for special education students placed in nonpublic programs are shared by the State and local governments. ***Chapter 328 of 1996*** clarified the circumstances when a parent may be reimbursed for the tuition and other expenses for enrolling a child with disabilities in a nonpublic school. A county board of education is not required to reimburse a parent if the parent fails to provide written notice rejecting the program proposed by the county board of education, the nonpublic school placement is found to be inappropriate, or the proposed county board program is determined to be appropriate.

MARYLAND SCHOOL FOR THE DEAF

The Task Force on Funding for the Maryland School for the Deaf met during the 1996 Interim to examine the funding and mission of the School. The Task Force concluded that during fiscal 1990 through fiscal 1997, per-student State aid for public schools increased by 30 % while per-student funding for the Maryland School for the Deaf declined by 3 %. During this same time period, enrollment at the Maryland School for the Deaf has increased by 18 %. ***Chapter 511 of 1997*** established a State funding formula for the Maryland School for the Deaf based on enrollment growth and the growth in State funding provided to local school systems through the basic current expense formula.

MARYLAND SCHOOL FOR THE BLIND

The Maryland School for the Blind is a private, nonprofit organization serving students who are blind or visually impaired, including students with severe and multiple disabilities. Through its Baltimore campus program, the school provides highly specialized services to more than 170 students with complex disabilities. Over half of these students are profoundly disabled and many are also deaf. In addition to these specialized services, the school provides equipment, braille textbooks, and tutoring services to more than 500 students with visual impairment who are attending local schools throughout the State. For the past six years, state funding for the Maryland School for the Blind has remained level at about $10.3 million.

To ensure that the Maryland School for the Blind receives adequate financial resources to provide quality programs for visually impaired students, ***Chapter 617 of 1998*** was enacted. This Act mirrored its funding formula on the one enacted for the Maryland School for the Deaf, using the school's enrollment growth and the growth in State funding provided to local school systems through the basic current expense formula as its base. Similar to the formula for the Maryland School for the Blind, this new formula is based 75% on increases in the per-pupil foundation under the current expense State aid formula and enrollment growth and 25% on enrollment growth alone. Adjustments for enrollment reflect 20% of the change in the four-year moving average of the school's student enrollment. This adjustment will soften the impact of increases and decreases in student population.

Under ***Chapter 617***, the Maryland School for the Blind is also required to establish and operate a program of enhanced services for blind students who have severe disabilities and who are at risk of requiring nonpublic placement in an out-of-state special education facility. The Maryland State Department of Education is required to determine which students are eligible for the program. In fiscal 1999, no more than 20 students can be enrolled in the program, with the State share of the costs not exceeding $750,000. Local school boards will also be required to provide funding for the enhanced program.

PART L
EDUCATION

HIGHER EDUCATION

UNIVERSITY SYSTEM OF MARYLAND

Name Change

Since the enactment in1988 of legislation that reorganized the structure of higher education in Maryland, there have been numerous efforts to grant additional autonomy to the State's public universities. During the last several years, St. Mary's College and Morgan State University, as well as the University of Maryland System, have been provided significant authority over their individual schools.

In 1996, the *Joint Chairmen's Report on the Operating Budget* directed the University of Maryland System to explore the possibility of name changes to sharpen the identities of the institutions within the System. In response to that directive, the University of Maryland System undertook a study and submitted a report to the budget committees in October, 1996. ***Chapter 114 of 1997*** implemented the recommendations made in that report by renaming the University of Maryland System to be the University System of Maryland. The University of Maryland at Baltimore was renamed University of Maryland, Baltimore. The University of Maryland College Park was changed to University of Maryland, College Park; Towson State University to Towson University; and the Center for Environmental and Estuarine Studies to University of Maryland Center for Environmental Science.

Maryland Charter for Higher Education - The University System of Maryland - Task Force

At the time that the Maryland Charter for Higher Education was written, it was recognized that as changes occur within and without the public institutions of higher education in Maryland, the structure, the administration, the priorities, and the funding of these State institutions must be inspected and altered from time to time, as the need arises.

Joint Resolution 4 and Joint Resolution 5 of 1998 established a 21-member task force to study the governance, coordination, and funding of the University System of Maryland. The task force also is to give consideration to methods of increasing the prominence of the constituent institutions of the system, as well as means of efficient delivery of public higher education to the citizens of Maryland. The task force is to be staffed by the Department of Legislative Services and must report its findings and recommendations to the Governor and General Assembly by January 1, 1999.

The task force is required to engage the services of the Association of Governing Boards of Colleges and Universities. The association will report on the governance structure of the University System of Maryland and the governance structure of other public university systems in the United States. It will also make recommendations on possible changes in the governance structure of the University System of Maryland that would bring the System into national eminence among public university systems.

The task force also must utilize the services of the Education Commission of the States to conduct a study into current and future funding needs of the system institutions for each institution to fulfill its mission and reach its goals. This study will examine the history of State funding at these institutions both before and after the formation of what is now the University System of Maryland in 1988.

FUNDING OF HIGHER EDUCATION

In General

Under current law, there is no statutorily defined minimum support level for the State's public four-year colleges and universities. As a result, during recessionary periods these institutions have been more vulnerable to budget reductions.

To help to correct this, the General Assembly of 1998 passed ***Chapter 619,*** which specifies that it is the intent of the General Assembly that, barring unforeseen economic conditions, the Governor must include in the annual budget for fiscal 2000 and each year thereafter an amount of general fund support for "higher education" equal to or greater than the amount appropriated in the prior year. Higher education includes all public four- year colleges and universities, aid to community colleges and Baltimore City Community College, aid to private colleges and universities, and funding for the Maryland Higher Education Commission, including student financial assistance.

The bill also asserts that it is the goal of the State that annual General Fund and capital State support for higher education amount to no less than the following percentages of total General Fund State revenues:

- 12.5% in fiscal 2000;
- 13.5% in fiscal 2001;
- 14.5% in fiscal 2002;
- 15% in fiscal 2003; and
- 15.5% in fiscal 2004.

In addition, the legislation states the intention of the General Assembly to make higher education a priority in Maryland and establishes minimum funding goals for higher education initiatives for fiscal 1999 through 2002. These funding levels are consistent with the commitment made by Governor Glendening in the Higher Education Initiative and the Flagship Initiative, totaling an increase of more than $635 million over the four-year period. The bill specifies increasing levels of State support for the following schools and programs, including the private colleges and universities:

- The University System of Maryland;
- The Flagship Initiative at University of Maryland, College Park;
- Morgan State University;
- St. Mary's College of Maryland;
- The Maryland Higher Education Commission;
- Aid to Private Colleges and Universities;
- Aid to Community Colleges;
- Student Financial Aid Programs; and
- Baltimore City Community College.

Flagship Enhancements

The 1988 Charter for Higher Education designated the University of Maryland, College Park the flagship institution and comprehensive public research university for the State. The Charter directs the university to become one of the nation's premier public research universities recognized nationally and internationally for excellence in research, instruction, and service to the State. However, the significant reduction of State support in the early 1990s and limited growth in subsequent years diminished the University's standing relative to its aspirational peers. ***Chapter 109 of 1998***, the operating budget for fiscal 1999, puts the institution in a better position to achieve national eminence. The fiscal

1999 appropriation for the University of Maryland at College Park increases $34.5 million, or 4.4% over fiscal 1998. State support increases 9.8% to $276.4 million and represents 34% of expenditures at the university. Funding in fiscal 1999 will be used to enhance undergraduate and graduate education, libraries, academic and research facilities maintenance, graduate assistant support, and technological capabilities.

Additionally, ***Chapter 619 of 1998*** calls for the Governor to increase funding for the flagship institution at College Park.

Historically Black Educational Institutions - Access/Success Program

In response to the 1997 Joint Chairmen's Report, the Maryland Higher Education Commission published *Access and Success: A Plan of Action for Maryland's Historically Black Institutions*. The report addressed the management strategies, teaching practices, and administrative procedures which could assist in increasing the graduation and retention rates at the State's four historically black institutions, Bowie State University, Coppin State College, Morgan State University, and the University of Maryland Eastern Shore. The result of the report is the Access/Success program. ***Chapter 109 of 1998***, the operating budget, allocated $2.0 million to the Maryland Higher Education Commission's budget for this program, the funding to be divided equally among the four participating institutions. Under the plan, funding will continue at this level for five years, after which the institutions are expected to maintain services. The institutions will submit individual plans for the expenditure of the funds each year. The Maryland Higher Education Commission will evaluate the funding requests based on the proposed programs and the extent to which they are meeting the goals established in the prior year.

