

THE 2017 GENERAL ASSEMBLY SESSION

1. HEROIN/OPIOID EPIDEMIC.....	1-2
2. FRACKING.....	3
3. EDUCATION ACCOUNTABILITY	4
4. BUDGET.....	5
5. PAID SICK LEAVE.....	6-9
6. BAIL REFORM.....	10
7. YOUNGEST PUPIL DISCIPLINE.....	11
8. TEACHING CIVICS.....	12
9. SCHOOL TESTING.....	13
10. SANCTUARY STATE.....	14
11. VICTIMS OF CHILD SEX ABUSE.....	15
12. RAPE.....	16-17
13. PLANNED PARENTHOOD.....	18
14. ORAL CONTRACEPTIVES.....	18
15. FAREBOX RECOVERY.....	18
16. SEPTIC SYSTEMS - BATS.....	19
17. PRESCRIPTION DRUGS - PRICE GOUGING.....	20
18. TRANSPORTATION SCORING - METRO SAFETY BOARD.....	21
19. VETOS.....	22
20. MORE JOBS FOR MARYLANDERS ACT OF 2017.....	23

HEROIN/OPIOID EPIDEMIC

The Centers for Disease Control and Prevention (CDC) report that in 2015, drug overdoses claimed 2,404 American lives - an all-time high. In 2015, Maryland overdose deaths totaled 1,259. Between January and September 2016, 1,468 people died from overdoses, with more than 90% of them in combination of opioids, including heroin, fentanyl and prescriptions such as Vicodin and Percocet. That's more than four times the number for the same time period in 2010.

A new Washington Post-University of Maryland poll shows that heroin/opioid addiction touches one-third of state residents. The poll showed 34% of Marylanders have a family member or close friend addicted to prescription pain pills or heroin, up from 29% in 2015.

The Governor signed an Executive Order creating an Opioid Operational Command Center. The Center will facilitate greater collaboration between state and local public health, human service, education and public safety entities to try to reduce the harmful impact of opioids on communities.

ON MARCH 1ST, GOVERNOR HOGAN CALLED A STATE OF EMERGENCY because of the sharp increase in the fentanyl-related deaths, causing the heroin/opioid crisis to worsen across Maryland.

- The announcement was a result of the initial work of the Opioid Operational Command Center that the Hogan Administration activated in January, which identified the need to expedite county engagement as a proven, effective way to manage emergencies. State and local coordination to respond to the crisis will be improved.
- The Governor committed \$50 million (\$10 million a year for 5 years) in additional funding to directly address the crisis.
- The budget for fiscal 2018 will contain an additional \$11.5 million, including more than \$6 million for treatment programs.
- The State of Emergency declaration enables the Governor to use emergency management powers, including the ability to suspend the effect of a statute, as well as issue rules and regulations to deal with the crisis.

The Governor has chosen Clay Stamp, Executive Director of MEMA, to lead the state and county coordinated effort.

Carin Miller, President and co-founder of Maryland Heroin Awareness Advocates, saluted Hogan for the high profile he has given the crisis, but echoed the call for increased focus on detox medical and counseling programs. She said, "when people reach out to us, we are beside ourselves because nine out of ten times, we are sending them to Florida or other states for treatment."

The Department of Health & Mental Hygiene (DHMH) study found that Maryland can provide methadone or buprenorphine, drugs critical in treating heroin addiction, to 30,000 patients. The study concluded that is half of what is needed.

Between federal and state funding for the health department and Medicaid, Maryland budgeted \$538 million to treat substance abuse next year.