Maryland Applied Information Technology Initiative

While the Maryland Science and Technology program provides financial aid to individual students in the scientific areas, ***Chapter 109 of 1998***, the State operating budget, provided funding for specific schools in technical areas. It included $1.3 million for the Maryland Applied Information Technology Initiative. This grant will assist the development of information technology programs at The Johns Hopkins University, University of Maryland Baltimore County, Morgan State University, Bowie State University, and the University of Maryland, Baltimore and will be housed at the University of Maryland, College Park. Fiscal 1999 funds will be used to establish a coordinating and marketing office and faculty at the institutions initially involved. The number of graduates in information technology fields should increase to meet the needs of Maryland businesses. Although the fiscal 1999 program will consist of a small number of schools, it is expected that both funding and the number of participating institutions will increase each of the next five years.

COMMUNITY COLLEGES - FUNDING

Joint Legislative Workgroup on Community College Financing

During the 1994 Interim, the Joint Legislative Workgroup on Community College Financing was established to examine the funding of community colleges and to develop methods of assuring that community colleges have adequate resources to carry out their responsibilities. Although the Workgroup requested additional time during the 1995 Interim to complete its comprehensive review of the community college funding formula, the Workgroup made a number of recommendations as stopgap measures. One of these recommendations resulted in legislation, ***House Bill 897 of 1995*** (passed), which was vetoed by the Governor. It would have required that the State community college formula aid distributed to a community college in fiscal 1996 and 1997 be not less than the previous fiscal year's distribution.

Funding of English for Speakers of Other Languages Programs

Chapter 434 of 1995 required the State to distribute a grant to all boards of community colleges that provide instruction and services to students enrolled in an English for Speakers of Other Languages Program. Under this legislation, the total amount of the grant to all boards may not exceed $1 million and the annual grant to each board is $800 times the number of full-time students enrolled in the program. Since Baltimore City Community College is funded differently than the other boards of community colleges, the legislation contained separate provisions for

English for Speakers of Other Languages funding for this College. The annual grant allotted to Baltimore City Community College was the same as to the other boards, $800 times the number of full-time students enrolled in the program, but the overall cap was $200,000.

Study Group on Community College Financing

During the 1995 Interim, a Study Group on Community College Financing, comprised of members of the Senate Budget and Taxation Committee, the House Ways and Means Committee, and the House Appropriations Committee, developed legislation that changed the State funding formula. The new funding formula provided the community colleges with a predictable, steady increase in State funding.

Chapters 6 and 7 of 1996 required that, beginning in fiscal 1998, community colleges would receive, on a mandatory per pupil basis, 21% of the previous year's aid per full-time equivalent enrollment at four-year public institutions of higher education. The percentage of the four-year aid per full-time equivalent increases by 1% each year until it reaches 25% in fiscal 2002. Additionally, to make distributions more responsive to enrollment, these bills revised the fixed cost, marginal cost, and size factor components of the distribution formula. The legislation also eliminated the medium size grant, wealth factor and challenge grants that were part of the previous formula. Passage of this legislation should result in a total State expenditure of $34.3 million by fiscal 2002.

Senator John A. Cade Funding Formula

During the 1997 General Assembly, in memory of the late Senator John A. Cade, who had been instrumental in the passage of the new funding formula for the community colleges, ***Chapters 330 and 331 of 1997***, which renamed the community college funding formula the Senator John A. Cade Funding Formula.

Small Community Colleges - Annual Grant

Several of the changes made by the John A. Cade Funding Formula (declining small size factor and elimination of the wealth factor) resulted in a few community colleges receiving less State funding than they would have received from the existing formula. To compensate for this funding decrease, during the 1997 Session, $739,498 in hold harmless grants was provided to seven community colleges as part of the Baltimore City school legislation, ***Chapter 105 of 1997***. During the 1998 Session, this issue was addressed again with a proposal for the smaller community colleges.

Chapter 570 of 1998 provides $2 million in annual unrestricted grants to small community colleges. However, each college's grant will be reduced by the amount of additional State funding provided to the college in the Baltimore City school legislation. Accordingly, State funding should increase by $1,503,483 each year for fiscal 1999 through fiscal 2002. The Fiscal Year 1999 Budget includes funding for this initiative.

Allegany College, Garrett Community College, Hagerstown Junior College, Carroll Community College, Cecil Community College, Chesapeake College, and Wor- Wic Community College will receive additional funds under this legislation.

Two other small community colleges (Harford and Frederick) that received funding under ***Chapter 105*** **of 1997** do not receive funding pursuant to this legislation.

Community Colleges - Innovative Partnerships for Technology Program

Chapter 600 of 1998 established an Innovative Partnerships for Technology Program to provide up to $400,000 in matching grants to Maryland's community college campuses over two eligibility periods beginning in fiscal 1999. Twenty-two campuses will begin soliciting technology donations in fiscal 1999. The State will begin providing matching grants in fiscal 2001. Eligible campuses may receive up to $200,000 in matching State grants during the first two-year period. Community college campuses which receive grants totaling $200,000 in the first period are eligible to receive additional matching State grants of up to $200,000 for donations received in the second period. If all campuses receive the maximum State match, State expenditures could total $8.8 million over the entire four-year period of fiscal 2001 through 2004.

Baltimore City Community College - Funding

Since Baltimore City Community College is a State agency, it is not funded in the same manner as the State's other community colleges. During the 1996 Session, the General Assembly enacted legislation that based mandatory State community college funding on a percentage of the previous year's aid per full-time equivalent students at certain four-year public institutions of higher education. In 1998, the Administration provided a similar approach in calculating the minimum State appropriation for the Baltimore City Community College.

Chapter 568 and Chapter 569 of 1998 both require the Governor to include a minimum appropriation in the State's annual budget for Baltimore City Community College. The minimum appropriation is based on a percentage of the aid per full-time equivalent student at certain four-year public institutions of higher education or the amount the college received in the previous year, whichever is greater. The minimum appropriation will be 60 % of the aid per full-time equivalent student in fiscal 1999, increasing to 63% in fiscal 2000 and 66% in fiscal 2001 and thereafter. The Fiscal Year 1999 Budget includes $19.8 million for the college, more than the minimum appropriation required by the legislation. In addition, the legislation requires the City of Baltimore to increase its annual funding for scholarships and tuition reimbursement at the college, beginning in fiscal 2000, from $300,000 to $500,000.

STUDENT FINANCIAL ASSISTANCE

During the last several years, concern that higher education tuition and fees were increasing faster than median family income and the Consumer Price Index has been compounded by the reduction in federal grant and scholarship programs. As a result the General Assembly has examined new ways to assist Maryland citizens in financing their higher education, both through the passage of new student financial assistance programs targeted to specified populations, new scholarships based on academic achievement, and through the closer review of the issues associated with implementing a prepaid tuition program in Maryland.

Maryland Higher Education Investment Program

In recognition of the impact of the skyrocketing cost of higher education on many families, ***Chapter 89 of 1996*** established a Task Force on the Maryland Prepaid Tuition Savings Program. The Task Force had the responsibility of developing a plan for the implementation of a program for the advance payment of undergraduate tuition at higher education institutions in Maryland. A number of other states had implemented programs of this nature, and there was considerable interest in the public, especially from parents of young children who were seeking a means to plan for this substantial future expense. The Task Force issued its final report, including proposed legislation, on December 1, 1996.

In the 1997 Session, the General Assembly acted on the report, considering several alternatives intended to address the needs of students and their families in attempting to meet the escalating costs of attending institutions of higher education. The General Assembly passed legislation during that Session that took the next step in implementing a prepaid tuition program in Maryland.

Chapters 110 and 111 of 1997 established a seven-member Board to develop and administer a program to be known as the Maryland Higher Education Investment Program. Under that law, the Board was required to:

- adopt a comprehensive investment plan for the administration of the program;
- establish a program of higher education investment contracts to be known as the community college plan, the university plan, and the two plus two plan (two years at a community college plus two years at a four-year college);
- base the cost of a higher education investment contract on (1) the average current in-State tuition costs at public institutions of higher education in the State at the time the contract is purchased; (2) the number of years expected to elapse between the purchase of a higher education investment contract and the use of the benefits of the contract; and (3) the projected tuition costs at the time that the benefits will be exercised; and

- make every effort to invest program assets in a manner that earns, at a minimum, sufficient earnings to generate the difference between the prepaid amount under advance payment contracts and the average in-State tuition costs at public institutions of higher education in Maryland at the time of enrollment.

The assets and income of the program were made exempt from State and local taxation.

Now known as the Maryland Higher Education Investment Program, or Maryland Prepaid College Trust, this program allows parents and others to save money for college tuition expenses. The first higher education investment contracts will be sold this year. There are three types of contracts: lump sum payments, five-year payments, and monthly payments depending on the age of the child. Under current law, contract purchases are after-tax payments. The tax on earnings is deferred until the contract is redeemed for tuition expenses, at which time the funds are taxed at the student's tax rate rather than the parents' rate.

This year ***Chapter 571 of 1998*** became law**.** It provided an income tax subtraction modification for the interest income earned on a purchased contract. Federal legislation is pending which would allow such a subtraction for these types of programs at the federal level. If the federal legislation is enacted, it will be incorporated into the federal adjusted gross income and flow through to the State. The fiscal impact of this legislation will not be significant until approximately fiscal 2010, when beneficiaries of contracts begin to enroll in college.

Chapter 572 of 1998, also the result of the work of the 1998 General Assembly**,** provided a subtraction modification for the individual income tax for amounts contributed for the purchase of a prepaid tuition contract, up to $2,500 annually. It also provided an addition modification for any refunds from the program which are not applied to charges imposed by an institution of higher education. The addition modification may not exceed the cumulative amount of the subtraction modification taken under this bill.

This bill is effective July 1, 1998, and applies to all taxable years beginning after December 31, 1997. General Fund revenues could decrease by $1.1 million in fiscal 1999. This loss could increase by approximately $800,000 annually.

HOPE Scholarship Program

In the 1997 Legislative Session Governor Glendening sought the passage of legislation that would have established a Maryland HOPE Scholarship Program that would have been patterned after an existing program in Georgia. Concerns over the significant fiscal implications of this scholarship program, however, resulted in the bills never emerging from the legislative committees to which they were assigned. Additionally, the funds allocated by the Governor for this program in the Fiscal Year 1998 Budget were stricken by the budget committees. ***Senate Bill 231 and House Bill 493 of 1997*** (both failed) would have provided students with a scholarship equal to the cost of tuition and mandatory fees for a full-time undergraduate, not to exceed the equivalent expense at the University of Maryland, College Park if the student:

- is a Maryland resident;
- completes a college prep program in high school;
- graduates with a 3.0 average in core curriculum courses;
- attends a Maryland higher education institution as a full-time student and maintains a "B" average throughout college; and
- has a total annual family income of $60,000 or less.

Maryland Science and Technology Scholarship Program

Following the failure of the Hope Scholarship Program legislation, the Administration of Governor Glendening shifted its focus from a general scholarship to a scholarship targeted to career fields in high demand. During the 1997 Interim, the Maryland Higher Education Commission conducted a survey of 2,500 employers in the State and the Department

of Business and Economic Development to identify areas in which Maryland businesses were experiencing or anticipating a shortage of qualified applicants. Employers who answered the survey identified the areas of computer science, engineering, and technology as fields in which the number of qualified applicants was not meeting the demand.

In response to this evidence, the General Assembly passed legislation, ***Chapter 566 and Chapter 567 of 1998,*** which established the Maryland Science and Technology Scholarship Program. To qualify for a scholarship, a student must:

- be a resident of Maryland who plans to attend a Maryland college or community colleges as a full-time student;
- have earned a grade point average of at least 3.0 on a 4.0 scale or the equivalent in core curriculum courses in high school;
- begin attending a college within two years of graduating from a Maryland high school or demonstrate extenuating circumstances;
- pursue an eligible academic program in a scientific or technology field determined by the Maryland Higher Education Commission to be in need of qualified applicants; and
- agree either to work in the State after graduation for one year for each year that the scholarship is awarded or to repay the scholarship funds received plus interest.

The scholarship amount will be $3,000 per year for students enrolled in four-year institutions and $1,000 per year for community college students. If a student maintains at least a 3.0 grade point average and continues to meet the other eligibility requirements, the student may receive a scholarship for four years while attending a four-year institution, five years if enrolled in a five-year program, or three years if attending a community college.

Each year, the Maryland Higher Education Commission will establish a list of eligible academic programs after consultation with business and labor departments and appropriate advisory boards. Funds for the program will be allocated annually by the Governor in the budget for the Maryland Higher Education Commission.

The Fiscal Year 1999 Budget includes $145,000 for administrative and start-up costs for the program. Students will begin receiving scholarships in fiscal 2000. State expenditures could increase by approximately $5.3 million in fiscal 2000, of which $5.1 million represents scholarship awards. When fully implemented in fiscal 2003, expenditures for scholarships are estimated to be approximately $10 million. Future year expenditures increase with increasing enrollment rates, scholarship renewals, and inflation. An indeterminate amount of these expenditures could be recaptured in later years to the extent that students repay scholarship moneys due to failure to fulfill the work requirements of the program.

Legislative Scholarships

For many years, the issue of abolishing legislative scholarships has dominated the General Assembly's consideration of methods to provide student financial assistance to the citizens of Maryland. In 1995, legislation was introduced to abolish the scholarships. Although none of the proposals to revise the legislative scholarship programs ultimately passed, for the first time, both the Senate and the House of Delegates each passed legislation in its own chamber that would have abolished the programs.
These proposals precipitated intense discussions on how best to assure access by all Maryland students to higher education, particularly in light of the Educational Excellence Award Program, which replaced the General State Scholarship Program on July 1, 1995. The Educational Excellence Award Program was passed by the General Assembly in 1991 as part of comprehensive scholarship reform legislation but had a delayed effective date. As of July 1 of 1998, under the new Program, much of the State's scholarship moneys will be distributed based on need only and without consideration of geographical balance.

Senate Bill 855 of 1995 (failed) would have abolished the Senatorial Scholarship Program and replaced it with the Free State Community Scholarship Program. Under the Free State Community Scholarship Program, a Senator would

have the choice of placing the responsibility for the award of scholarships to recipients in the Senator's district in a Selection Committee or in the State Scholarship Administration. The criteria for selection of recipients and the permissible uses of awards would have been very similar to that set forth in the current Senatorial Scholarship Program.

House Bill 31 of 1995 (failed) would have abolished both the Senatorial Scholarship Program and the House of Delegates Scholarship Program and required the Secretary of Higher Education to develop a plan and legislation for replacing the abolished programs for consideration in the 1996 Session of the General Assembly. The bill required the plan and legislation to ensure that the student population currently served by the legislative scholarship programs in each legislative district will continue to be served, whether by existing State scholarship programs or any new scholarship program that would have been recommended for enactment in the 1996 Session.

House Bill 265 of 1996 (failed) would have abolished both Senate and the House scholarships and transfer the funds to the Educational Excellence Award Program. ***House Bill 1180 of 1997*** (failed) would have abolished only the House of Delegates scholarships and transfer the funds to the Educational Excellence Award Program. Again, during the 1998 General Assembly, ***House Bill 57*** and ***House Bill 357*** (both failed) sought to abolish the House of Delegates Scholarships and transfer the funds to the Educational Excellence Award Program.

PART M
HUMAN RESOURCES

SOCIAL SERVICES - GENERALLY

WELFARE REFORM

Background

During the previous legislative term, welfare reform was an important issue both in Congress and in the General Assembly. "Welfare" traditionally consisted of three assistance programs: Aid to Families with Dependent Children (AFDC), Medicaid, and food stamps. It was the AFDC program, however, that was targeted for major reform. Those seeking welfare reform stated that the AFDC program resulted in a system that: (1) does not reward work or efforts to find work; (2) discourages two-parent families; (3) provides welfare benefits that often exceed an income achievable by the working poor; (4) offers few positive expectations of clients; and (5) minimizes fathers' responsibilities to family and children. Reformers also pointed to the skyrocketing number of AFDC recipients and the resulting costs of the program.

Starting in 1995, and continuing with the passage of The Welfare Innovation Act of 1996, and with subsequent legislation in 1997 and 1998, Maryland continued to be a leader among the states through the creation of innovative programs designed to assist persons on welfare to become self-sufficient. During this period, the federal government passed comprehensive welfare reform, House Joint Resolution 3734, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Of most significance, federal law required that benefits be limited to 60 months or 24 months if a member of an family does not participate in a work activity. Any family on welfare as of October 1, 1996, is no longer able to receive any government assistance five years from that date, and the time may be less if the capable family members refuse to participate in work activities.

The federal welfare reform enactment was comprehensive. It affected not only the Aid to Families with Dependent Children (AFDC) program, but also made far-reaching changes to other welfare programs, including the Food Stamp Program, Supplemental Security Income (SSI), and the Women, Infants and Children (WIC) program. The federal legislation repealed the former Families with Dependent Children (AFDC) program and replaced it with a block grant program called Temporary Assistance for Need Families (TANF).