ACTION TAKEN BY 2017 SESSION

- In prescribing pain pills (opioids) physicians will be required to follow best practices, such as standards from the Centers for Disease Control and Prevention. At the same time, doctors will be held accountable to the Maryland Board of Physicians for following those guidelines. The original Hogan bill would have limited opioid prescriptions to a 7-day supply. However, Med Chi argued it was not practical and left doctors too few option.
- Originally, the HOPE Act would have established at least 10 new crisis treatment centers, open 24/7, throughout Maryland at a cost of \$18.8 million to get the centers started and an overall cost of \$270 million over 5 years.. Because of insufficient funds the number of treatment centers was pared down to one. However, the bill leaves the door open for the establishment of additional crisis centers based on the findings of an advisory group at the end of the year. HOPE requires the state to increase its reimbursement rates for substance abuse clinics every year and request at least \$2 million in the governor's next budget to expand Drug Court programs....allow individuals to administer an overdose-reversal without training.

- Require public schools to keep overdose-reversal drugs on hand.... authorize school nurses and other health personnel to administer the drugs....mandate that colleges educate incoming students about substance abuse....require that degrees for many health occupations include instruction about addiction treatment and safe pain management.

WHAT HAS BEEN DONE SO FAR

- Increased from 100 to 275 the number of patients doctors can treat with suboxone, a substance that can curb the addict's craving.
- Appropriated \$2 million in state funds to expand access to treatment in the rural areas of the state
- Increase access to narcan, which can reverse overdose deaths, to thousands who are trained and certified to administer it
- Appropriate \$5.3 million to support addiction treatment in prisons
- Make it mandatory for physicians and pharmacists to register with and use the Prescription Drug Monitoring Program (PDMP) to detect patterns of opioid overuse and doctor shopping
- Make it mandatory for doctors to consult the PDMP before prescribing pain killing pills to a patient
- Enable Maryland to tap into \$10 million of federal drug treatment funds
- The U.S. Substance Abuse and Mental Health Services (SAMHSA) allocated \$1 billion

BACKGROUND FACTS

- Drug overdoses kill more Marylanders than car crashes and homicides.
- Drug overdose deaths rose for blacks, whites, men and women, young and old in every corner of Maryland
- In Baltimore County, opioid deaths spiked from 147 to 227. According to Wes Fischer, the Commander of the County's narcotics unit, the majority of the overdose deaths occurred in Essex and Dundalk. In Harford County, deaths rose from 35 to 54
- Public health experts trace the surge in overdose deaths to the overuse of prescription painkillers, the resurgence of heroin as an alternative and the rise of fentanyl, a highly potent synthetic opioid painkiller that sometimes is mixed with heroin, unbeknownst to the user.
- Fentanyl, a synthetic opioid, is 30 to 50 times stronger than heroin. Through the third quarter of 2016, there were 738 fentanyl-related deaths in Maryland, compared with 192 in the same period in 2015.
- The shortage of treatment options, including ongoing counseling and support services, such as housing in addition to medication to curb cravings, according to those in the treatment community.
- Government and private insurance doesn't cover all treatment services. For those paying out of pocket or with high deductibles insurance plans, a typical 30 to 60 day stay at a rehab can exceed \$24,000.
- Another treatment barrier is that many places are not equipped to handle the other mental and physical health issues that often happen alongside addiction. Federal data show that up to 40% of people with an addiction also suffer a mental health problem.
- The U.S. Surgeon General's report, released in December 2016, predicted that one in seven will develop a substance abuse problem in their lifetime. Only 10% can now expect treatment.

HEROIN/OPIOID EPIDEMIC STRAINS THE STATE'S HEALTH CARE SYSTEM

- Federal data reveals that Maryland has the highest rate of hospitalization for opioid use.
- In 2014, the rate of hospital admissions for opioid use in Maryland was 362 for every 100,000 residents. The national rate of hospital admissions for opioid use in 2014 was 225 per every 100,000 residents.
- Over a decade of statistics from the U.S. Agency for Healthcare Research and Quality show that each year tens of thousand of people are admitted to state hospitals to seek care in emergency rooms for complications from opioid use, including overdose and withdrawal.
- The incredible demand that drug addiction puts on Maryland's health care system shows in the increasing cost of Medicaid to the state. Data from the Maryland Hospital Association shows that between 2013 and 2015, Medicaid hospital admissions for substance abuse rose 45%. In 2015, such admissions accounted for \$1.1 billion - that's 56% or the total Medicaid spending for that year.

FRACKING

Although the moratorium on fracking is due to expire in October 2017, the battle to permanently ban fracking in Maryland still continued. Under current law, energy companies can begin developing fracking operations in Maryland as soon as October 1, 2017.

Fracking opponents either wanted to ban it permanently or extend the moratorium for another two years. In March, Governor Hogan joined with those who wanted to ban fracking permanently. Hogan, who formerly supported fracking in Western Maryland, said he did not think there was a way to frack safely and therefore, supports a bill to ban it altogether. "The possible environmental risks of fracking simply outweigh any potential benefits"

As the use of fracking has increased, so has the concern about its potential impacts. The Maryland Department of Environment (MDE) has advised that, although accidents are relatively rare, exploration for and production of natural gas in nearby states have resulted in injuries, well blowouts, the releases of fracturing fluids, releases of methane, spills, fires, forest fragmentation, road damage and evidence of water contamination.

The bill to ban fracking permanently was approved.

BACKGROUND

- Maryland is the first state with natural gas that could be fracked from underground shale to ban the practice by law. New York, which also has shale gas banned the practice by executive order. Vermont passed a law banning fracking, but has no gas that can be fracked.
- Hydraulic fracturing involves injecting huge quantities of water, sand and chemicals, some of which are toxic, deep underground at high pressure to release natural gas from rock formations.
- The industry provides more than two-thirds of U.S. now, up from a small fraction in 2000. It has helped the U. S. keep energy prices low and leapfrog Russia as the world's leading natural gas producer.
- There have been recent news reports about fracking-related earthquakes in Oklahoma and Pennsylvania.
- The U.S. Geological Survey says that injecting fracking wastewater deep underground for disposal, a common practice, could cause damaging quakes, but that the tremors related directly to drilling are "almost always too small to be a safety concern."
- A 2014 Towson University study found fracking could support more than 2,500 jobs, add about \$80 million a year in wages and generate more than \$16 million in annual revenue - from taxes on gas extraction and income - during the industry's first decade of activity in Western Maryland. After 10 years, fracking would support fewer than 200 jobs and generate less than \$2 million in annual tax revenue because relatively few workers are needed to manage wells once they are created and the supply of gas becomes depleted over time.
- Last year Maryland's environmental department proposed fracking regulations that would require the wastewater to be treated or recycled, rather than disposed of underground. The rules would ban drilling in four watersheds, including the popular tourist destination of Deep Creek Lake, and require four layers of cement and steel casing around wells to prevent water, gas and other fluids from migrating to other areas.
- In Western Maryland, the towns of Friendsville, Mountain Lake and Frostburg have banned fracking.
- In 2010, the U.S. Environmental Protection Agency (EPA) raised several concerns regarding the impact of hydraulic fracturing on water supplies, water quality and air quality, among other issues. The EPA is currently examining the practice more closely. In April 2012, the EPA adopted a final to address air emissions from fracking. In December 2016, the EPA released a final report entitled *Hydraulic fracturing for Oil and Gas: Impacts from Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States*. In the report, the EPA states that it found scientific evidence that hydraulic fracturing activities can impact drinking water resources under some circumstances. The report also identifies certain conditions under which impacts from hydraulic fracturing can be more frequent or severe.

The Assembly approved legislation which sets up an accountability system for rating schools. It also prohibits the state school board from using vouchers and charters as a way to fix failing schools. And it prohibits the establishment of a statewide "recovery district" for failing schools, as well as creating a school without the approval of the local board and contracting with a for-profit educational company.

The bill was supported by the state teachers union and opposed by the State Board of Education and Governor Hogan who has said he will veto the bill. Hogan said the measure is "designed to hide the failures of school leaders and administrators" and will trap students in troubled and tie the hands of the state when it tries to help. Supporters contend the bill was necessary to prevent the state from taking over and privatizing troubled schools. Governor Hogan vetoed the bill on April 6th, setting up a timeline that would allow for a veto override before the 90-day session adjourned on April 10th. The veto was overridden by both houses. (90-50) in the House and (32-15) in the Senate.