The federal law required states desiring to participate in the TANF block grant program to submit a State plan, receive approval, and begin plan implementation on or before July 1, 1997. Under the federal law, the U.S. Congress, based on a complex formula for each state, appropriated funds and directs those monies to each state in the form of a TANF block grant. With a few exceptions, this is the maximum funding a state can receive for that particular fiscal year. Maryland's allocation was about $1.1 billion through fiscal 2002. If the appropriation is insufficient, some current recipients could lose benefits and/or payments may be reduced. States may use their TANF block grant allocation in any "manner reasonably calculated to accomplish the purpose of TANF." Fortunately, Maryland anticipated many of the federal actions and much of what was included in federal welfare reform was already in place in Maryland. The following is a summary of the General Assembly's actions regarding welfare reform during the previous four years.

The Welfare Reform Pilot Program

The General Assembly's first attempt at significant welfare reform occurred during the 1995 Session. ***Chapter 491 of 1995*** established a Welfare Reform Pilot Program and made other statewide changes in the welfare system. Intended to be effective for four years, the Pilot Program was to encompass 3,000 households receiving Aid to Families with Dependent Children (AFDC) program benefits in Baltimore City, Anne Arundel County, and Prince George's County. Specifically, AFDC recipients in those counties would have been required to participate in job search and job training programs in order to continue to receive benefits. The legislation required the Department of Human Resources to provide supportive services, such as transportation and child care for recipients who needed them in order to fulfill their obligations under the Pilot Program.

A statewide provision in the legislation also included a "family cap" provision. This provision eliminated the incremental increase in AFDC benefits for a recipient who has additional children while on welfare. To ease the potential negative effects of the family cap on children, the legislation provided that a recipient could receive a voucher, not to exceed the value of the increment being eliminated, for the purchase of baby necessities, such as diapers and formula.

Improving the collection of child support was also a key element of ***Chapter 491***. The legislation addressed this problem in two ways: suspension of drivers' licenses and privatization. ***Chapter 491*** required the Child Support Enforcement Administration of the Department of Human Resources to notify the Motor Vehicle Administration (MVA) of an individual who is more than 60 days in arrears in making child support payments. Then the MVA was required to suspend the individual's drivers license.

Chapter 491 also established a four-year pilot program that privatizes all aspects of child support enforcement in Baltimore City and Queen Anne's County. It required the Secretary of Human Resources to enter into contracts with private companies to locate absent parents, establish paternity and support orders, collect and disburse support payments, and review, modify, and enforce child support orders. The selected private contractors must offer employment to any State employees affected by the privatization and retain these employees for the duration of the program at salary and benefit levels comparable to the salary and benefit levels to which they were entitled at the time of their transfer. State employees who worked for a private contractor may return to State service at any time during the program or after the termination of the program at the same pay and benefit levels they would have attained had they continued uninterrupted in State service.

For more information on Child Support Enforcement, see Part F - Courts and Civil Proceeding, under the Subpart "Family Law."

Welfare Innovation Act of 1996

As a result of impending changes on the federal level and the ability of the State to fund the level of services required under 1995's legislation if there was a reduction in federal funding, ***Chapter 351 of 1996*** was enacted. ***Chapter 351*** preempted the Pilot Program created in 1995 and completely overhauled the welfare system. The new legislation converted local social service departments into job placement centers and authorized the provision of cash benefits only as a last resort. With the enactment of ***Chapter 351***, Maryland joined 36 other states, including Virginia, that overhauled their public assistance programs since 1992, when Congress first signaled a willingness to allow the states to pursue their own efforts to reform the current welfare system.

- *Family Investment Program*

Chapter 351 replaced the current Aid to Families with Dependent Children program with the Family Investment Program. Under the Family Investment Program, Maryland's 23 counties and Baltimore City were given the flexibility to create their own tailor-made welfare programs. The goal of the Family Investment Program was to emphasize job training and placement and, after assessing each family's specific needs and resources, provide temporary cash assistance only as a last resort.

- *Eligibility Requirements*

A family may participate in the Family Investment Program if the family includes: (1) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or (2) a pregnant individual. Assistance under the Program, however, will be provided only if the applicant for or recipient of assistance: (1) resided in the State; (2) had applied for child support services with the appropriate local child support enforcement office at the time of application for assistance and complies with the requirements of the local child support enforcement office; (3) engaged in job search activities as required by the Department of Human Resources; (4) participated in work activity under the Program, unless exempted by law or under criteria established by the Secretary of Human Resources, such as adults who are required to care for a child who is a recipient under age 1 or an adult or child who is a recipient and is severely disabled; and (5) met all other Program requirements that the Secretary of Human Resources established by

regulation.

- *Lifetime Eligibility Cap and Temporary Cash Assistance Cap*

Chapter 351 limited life-time eligibility for benefits, as required by federal law, to five years and required current recipients to start seeking work within two years.

- *"Full Family Sanction" Provision*

Chapter 351 enforced new work requirements by applying a "full family sanction." Under this sanction, all benefits were cut off in cases where a recipient does not report for required work or training. ***Chapter 351***, however, provided that, if temporary cash assistance was reduced or terminated, the recipient retained eligibility for medical assistance and food stamps, as long as the recipient met the requirements of the medical assistance and food stamp programs. In addition, ***Chapter 351*** provided post-welfare benefits to certain nonprofit organizations for the purpose of assisting individuals who lose temporary cash assistance eligibility due to noncompliance with the Family Investment Program.

- *Family Cap*

Chapter 351 eliminated the increment in cash benefits that a recipient would have received for the birth of a child who is born within ten months after the individual receives benefits.

- *Repeal of 100-hour Work Rule and Two-Parent Household Eligibility Restriction*

In an effort to assist recipients in becoming self-sufficient, ***Chapter 351*** repealed the 100-hour work rule to prevent a recipient who has established eligibility under the Program from losing eligibility solely because one or more wage earners in the family unit works more than 100 hours per month. The legislation also permitted assistance to families with more than one parent in the home and provided, when a child is living with a natural parent and a stepparent, that certain income of a stepparent be disregarded when determining the eligibility of the child for temporary cash assistance. This change lifted the general prohibition against providing assistance to families with a father or stepfather living in the household.

- *Welfare Demonstration Projects*

Under ***Chapter 351***, the Secretary of Human Resources was required through grants to nonprofit organizations to establish welfare demonstration projects that involve case management programs, cooperative living initiatives, and school-based programs. These projects are funded with the savings the Family Investment Program anticipated achieving through caseload reductions or other reductions in the total amount of cash assistance paid to families compared to the total amount of cash assistance benefits budgeted. The purpose of these demonstration projects was to create incentives and opportunities for increased employment by Program recipients by providing such support services as on-site child care, job readiness programs, and any other support services that may be necessary to move recipients toward economic self-sufficiency.

- *Joint Committee on Welfare Reform*

Chapter 351 established a Joint Committee on Welfare Reform. The Committee was to consist of ten members - five members from the Senate of Maryland and five members from the Maryland House of Delegates. The responsibility of the Committee was to monitor and study, as necessary, issues related to the implementation of the Family Investment Program and related benefits and services, including: (1) the provision of food stamps and housing benefits; (2) the provision of medical benefits to the Program- eligible population; (3) current welfare demonstration projects; and (4) development and implementation of additional welfare demonstration projects.

- *Funding*

Chapter 351 required the Governor to provide sufficient funds for the Family Investment Program to ensure that the

value of temporary cash assistance, combined with federal food stamps, is at a minimum 61% of the State minimum living level. In addition, the Governor was required to provide sufficient funds to maintain the Program at the level of the fiscal 1997 appropriation.

Chapter 351 initially increased State funding expenditures in fiscal 1997. Since 1996, welfare caseloads have dropped to record levels. Therefore, expenditures have also decreased by a significant amount. It was anticipated that the ability to fund most of the enhancements of the Family Investment Program provided in ***Chapter 351*** with the projected cost savings would depend on the success of the Department of Human Resources at moving welfare recipients into unsubsidized employment. So far, the Family Investment Program has been fully funded.

Welfare Innovation Act of 1997

As a result of the impact of the federal welfare reform legislation on the "Welfare Innovation Act of 1996", legislation was introduced in the 1997 Session to address several issues of concern that had arisen. ***Chapter 593 of 1997*** focused on drug abuse testing of recipients, legal immigrants, supplemental security income (SSI), and several miscellaneous matters.

- *Substance Abuse Screening and Treatment*

The new federal welfare reform law gave states the option of testing TANF recipients for the use of controlled substances. A few states that had filed state plans with the federal Department of Health and Human Services to participate in the TANF block grant program indicated that they plan to perform such testing. Maryland decided to take a different approach. ***Chapter 593*** required local departments of social services to administer an enhanced assessment of each applicant at the time the individual applies for Family Investment Program assistance. If the enhanced assessment reveals a potential substance abuse problem that may impair the individual's ability to participate in work search and work activity requirements of the Family Investment Program, the individual is referred for further substance abuse screening and testing to be performed by the individual's managed care organization in which the individual is enrolled, as required by legislation enacted by the General Assembly during the 1996 Session.