According to the bill, an educational accountability program must include at least three non-academic school quality indicators that measure the comparative opportunities provided to students in public schools. School quality indicators may include, but are not limited to:

- Class size
- Case load
- Chronic absenteeism
- Data on discipline; school climate surveys (i.e. how teachers feel in the school)
- Access to advanced coursework, such as Advanced Placement courses and International Baccalaureate Programs; opportunities for dual enrollment; opportunities to enroll in career and technology education programs; opportunities for industry certification.

The measure prohibits the school quality indicators from being based on student testing. The State Board of Education is required to consider stakeholder input in determining the weights of specified indicators. The combined total of academic indicators may not exceed 65% of the composite score. Non-academic indicators will count for 45% of the composite score. As of late March, no other state's draft ESSA plans weighted non-academic indicators higher than 25%.

The bill also requires a county board of education to develop and implement a Comprehensive Support and Improvement Plan or a Targeted Support and Improvement for specified schools.

After a two-year period from the date of the plan's implementation if a local board of education determines that student outcomes have not improved the local board must consult with the school to develop different strategies and interventions, including community supports and grants provided in the Public School Opportunities Enhancement Program.

After a three-year period from the date of the plan's implementation, MSDE determines student outcomes have not improved and intervention is necessary, the MSDE must collaborate with the local board to determine the appropriate intervention strategy. An intervention strategy must comply with existing collective bargaining agreements and may not include:

- Creating a State-run school district
- Creating a 25th school system
- Converting or creating a new public school without local board approval
- Converting a public school into a charter school
- Issuing scholarships to public school students to attend nonpublic schools through direct vouchers, tax credit programs or education savings account
- Contracting with a for-profit company

BACKGROUND

The Every Student Succeeds Act (ESSA) is the most recent reauthorization of the federal Elementary and Secondary Education Act, which replaced No Child Left Behind, provides federal funds for elementary and secondary education. Maryland is in the process of transitioning to a new student accountability plan under ESSA, which it must submit to the U.S. Department of Education by September 18, 2017, for implementation in the 2017-2018 school year.

Under (ESSA), states are required to consider a wider variety of factors than its predecessor, No Child Left Behind, including measures of both academic achievement and student growth and also school quality. Proponents say that the bill is merely setting up "guardrails" to prevent the school board from going too far off course in its implementation of ESSA.

The U.S. Department of Education determines if the state is in violation of ESSA and if so, the state may lose up to \$248.6 million in Title I grants and school improvement grants.

BUDGET

5

Governor Hogan's \$43.5 billion budget, approved by the General Assembly, closed the \$105.1 million deficit for the current budget year.

The budget breakdown includes:

\$17.2 billion in General Funds - \$9 billion in Special Funds
\$12.9 billion in Federal Funds - \$4.4 billion in Higher Education Funds

The budget meets the Spending Affordability Committee's goals of reducing the structural deficit in fiscal year 2018 by at least half, leaving the state a cash balance of at least \$100 million.

- The structural deficit was cut from \$400 million to \$38 million, representing a 90% reduction.
- \$100.2 million cash balance remains in the General Fund.
- \$860 million remains in the Rainy Day Fund, equal to 5% of General Fund revenues.
- General Fund spending growth is 0.5% over last year's budget, representing an \$85.6 million increase.
- Record funding for K-12 continues at \$6.4 billion without raising taxes or fees.
- Additional money was given to schools districts where student enrollment has declined: Carroll (\$1.6 million) Allegany (\$793,000) Garrett (\$456,000) Somerset (\$455,000) Harford (\$356,000) Calvert (\$240,000) Kent (\$215,000) Cecil (\$190,000) Talbot (\$133,000) Queen Anne's (\$22,000)
- An additional \$32.7 million for higher education will hold tuition increases to 2%.
- \$5.5 million for BOOST that awards scholarships to lower income students to attend private schools.