Chapter 593 required the individual's managed care organization to provide, if indicated, appropriate and necessary substance abuse treatment services, including inpatient, intermediate care, and halfway house substance abuse treatment. The Department of Health and Mental Hygiene was required to reimburse a managed care organization for the costs of medically necessary and appropriate inpatient, intermediate care, and halfway house substance abuse treatment provided to adult substance abusing recipients. If a recipient of assistance under the Family Investment Program fails to maintain active enrollment in the substance abuse treatment or complete the treatment protocol, the recipient may lose that part of their benefits until the recipient complies with the requirements of the substance abuse treatment program. If necessary and appropriate treatment is not available, and recipients desire treatment, sanctions will not be imposed.

- *Legal Immigrant Provisions*

As was the case with the majority of the states that have filed state plans with the federal Department of Health and Human Services to date, ***Chapter 593*** included provisions that require the Maryland Department of Health and Mental Hygiene to continue Medical Assistance benefits to legal immigrants who arrived in the United States before August 22, 1996, the date the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 was signed. The Department of Human Resources was also required to provide Family Investment Program benefits to these legal immigrants. In addition, the Department of Human Resources must provide Family Investment Program benefits to legal immigrants who arrive in the United States on or after August 22, 1996 if they are not eligible for federally funded cash assistance and have lived in Maryland for at least 12 months or previously lived in a state that provided non-federally funded cash assistance to such legal immigrants.

Chapter 593 also included provisions requiring the Department of Health and Mental Hygiene to provide Medical Assistance benefits to pregnant women and children of legal immigrants who arrive in the United States on or after August 22, 1996. The Department of Human Resources also is required, under ***Chapter 593***, to provide or arrange to

have provided food stamp benefits to children of legal immigrants who are not eligible for federally funded food stamp benefits by reason of their immigration status, but who meet all other food stamp program eligibility requirements and any other requirements imposed by the State.

- *Supplemental Security Income (SSI) Recipients*

Chapter 593 required the Secretary of Health and Mental Hygiene to apply for a waiver from the federal Department of Health and Human Services or take any other steps necessary to obtain federal reimbursement for providing Medical Assistance Program services to any minor who had qualified, and subsequently lost eligibility, as disabled under the federal Supplemental Security Income (SSI) program before August 22, 1996, the effective date of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This provision was added to ***Chapter 593*** in order to cover those minors who may be rendered ineligible for SSI due to the new disability standard enacted under the House Joint Resolution 3734. House Joint Resolution 3734 required the Social Security Administration to redetermine the eligibility of current SSI beneficiaries based on the new disability standard. Approximately 3,200 Maryland children will have had their SSI status reviewed because of the federal changes. Almost 66% (2,100) of those children were expected to lose their SSI eligibility at redetermination. It is further estimated that 85% of those children will retain their Medicaid Assistance eligibility due to their family income. The federal government has since restored Medical Assistance benefits to those children who were eligible prior to August 22, 1996.

- *Miscellaneous Modifications*

In addition to the provisions discussed previously, ***Chapter 593*** also made changes to the legislation that was enacted during the 1996 Session. Concerned about the potential liability that could be incurred by nonprofit organizations acting as third party payees for purposes of providing transitional assistance and child specific benefits to Family Investment Program recipients, ***Chapter 593*** offered protections from civil liability to these organizations by including them in the Maryland Tort Claims Act under specified circumstances. ***Chapter 593*** also broadened the types of organizations that may serve as third party payees to include such persons as a for-profit organization or a governmental entity and permitted the payment of an administrative fee to these persons to help defray their costs for acting as third party payees.

Chapter 593 also streamlined the procedures and provided more flexibility to the Secretary of Human Resources for establishing demonstration projects. The 1996 legislation imposed very specific requirements on the Secretary of Human Resources for awarding grants to establish demonstration projects. Those grants could have only been awarded to nonprofit organizations. ***Chapter 593*** allowed the Secretary of Human Resources to award such grants to cover operating costs only to other persons, such as local health departments, religious organizations, and institutions of higher education. ***Chapter 593*** also provided broader guidelines for demonstration projects. Demonstration projects were required only to: (1) complement a local department's Family Investment Program; and (2) address specific, unmet local needs and barriers that prevent families from meeting requirements of the Family Investment Program.

Welfare Innovation Act of 1998

Chapter 637 of 1998 was a continuation of the General Assembly's efforts to reform Maryland's welfare program. ***Chapter 637*** intended to improve the administration of the Family Investment Program so as to enhance the State's ability to move more welfare recipients into the workforce, and hopefully keep them from re-entering the program. Primarily, ***Chapter 637*** made permanent the distribution of savings resulting from welfare caseload reductions, created the Jobs Skills Enhancement Pilot Program, and altered State procurement practices by requiring certain entities to make reasonable efforts to hire welfare recipients when specified State contracts are awarded.

Chapter 637 also exempted individuals and non-profits from paying certain taxes when an automobile was transferred to local departments of social services for distribution to welfare recipients. In addition, aspects of the Child Support Reinvestment Fund were changed to more accurately reflect the state of the fund given declining Temporary Cash Assistance caseloads, and dedicated purpose account funds earmarked for the Family Investment Program will not

revert to the State Reserve ("Rainy Day") Fund after four years. ***Chapter 637*** also required State agencies to redesign the service delivery system of the Family Investment Program to improve customer service and avoid duplication of effort. Finally, since legislation creating a finger imaging program did not pass, ***Chapter 637*** required the Department of Human Resources to study the need for finger imaging welfare recipients in Maryland.

TAX CREDITS FOR THE EMPLOYMENT OF WELFARE RECIPIENTS

Several tools were created by the General Assembly to encourage businesses to hire welfare recipients. ***Chapters 598 of 1998*** and ***Chapter 599 of 1998*** extended the Work Not Welfare Tax Credit Program to June 30, 2001 and required the Department of Legislative Services to report on the program's outcomes by December 1, 2000. The legislation also made several modifications to the existing program. First, several reporting requirements were added to enhance program accountability. Second, the credit was reduced from three to two years. Third, a super tax credit was added to encourage employers to hire "long-term" welfare recipients. Finally, the bill allowed employers to claim a credit for child care or transportation expenses that are incurred on the employee's behalf.

FOOD PROGRAMS

Although the economy has been growing over the past several years, the General Assembly was cognizant of the fact that hunger was still a problem in Maryland.

Statewide Nutrition Assistance Program

The Statewide Nutrition Assistance Program (SNAP) was originally created in 1988 to enable food distribution organizations to obtain necessary equipment. The program lost funding in fiscal 1991 due to the recession and, as such, was repealed in 1994. ***Chapter 607 of 1995*** re-established the SNAP program under the Department of Human Resources, which awarded grants of financial assistance to organizations that obtain matching resources or a commitment for matching resources equal to at least half of the grant amount.

Maryland Emergency Food Program

Despite existing programs to provide food to needy Marylanders, soup kitchens and food pantries statewide have reported an increased demand for food of 15%, coupled with a decline in food donations from businesses and charitable organizations. In response, ***Chapters 643 of 1998*** and ***Chapter 644 of 1998*** established the Maryland Emergency Food Program in the Department of Human Resources, subject to limitations in the State budget. The program was designed to provide funding to assist emergency food providers in purchasing food for needy individuals, to encourage needy individuals to become self- sufficient, and to distribute information on Maryland's earned income tax credit. When feasible and cost effective, food purchased was to be produced, grown, and harvested in Maryland. General funds in the amount of $500,000 were included for the Maryland Emergency Food Program in the Fiscal Year 1999 Budget.

PART M
HUMAN RESOURCES

THE ELDERLY

The elderly continue to be a growing segment of Maryland's population. In 1990, the number of elderly persons 65 years of age and older in Maryland was 514,000. This number is projected to increase to 1 million by 2020. The General Assembly took significant actions in the areas of nursing homes, assisted living, and continuing care, to address the needs of this vulnerable and expanding population.

NURSING HOMES

Chapter 547 of 1995 protected the rights of residents in most nursing home facilities regarding transfer and discharge from these facilities. The Act required a facility to give a resident written notice of a proposed discharge or transfer and an opportunity for a hearing before the discharge or transfer occurs. The notice must include the reasons for the discharge or transfer. A facility may not involuntarily discharge a resident unless, at least 48 hours in advance of the discharge, the facility obtained written documentation from the resident's attending physician that the discharge was not contraindicated by the resident's medical condition. The facility must provide or obtain a comprehensive medical assessment, evaluation, post-discharge plan, a written statement itemizing the medications being taken by the resident, and at least a three-day supply of those medications. ***Chapter 547*** also required nursing facilities to include the relatives of residents in the discharge planning process.