The General Assembly restored \$71.3 million of reductions proposed in the Governor's BFRA, including:

- \$20.5 million for Prince George's Hospital
- \$8.7 million to DDA providers
- \$16 million for mandates passed in the 2016 session, including portions of the Baltimore package
- \$17 million for local governments (including SDAT cost-sharing and Disparity Grants
- \$5.7 million was also fenced off and restricted to fund a grab-bag of various programs and institutions, including increasing the monthly Temporary Disability Assistance grant.

It is up to the Governor whether or not he will release the money to be spent on these priorities.

Tapping the Reserves, but Long-term Remains an Issue

The budget transfers \$170 million from the Rainy Day Fund for the current fiscal year and cuts \$90 million from "sweeper" appropriations to the Rainy Day and Pension Funds for fiscal 2018.

Like last year, the Governor and legislative leadership expressed the need to budget with "cautious optimism."

- Projected slow economic growth attributable to uncertainties in federal employment
- The 5-year structural deficit under this budget remains problematic, reaching \$1.4 billion in 2022 and representing \$400 million more than the Governor proposed in the budget, as introduced.

Two Supplemental Budgets, One Deal with Baltimore City

The Governor had introduced two supplemental budgets, proposing to spend an additional \$95.5 million of combined general, special and federal funds.

Supplemental Budget #1 contained \$67 million for a mix of priorities, including:

- \$10 million for the Inter-Agency Heroin and Opioid Coordinating Council
- \$8 million for economic development initiatives
- \$2.6 million for higher education initiatives
- \$2 million to the Baltimore City Police Department to aid compliance in its federal consent decree.

Supplemental Budget #2 contained an additional \$28.2 million for K-12 education, including \$23.7 million agreed upon by the Administration and Baltimore City to help close the city school's \$130 million deficit.

PAID SICK LEAVE

After five years of trying, legislation to require paid sick leave won General Assembly approval. The bill requires employers with 15 or more employees to offer five days of paid sick leave per year. An employer with 14 or fewer employees must provide unpaid sick leave with at least one hour for every 30 hours an employee works. Employees can carry over 40 hours of paid sick leave from one year to the next. The amount of paid sick leave employees can use annually is set at 64 hours. It is estimated that 700,000 Maryland workers will benefit from the bill's passage.

Governor also introduced a sick leave bill which made sick time optional for businesses with fewer than 50 workers, but would offer those small businesses up to \$60 million in annual tax breaks as an incentive to provide sick leave. The Governor's bill was basically ignored before it was killed.

CURRENT LAW

- Maryland law does not require private-sector employers to provide paid or unpaid sick leave.
- **The Federal Family and Medical Leave Act of 1993 (FMLA)** requires covered employers to provide eligible employees with up to 12 work weeks of unpaid leave during any 12 month period for (1) the birth and care of an employee's newborn child (2) the adoption or placement of a child with an employee for foster care (3) to care for an immediate family member (spouse, child or parent) with a serious health condition (4) medical leave when an employee is unable to work due to a serious health condition (5) any qualifying circumstance arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on covered active duty. Generally, an FMLA covered employer that employs at least 50 employees. Public agencies and public schools are covered employers, regardless of the number of people they employ.
- **Maryland Flexible Leave Act** A private sector employer who provides paid sick leave to employees must allow an employee to use earned paid leave to care for immediate family members, including a child, spouse or parent with an illness. An employer is prohibited from taking action against an employee who exercises the rights granted or against an employee who files a complaint, testifies against or assists in an action brought against the employer for a violation of these provisions.
- **Maryland Parental Leave Act** Businesses with 15 to 49 employees are required to provide employees with unpaid parental leave benefits. An eligible employee may take unpaid parental leave up to six weeks in a 12 month period for the birth, adoption or foster placement of a child. During the parental leave, the employer must maintain existing coverage for a group health plan and, in specified circumstances, may recover the premium if the employee fails to return to work.