For a more detailed discussion of nursing homes, see Part J - Health, under the subpart "Health Care Facilities and Regulation."

ASSISTED LIVING

In recent years, as a consequence of the State's ever increasing elderly population and the corresponding demand for community-based services for the elderly, there was an increase in the number of sheltered housing, domiciliary care homes, and board and care homes for the elderly. As a result of the proliferation of such facilities, fragmentation among the different State agencies that fund, monitor, and regulate community-based services for the elderly - the Office on Aging, the Department of Health and Mental Hygiene, and the Department of Human Resources - had become more problematic.

In an effort to address this problem, during the 1995 Interim, the Governor established a Task Force on Assisted Living. The Task Force was charged with developing a consolidated, consistent, and comprehensive "assisted living" policy for the State. ***Chapter 147 of 1996*** incorporated the Task Force's recommendations.

Effective October 1, 1997, ***Chapter 147*** required the Department of Health and Mental Hygiene to: (1) serve as a point of entry for providing information to the public on "assisted living programs" available in the State; (2) be the lead agency for regulating assisted living programs; (3) provide the Office on Aging and the Department of Human Resources with information about assisted living programs that will enable them to respond accurately to public inquiries about assisted living programs; and (4) delegate various responsibilities related to assisted living programs and facilities, such as monitoring and inspecting, to the Office on Aging and the Department of Human Resources.

Chapter 147 required the Secretary of Health and Mental Hygiene, with the approval of the Office on Aging and the Department of Human Resources, to adopt regulations on or before October 1, 1997 that established operation and licensing requirements for assisted living programs, according to the level of services provided by a program. In addition, the regulations were required to set licensing fees in such amounts that would produce funds sufficient to cover the actual direct and indirect costs to the Department of Health and Mental Hygiene of inspecting assisted living program facilities and licensing assisted living programs.

Chapter 646 of 1998 prohibited DHMH from imposing sanctions on small assisted living programs until July 1, 1999, unless a resident's physical or emotional health was harmed or jeopardized. Small assisted living programs are those

which provided services to 15 or fewer residents. There were approximately 4,000 assisted living programs, of which some 2,800 have 15 or fewer residents. DHMH was authorized to require small assisted living programs to report on significant difficulties in implementing the proposed assisted living regulations and is required to provide technical assistance to programs encountering difficulty in complying with the regulations.

Chapter 681 of 1998 reduced burdensome regulatory procedures for assisted living programs by streamlining procedures for the handling of resident property. DHMH is required to adopt regulations specifically for assisted living programs. Once these regulations are adopted, ***Chapter 681*** will exclude assisted living programs from the regulatory procedures applied to nursing homes and hospitals. The bill will remain in effect for a period of two years and terminates on September 30, 2000.

CONTINUING CARE

Continuing care retirement communities offer a continuum of housing and services ranging from independent living and assisted living to skilled nursing care to individuals who have paid entrance fees and signed contracts covering a period of more than one year and usually for life. Maryland had 29 continuing care retirement communities, most of which were nonprofit entities.

In response to unsuccessful legislation introduced during the 1994 Session, the Office on Aging convened a 14-member Continuing Care Advisory Committee in July, 1994 to discuss the issues and recommend changes in the current law related to standards for continuing care providers. The Committee studied issues pertaining to: financial criteria, governance, resident ownership, expansion, and continuing care at home. The Committee used the Model Act developed by the American Association of Homes for the Aged and the National Association of Insurance Commissioners to prepare legislation for introduction during the 1996 Session, which resulted in ***Chapter 346 of 1996*** and ***Chapter 146 of 1996***.

Continuing Care Providers

Chapter 346 represented the consensus of the Maryland Association of Nonprofit Homes for the Aging, the Maryland Continuing Care Residents Association, and the Office on Aging concerning the regulation of continuing care providers. ***Chapter 346***:

- defined expansion and renovation for purposes of review by the Office on Aging;
- required the Office on Aging to approve any renovation or expansion if the Office determines that the renovation or expansion will not have an unreasonably adverse effect on the ability of the provider to furnish continuing care, as agreed to;
- required each provider to conduct an annual meeting of subscribers;
- required the governing body of a provider that does not have subscriber representation on the board to meet at least twice annually with the facility's resident association or representatives of the subscribers;
- required the provider to set aside for each facility operating reserves equal to 15% of the facility's net operating expenses for the most recent fiscal year;
- required the provider to notify the Office on Aging when drawing funds out of the operating reserve and to submit to the Office a written plan for restoring the funds to statutory levels;
- allowed a provider to have up to ten years to meet statutory requirements for operating reserves;
- allowed a new provider to satisfy operating reserve requirements through a line of credit;
- required the provider to furnish to prospective subscribers and annually to all subscribers on request a disclosure statement;

- required the disclosure statement to include information about the organizational structure and management of the provider, any religious or charitable affiliation, a description of fees, recent financial statements, a cash flow forecast, names of officers, directors, professional services firms, managers, criminal and civil judgments against them, a description of the form of governance and composition of the governing body, a summary of basic services, and other information;
- required the approval of the Office on Aging for any transfer of ownership greater than 50%;
- established a schedule of notices and meetings, in the event of a proposed transfer of ownership;
- required the approval of the Office on Aging for any transfer of assets in excess of 10%;
- established a schedule of notices and a deadline for a decision by the Office on Aging regarding transfer of assets;
- made the deliberations of the Financial Review Committee confidential; and
- established subscribers as a class of creditors for the purpose of any legal action in conjunction with a provider bankruptcy or receivership.

Continuing Care at Home

Chapter 146 was also a recommendation of the Continuing Care Advisory Committee. The Act provided a regulatory framework within the Office on Aging for a new long-term care service - continuing care at home. It defined "continuing care at home" as providing medical, nursing, or other health-related benefits to an elderly individual for the life of the individual or for at least one year under a written agreement that requires a transfer of assets or an entrance fee.

Chapter 146 required the Office on Aging to adopt regulations that set standards and provide for the certification of continuing care at home providers. The regulations were required to include minimum provisions regarding individuals providing care and financial matters. Before providing continuing care at home, a provider must receive a certificate of registration from the Office on Aging. The process of obtaining a certificate is similar to that for a continuing care facility. The provider must file a statement of intent, file a feasibility study, receive Office on Aging approval for the feasibility study, apply for and receive a preliminary certificate of registration, and apply for and receive a certificate of registration. The certificate must be renewed each year.

Chapter 54 of 1998 clarified certain sections of ***Chapter 346 of 1996***, which comprehensively revised the continuing care contracts statute. ***Chapter 54*** required that a continuing care contract escrow agreement and deposit agreement be approved by the Office on Aging and eliminates the requirement that the Office on Aging approve a continuing care provider's advertising material. The Act specified that, in the case of a canceled agreement, the provider must extend a full refund to the subscriber except for the costs of modification or reasonable costs of restoration incurred by the provider.

SENIOR CENTER GRANTS

Chapter 41 of 1998 clarified when a grantee of the Senior Citizen Activities Centers Capital Improvement Grants Program may qualify for subsequent grants. The Act codified existing practice and allows senior citizen activities centers to receive additional grants that do not exceed the difference between the amount of the previous grants and the maximum allowable grant.

Chapter 687 of 1998 increased the maximum allowable grant to a senior center from $300,000 to $600,000. Since the maximum grant amount had not been increased since 1987, allowing larger grants reflected the increasing construction and operating costs, and also the changing nature of these centers from providing recreational activities to a more full service center for senior citizens. In addition, ***Chapter 687*** stated the legislature's intent that there be an appropriate

level of funding for these centers and that the number of projects funded each year must not be affected by the increasing grant amounts.

PART M
HUMAN RESOURCES

THE DISABLED

Concern for the disabled has always been a high priority for the General Assembly. During the past four years, the legislature passed several initiatives that increased funding for the disabled, focused on community placements, and allowed businesses to take tax credits for hiring the disabled.

PROGRAM FUNDING

Attendant Care Program

Chapter 622 of 1995 extended coverage under the Attendant Care Program to include eligible persons with disabilities who are attending an institution of postsecondary or higher education. The Act provided that at least 50% of individuals receiving financial assistance under the Program at a given time must be gainfully employed, actively seeking employment, or attending an institution of postsecondary or higher education. Providing Attendant Care Program reimbursement to persons with disabilities engaged in postsecondary or higher education should enhance their future employability, productivity, and self-sufficiency.