BACKGROUND

- Only Arizona, California, Connecticut, Massachusetts, Oregon, Vermont, Washington and the District of Columbia offer paid sick leave.
- According to the U.S. Bureau of Labor Statistics, in Maryland's region (South Atlantic) in 2016, 61% of workers in private-industry businesses have paid sick leave, while 92% of workers in state and local government have paid sick leave. Among employees of private-industry businesses with fewer than 100 workers, 55% earn paid sick leave. Private-industry businesses provided on average seven days of paid sick leave to an employee with one year of service in 2016. Private-sector employers with fewer than 100 workers on average offered six days of paid sick leave, while employers with at least 100 workers provided on average eight days of paid sick leave to employees after one year of service.
- Based on the 2015 National Health Interview Survey, approximately half of all workers who are covered by paid sick leave plans do not take any days off for illness or injury in a given year (not including maternity leave) while approximately 65% of workers who are not covered by paid sick leave plans do not take any days off for illness or injury.

PAID SICK LEAVE (Continued)

- **In 2011, Connecticut became the first state to require private sector employers to provide paid sick leave to their employees. The District of Columbia, Arizona, California, Massachusetts, Oregon, Vermont, and Washington have also enacted paid sick leave policies.**
- **Local jurisdictions have also enacted paid sick leave laws. In 2015, Montgomery County enacted paid sick leave legislation which generally requires employers in the county to provide 1 hour of earned sick and safe leave for 30 hours an employee works in the county, up to 56 hours in a calendar year. An employer with 5 or more employees must provide paid leave while an employer with fewer than 5 employees must provide 32 hours of paid leave and 24 hours of unpaid leave in a year. A person who works regularly in Montgomery County more than 8 hours each week, including a domestic worker, for an employer that employs one or more persons in the county in addition to the owners is covered. An employer includes the county government, but not the federal, state or any other local government. The law does not cover an independent contractor or a person who does not have a regular work schedule.**
- **Nationally, private-sector employees in the finance, insurance, information and utilities industries are the most likely to have access to paid sick leave, while only 31% of private-sector employees in the accommodation and food services industry have access to paid sick leave. Thus, employers in the accommodation and food services industries are likely to be the most affected by the bill.**
- **Approximately 84,000 businesses have fewer than 15 employees and would be required to provide unpaid sick and safe leave to employees while approximately 20,000 businesses have at least 15 employees and would be required to provide paid sick and safe leave. Fewer than 20% of businesses in the state have 15 or more employees, but they employ 86% of workers.**
- **The paid sick leave bill will have the greatest effect on Maryland small businesses. Small business is the engine of job creation. The ADP National Employment shows that in 2015, small business created almost double the new jobs, compared with large business. Small business, defined as those with under 50 employees, created 75,000 jobs to the 34,000 jobs created by big business.**

**Exhibit 2
Paid Sick Leave Policies**

Who is covered?	Arizona	California	Connecticut	Massachusetts	Oregon	Vermont	Washington	Washington, D.C.
Who is covered?	Most workers, except state or federal government employees, employees employed by a parent or sibling, or casual babysitters	Most workers who are employed in the state for at least 30 days.	Hourly workers in certain service occupations if the business has at least 50 employees	Workers employed in the state; employers with fewer than 11 workers receive only unpaid sick leave	Most workers except certain employees covered by a collective bargaining agreement; generally employers with fewer than 10 (6 in Portland) workers receive only unpaid sick leave	Most workers, except those who work fewer than 18 hours a week on average, federal government employees, certain state employees, employees younger than age 18, and other specified temporary employees; new employers are not subject to the law for one year after hiring their first employee; small businesses are not subject to the law until 1/1/2018	Beginning 1/1/2018, most workers, except those who are exempt from the state's minimum wage law	Most workers, except independent contractors, students, certain health care workers, unpaid volunteers, and casual babysitters
Rate of paid sick time accrual?	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 40 hours worked	1 hour for every 30 hours worked	1 hour for every 30 hours worked	1 hour for every 52 hours worked	1 hour for every 40 hours worked	1 hour for every 87 hours worked if business employs fewer than 25 employees; 1 hour for every 43 hours worked if a tipped restaurant/bar employee or if business employs 25 to 99 employees; 1 hour for every 37 hours worked for businesses with 100 or more employees
Amount of paid sick time that can be earned per year?	Up to 40 hours a year if the business has at least 15 employees; otherwise up to 24 hours a year	Generally up to 24 hours	Up to 40 hours a year	Up to 40 hours a year	Up to 40 hours a year	Beginning in 2019, up to 40 hours a year; in 2017 and 2018, up to 24 hours a year	Employers are not required to allow more than 40 hours to carry over the following year	Up to 24 hours a year if business employs fewer than 25 employees; up to 40 hours per year if tipped restaurant/bar worker or business employs 25 to 99 employees; up to 56 hours per year for businesses with 100 or more employees