Waiting List Initiative for the Developmentally Disabled

The fiscal 1999 budget for the Developmental Disabilities Administration reflected the first year of a five-year program to significantly reduce the waiting list for services for the developmentally disabled and their families. The initiative proposed a total of $118.8 million in additional funds over the next five years to provide a variety of services to nearly 6,000 individuals on the waiting list. The fiscal 1999 budget included $34.2 million and will provide services for an estimated 2,177 individuals. The proposal will not eliminate the waiting list, but will reduce it to a level at which sustained levels of funding will be able to prevent future families from facing the long-term uncertainty that today's families have faced. However, to achieve this, several obstacles still must be overcome: (1) modification and expansion of the current Medicaid waiver; (2) transition to a client-based rather than provider-based service system; (3) establishment of an administrative framework to assure efficient and effective implementation; and (4) continuing commitment by the legislature over the next four years to ensure adequate funding.

TRANSITIONING STUDENTS WITH DISABILITIES

Each year, approximately 300 students with developmental disabilities leave the public school system at the age of 21. Federal education and rehabilitation laws required each state to implement a plan designed to facilitate the transition of these students from public school to adult life. A state plan must specifically provide for coordination with educational agencies in the provision of transition services.

In order to expand coordination efforts for effective transition services of students with disabilities, ***Chapter 435 of 1995*** established an Interagency State Plan for Transitioning Students with Disabilities. The Plan was to be developed through the collaborative efforts of the Department of Education, the Department of Health and Mental Hygiene, the Department of Business and Economic Development, and the Governor's Office for Individuals with Disabilities. A transitioning student was defined as a student between the ages of 14 and 21 who meets eligibility requirements specified in federal law. The purpose of the Plan was to improve the transition services currently available to these students. The Plan must identify various elements related to transitioning, including: (1) a statewide assessment to identify the number, geographic location, and needs of transitioning students; (2) methods for interagency collaboration at the State and local levels; (3) methods to coordinate with School for Success system reform efforts; (4) projections regarding the potential fiscal impact on the State if services are phased in over three years; and (5) State, local, and federal funding sources that would be needed to finance transition services.

Currently, the Division of Rehabilitative Services of the Department of Education provides services to individuals with physical or mental disabilities to enable them to live and work independently. These services include medical and

vocational evaluation, counseling and guidance, vocational training, training in independent living skills, reader and interpreter services, rehabilitation engineering, job placement aid, and supported employment and post- employment services.

COMMUNITY SERVICES TRUST FUND

In an effort to increase the amount of funds available to provide community-based services for individuals currently on the waiting list to receive community-based mental health services, ***Chapter 675 of 1996*** and ***Chapter 646 of 1996*** established a continuing, nonlapsing Community Services Trust Fund in the Office of the State Treasurer to hold moneys resulting from the long-term lease or sale of property of a Developmental Disabilities Administration (DDA) or Mental Hygiene Administration (MHA) facility. This provision applied to any property or equipment sold or leased after April 1, 1996. The investment earnings of the Community Services Trust Fund must be transferred into the Waiting List Equity Fund and the Mental Hygiene Community-Based Services Fund.

The Department of Health and Mental Hygiene had a long-term goal of reducing the number of State residential facilities and moving those residents into the community. Great Oaks Center, a DDA facility located in Silver Spring in Montgomery County, was closed at the end of fiscal 1996. The sale of the property had not been finalized, but revenues accruing to the Community Services Trust Fund could increase by a significant amount. The provisions of ***Chapter 675*** and ***Chapter 646*** related to the Community Services Trust Fund are effective until May 30, 1999.

In 1994, the General Assembly passed legislation establishing the Waiting List Equity Fund and the Mental Hygiene Community-Based Services Fund. The purpose of those Funds was to meet the needs of individuals living in State facilities who enter community- based services programs and serve individuals who have not yet been provided with community-based services. Originally, both Funds were to terminate in 1998. ***Chapter 675*** and ***Chapter 646*** repealed the termination dates.

Chapter 697 of 1998 altered several requirements of the Community Services Trust Fund. First, proceeds going to the Trust Fund do not have to result from the closing of a Developmental Disability Administration (DDA) or Mental Hygiene Administration (MHA) facility. Second, the Act removed the Trust Fund's termination date of May 31, 1999. The General Assembly created the Trust Fund to ensure proceeds resulting from the closure of a DDA or MHA facility would be available to fund individuals placed in community services. The Act closed a loophole, which allowed the State to bypass the Trust Fund by selling off, or leasing, parcels of property belonging to the State. Currently, the Trust Fund only received money if the entire facility is sold and closed. The legislation also provided that any funds, connected with the waiting list initiative, remaining in the DDA budget at the end of fiscal 1999 shall not revert to the General Fund and shall remain available for expenditure on the waiting list initiative in subsequent years. The Eastern Shore Hospital was exempted from the bill's requirements for two years because of the redevelopment on that site.

COMMUNITY SERVICES REIMBURSEMENT RATE COMMISSION

Chapter 593 of 1996 established a seven-member Community Services Reimbursement Rate Commission to assess reimbursement rates used by the Department of Health and Mental Hygiene for developmental disabilities and mental health community services providers. The Commission was charged with assessing whether: (1) current reimbursement rates paid to community-based service providers are adequate to retain high quality direct care workers; and (2) current reimbursement rates paid with Maryland Medical Assistance Program funds and by the Developmental Disabilities Administration and the Mental Hygiene Administration remain sufficient to pay competitive salaries to staff community-based providers.

TAX CREDITS FOR THE EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

In an effort to induce businesses to hire individuals with disabilities, ***Chapters 112 of 1997*** and ***Chapter 113 of 1997*** created a tax credit for employers for wages paid to qualified employees with disabilities and for child care or transportation expenses provided or paid for by an employer of such an employee. This tax credit was similar to legislation enacted by the General Assembly that provided similar tax credits to employers that hired Family Investment Program recipients, the Work, Not Welfare Tax Credit.

Under ***Chapter 112*** and ***Chapter 113***, a qualified employee with a disability is an individual who: (1) meets the definition of an individual with a disability as defined by the Americans with Disabilities Act whose disability is an impediment to obtaining or maintaining employment or to transitioning from school to work; (2) is ready for employment; and (3) has been certified by the Division of Rehabilitation Services of the State Department of Education. If a business hires a qualified employee with a disability, the maximum tax credit that the employer could receive is 20% of the first $6,000 of wages for each of the first two years of employment, and $600 of qualified child care or transportation expenses for the first year of employment and $500 of such expenses for the second year of employment. The tax credit may only be claimed for employees hired on or after October 1, 1997 but before January 1, 2001.

The employer can claim the tax credit against State individual and corporate income taxes, public service company and financial institution franchise taxes, and the insurance premium tax, but the amount of the credit must be added to income as an addition modification for income tax purposes. The tax credit may not be claimed for: (1) an employee hired to replace a laid-off employee or one who is on strike; (2) an employee for whom federal or State employee training benefits are received; or (3) an employee for whom the Work, Not Welfare tax credit is received. If the tax credit exceeds tax liability for a taxable year it can be carried forward for up to five years or until the full amount of the credit is used.

In consultation with the Maryland Department of Education and other State agencies, the Department of Legislative Services is required during the 1999 interim to study the effectiveness of this tax credit in regard to increasing the employment and prospects for self- sufficiency of individuals with disabilities.

GUARDIAN OF THE PERSON

Chapter 9 of 1997 allowed a director of a local department of social services who was appointed by a court as a guardian of the person of a disabled person to delegate responsibilities of guardianship to staff persons whose names and positions have been registered with the court. A "disabled person" is an adult who has been judged by a court to be unable to provide for his or her daily needs sufficiently to protect his or her health or safety because of mental disability, disease, habitual drunkenness, or addiction to drugs, and as a result of this inability requires a guardian of the person.

Current law specified the priority of persons entitled to appointment as guardian of the person of a disabled person. If no one else was willing or qualified to serve, the court may appoint the director of the local department of social services as guardian for an adult less than 65 years old. For adults 65 years or older, the director of the State Office on Aging or area agency on aging could be appointed, except in those cases where the local department of Social Services was appointed guardian of the person prior to age 65. Legislation enacted during the 1994 Session authorized directors of area agencies on aging to delegate responsibilities of guardianship to staff persons whose names and positions have been registered with the court. ***Chapter 9*** gave the same authority to directors of local departments of social services.

PART M
HUMAN RESOURCES

CHILDREN

The welfare of Maryland's children is always a top priority for the General Assembly. The past four years saw many enhancements to programs serving children in the State.

FOSTER CARE

Kinship Care Program

Prior to 1995, the law provided a list of considerations, in descending order of priority, for a local department of social services to consider in developing a permanency plan that is in the best interests of a child under foster care. The first priority in this list was returning the child to the child's parent or guardian. The second priority was placing the child with relatives to whom adoption, guardianship, care, and custody may be granted. The law, however, did not require that a local department of social services seek, as a first priority, a child's relative as a foster parent.