Source: The Industrial Commission of Arizona; California Division of Labor Standards Enforcement; Connecticut Department of Labor; Massachusetts Office of the Attorney General; Oregon Bureau of Labor and Industries; Vermont Department of Labor; Washington State Department of Labor and Industries; District of Columbia Department of Employment Services; Department of Legislative Services

Exhibit 3
Estimated Number of Maryland Employees without Paid Sick Leave by Industry

	Number of MD Employees	% of Workers without Paid Sick Leave Nationally	Estimated MD Employees without Paid Sick Days	Estimated MD Employees Eligible for Unpaid Leave Under this Bill*	Estimated MD Employees Eligible for Paid Leave Under this Bill*
Private-sector Industry					
Accommodation and Food Services	212,153	69%	146,386	19,461	126,925
Admin., Support, Waste Man., and Rem. Services	180,658	58%	104,782	10,632	94,150
Agriculture, Forestry, Fishing and Hunting	1,267	58%	735	0	0
Arts, Entertainment, and Recreation	40,796	66%	26,925	2,887	24,039
Construction	144,248	53%	76,451	17,551	48,198
Educational Services	81,421	25%	20,355	1,307	19,049
Finance and Insurance	99,391	9%	8,945	980	7,965
Health Care and Social Assistance	360,751	27%	97,403	11,496	85,907
Information	54,379	8%	4,350	242	4,108
Management of Companies and Enterprises	51,881	36%	18,677	29	18,648
Manufacturing	96,939	30%	29,082	2,409	26,673
Mining, Quarrying, and Oil and Gas Extraction	1,098	58%	637	45	592
Other Services (except Public Administration)	113,241	43%	48,694	18,064	30,630
Professional, Scientific, and Technical Services	280,028	20%	56,006	8,607	47,398
Real Estate and Rental and Leasing	43,658	19%	8,295	744	2,801
Retail Trade	291,866	42%	122,584	15,686	106,898
Transportation and Warehousing	66,051	26%	17,173	1,987	15,186
Utilities	9,687	8%	775	0	775
Wholesale Trade	87,035	23%	20,018	2,683	17,335
All Industries	2,216,867	36%	808,272	114,809	677,276

*Among other requirements, employees must work at least 8 hours per week and be at least 18 years old, so fewer workers than estimated may be eligible for earned sick and safe leave.

Source: U.S. Bureau of Labor Statistics; Statistics of U.S. Businesses, U.S. Census; Department of Legislative Services

BAIL REFORM

There is a growing awareness nationally of the inequities inherent in cash bail. Effected most are the poor and minorities. When they cannot afford even modest bail for low level offenses they are jailed for extended periods of time. That means lost jobs, broken families and family poverty. It's an expensive way to guarantee that defendants who commit low-level crime show up for trial.

Among others, the State's Attorney, Brian Frosh, has called for bail reform. Frosh has called the states bail system unconstitutional because it violates the rights of the poor. Frosh issued a legal opinion in October 2016 that pretrial defendants cannot be held in detention simply because they cannot afford bail.

There are two big problems:

- It leads to poor people languishing in jail while those with means to furnish bail money get out pending trial - irrespective of the seriousness of their alleged crimes or their propensity to flee
- It sometimes leads to judges releasing defendants who do pose a risk to the public safety on the mistaken assumption that a high bail will prevent them from committing a violent crime.