To address this oversight, ***Chapter 546 of 1995*** required the Social Services Administration of the Maryland Department of Human Resources to establish a Kinship Care Program. "Kinship parent" was defined in the legislation as an individual who is related by blood or marriage within four degrees of consanguinity or affinity, as determined in accordance with the civil law rule, to a child who is in the care, custody, or guardianship of the local department and with whom the child is placed for temporary or long-term care other than adoption. In selecting a placement that is in the best interest of a child in need of out-of- home placement, ***Chapter 546*** required a local department of social services, as a first priority, to attempt to place a child with a kinship parent. The local department must exhaust all reasonable resources to locate a kinship parent for initial placement of the child. If no kinship parent was located at the time of the initial placement, the child was required to be placed in a foster care setting. However, if a kinship parent was located subsequent to the placement of a child in a foster care setting, the local department could, if it is in the best interests of the child, place that child with the kinship parent. The Maryland Social Services Administration adopted regulations to implement the Kinship Care Program.

For more information on Foster Care and related issues, see Part F - Courts and Civil Proceeding, under the Subpart "Family Law".

SUBCABINET FOR CHILDREN, YOUTH, AND FAMILIES

Services for Children, Youth, and Families

Legislation was passed to make several changes to the structure of the Subcabinet for Children, Youth, and Families, which was created in 1993, in order to enhance the Subcabinet's ability to coordinate with State agencies and to ensure that children with special needs receive quality service. ***Chapter 193 of 1995*** authorized the Governor to include other State agencies as members of the Subcabinet in addition to the originally designated members. The originally designated members of the Subcabinet consisted of the Secretary of Human Resources, the Secretary of Juvenile Services, the State Superintendent of Schools, the Secretary of Budget and Fiscal Planning, and the Director of the Office for Individuals with Disabilities. ***Chapter 193*** also changed the law to allow the Subcabinet to designate a department or agency as its own fiscal agent. Finally, ***Chapter 193*** changed the designation of "local planning entities" to "local management boards," thereby recognizing the responsibility of local jurisdictions to manage, not just plan, their service delivery system for children, youth, and families.

Rate Setting

Human service providers have long complained that the current rate setting methodology for private residential or nonresidential child care programs and nonpublic general education schools was ineffective and inequitable. The system treated long-standing providers differently than new providers, and provided widely varying rates within the

same service group and for similar levels of intensity. ***Chapter 609 of 1998*** required the Departments of Health and Mental Hygiene, Human Resources, Juvenile Justice, Budget and Management, and the Maryland State Department of Education (MSDE), in consultation with the Office of Children, Youth, and Families, to redesign the rate setting structure. The departments must redesign the rate setting structure by September 1, 1998 and submit an implementation plan to the budget committees by October 1, 1998. MSDE is the lead agency in this initiative.

CHILD DAYCARE

Criminal History Records Checks for Child Care Providers

Under current law, a printed statement of the results of a criminal history records check includes the existence of a conviction or pending charge contained in the criminal history record information received from the Identification Division of the Federal Bureau of Investigation. Probation before judgment and not criminally responsible dispositions are not included, even though these dispositions follow a finding of guilt (either the defendant has pleaded guilty or the court has determined guilt).

According to the Department of Public Safety and Correctional Services, a review of its records for the period of 1987 to 1993 indicated that 3,039 probation before judgment or not criminally responsible dispositions were identified in records checks for child care purposes; however, the Department could not report these dispositions to potential employers, agencies placing children for adoption, or other affected agencies or organizations. ***Chapter 19 of 1996*** required the Department of Public Safety and Correctional Services to include a probation before judgment disposition or a not criminally responsible disposition in the printed statement of a criminal history records check for child care purposes.

The Act also required the Department to update an initial criminal history records check for: (1) employers of child care facilities; (2) volunteers working in any of the child care facilities required to obtain background checks; (3) volunteers of a local department of social services that work with children, employees and volunteers at other facilities; (4) individuals seeking to adopt a child; (5) adult relatives with whom a child is placed by a local department of social services; and (6) any adults living in a family day care home, foster home, child care home, or the home of an adult relative with whom a child is placed or the home of an individual seeking to adopt a child. The updated information was to be sent to the same parties that received the initial reports for no additional charge. Under prior law, the Department updated criminal history records checks only for employees of child care facilities and programs. ***Chapter 19***, in part, was designed to ensure that the Department of Public Safety and Correctional Services updated the initial criminal history records checks of all individuals who are required to obtain a criminal history records check and that it created a mechanism to periodically verify the status of those records.

For additional information relating to Child Daycare, see Part F - Courts and Civil Proceeding, under the Subpart "Family Law."

Family Day Care Providers

Chapter 328 of 1997 extended to June 30, 2000 the termination date of the provisions of law relating to the Family Day Care Provider Direct Grant Fund.

During the 1990 Session, the General Assembly passed Senate Bill 738, which expanded the Child Care Facilities Direct Loan Fund within the Department of Economic and Employment Development to include a grant fund for family day care providers. The Governor vetoed the bill, but directed the Department of Housing and Community Development to allocate $50,000 of unrestricted funds to finance a pilot Family Day Care Grant program. The pilot program was successful, making 122 grants at an average of $410 per provider. Due to the success of the pilot program, legislation was enacted in 1991, which established, for two years, a Family Day Care Provider Direct Grant Fund under the administration of the Department of Human Resources. The Direct Grant Fund was reestablished for an additional 3-year period during the 1994 Session.

Under the Child Care Facilities Direct Grant Fund program, the Department of Human Resources must award a grant to a family day care provider as reimbursement for the expenses incurred by the provider to comply with State and

local regulations governing family day care. In making grants, the Department must give consideration to geographic distribution, community need, and family income, with priority given to those families with the lowest income. An applicant may receive only one grant, which may not exceed $500. The amount of State general funds expended for grants to family day care providers from the Direct Grant Fund may not exceed $50,000 in each year.

CHILD WELFARE WORKFORCE

The Child Welfare League of America (CWLA) was contracted by the Department of Human Resources (DHR) to analyze the policies and practices of Maryland's child welfare system. CWLA published its report, *A Review of the Maryland Child Welfare System*, in January 1997. The report recommended that, in the area of foster care services, DHR develop a strategy to reduce the average caseload for foster care to the CWLA standard of 15 children per worker and phase out contractual direct service worker positions. The report noted that core training for new child welfare staff is not mandatory in the local departments of social services, except for the Baltimore City Department of Social Services where it is mandated under the L.J. vs. Massinga Consent Decree. Therefore, it recommended that core training for new child welfare caseworkers be mandatory statewide and that child welfare staff be required to attend a minimum of 20 hours of in-service training each year.

In response to the CWLA report and the recent flurry of highly publicized child abuse tragedies, ***Chapter 544 of 1998*** required DHR to develop and implement a plan by December 31, 1998 for the recruitment, training, and retention of child welfare service caseworkers and supervisors. Regarding new employees, DHR must hire only human services professionals as caseworkers on or after January 1, 1999, and require that all new casework staff complete a pre-service training program and pass a competency test before being granted permanent employment status. Regarding current employees, DHR was required to develop a mandatory in-service training program and competency testing program as a requirement of continued employment. DHR could retain current permanent employees without human services professional qualifications if the Secretary finds that the employees are satisfactorily performing their duties. DHR cannot hire contractual caseworkers or supervisors after June 30, 1999, and cannot employ contractual caseworkers or supervisors after June 30, 2000, except to meet an emergency, in which case no contractual position is to last longer than one year.

Moreover, ***Chapter 544*** required DHR and the Department of Budget and Management (DBM) to: (1) develop appropriate caseload ratios for each local jurisdiction using the ratios recommended by the CWLA; and (2) review caseworker and supervisor salaries and recommend salary adjustments (over a phase-in period) that will be adequate to recruit and retain caseworkers and supervisors. ***Chapter 544*** authorized DHR to transfer a contractual caseworker or supervisor to a permanent position through June 30, 2000, if the contractual employee meets the minimum qualifications, has performed satisfactorily, and the transfer is approved by DBM. Contractual conversions are to be phased in according to a plan developed by DHR and DBM.

When fully implemented, ***Chapter 544*** will result in increased expenditures of $13.6 million on an annual basis ($6.8 million general funds and $6.8 million federal funds) for new child protective service and foster care positions, the upgrade of existing positions, the conversion of contractual positions, and the provision of training. Actual expenditure increases will depend on the level and number of salary adjustments, the caseload ratios, and the phase-in period determined by DHR and DBM.