In February, the seven member Court of Appeals voted unanimously to overhaul the bail system by requiring judges and commissioners to impose the least onerous pretrial conditions for defendants who are not seen to be a danger to the community or a serious flight risk. The rule will become effective July 1 unless changed by legislation.

Although the rule does not abolish cash bail, for the first time it requires judges to take into consideration a defendant's ability to pay bail.

It appears that judges are already responding to the criticism of cash bail and Frosh's advice. In January 2017 the use of cash bail has shown a decline, from 42% of cases statewide in July 2016 to 30% in January. The percentage of defendants released on personal recognizance rose from 48% to 52%. However, the percentage of defendants held without bail went up from 9% to 16% .

The bail bond industry lobbied for passage of another type of bail reform that just about upended the Court of Appeals rule.

- The bill did away with the concept that judges and court commissioners use the least onerous means to make sure that defendants show up in court and pose no risk to the community.
- The measure redesigned the state's bail system, allowing only those charged with misdemeanors to be released on personal recognizance.
- The measure also required judges and detention officials to review jail populations to determine whether people are being held solely because of their inability to pay, but ignores Frosh's conclusion that such detention is unconstitutional.
- *The measure perpetuated the idea that cash bail is an effective means to protect public safety rather than merely encourage a defendant to return to court.*

The bill, which was defeated, was regarded by many as a thinly veiled vehicle to protect the bail bond industry and preserve the system of cash bail.

BACKGROUND

- Although a small state, Maryland is a hub for special interest lobbyists from the bail bond industry.
- Only California and Florida, with six to three times Maryland's population, respectively, rake in more cash from the bail bonds business.
- According to Common Cause, the industry has contributed more than \$288,000 to the campaigns of Maryland politicians between 2011 and 2016. Contributions picked up recently, with more than \$135,000 given over the past two years.
- The District of Columbia, which scrapped cash bail years ago, has been successful in keeping genuine dangerous defendants locked up and uses risk-assessment tools and pretrial services to make sure that others show up for court dates.

YOUNGEST PUPILS DISCIPLINE

//

The General Assembly approved legislation to severely restrict the use of suspension and expulsion for public school students in Pre-K, kindergarten, and the first and second grades. For the past ten years Maryland has been chipping away at its school suspension problem. Passage of the bill is viewed as positive step in the right direction.

The bill provides that the only grounds for suspension in kindergarten or the first or second grade is if a pupil knowingly brings a firearm to school or knowingly possesses a firearm a school. The student must be returned to school by a means that minimizes, to the greatest extent possible, any disruption to the student's academic instruction. Under the bill, local school systems are required to provide support to address a student's behavior to any student who is suspended or who is in prekindergarten, kindergarten, or first or second grade and is disruptive to the school environment. The provision of such support includes:

- positive behavior interventions and supports
- a behavior intervention plan
- a referral to a student support team
- a referral to an individualized education program
- a referral for appropriate community-based services

CURRENT LAW

- Each local school board must establish special programs for public school students who exhibit disruptive classroom behavior.
- A principal may suspend a student for cause for up to 10 school days. There is no exemption for students in public pre-kindergarten kindergarten or first or second grades.
- The principal must provide the suspended student and his or her parents with a conference during the suspension period and a list of community resources.
- Upon request by a principal, a local superintendent may suspend a student for more than 10 days or expel a student, subject to investigation, conferencing, and appeal procedures in statute.
- A student may not be suspended or expelled only for attendance-related offenses but may be subject to in-school suspension for those offenses.
- A student who has been suspended or expelled may not return to the until the principal confers with (1) the teacher who referred the student (2) other appropriate school personnel (3) the student (4) the student's parents or guardians.
- If disruptive behavior results in action less than suspension, the principal must confer with the teacher who referred the student prior to the student returning t the teachers classroom.
- If a student brings firearm onto school property, the student must be expelled for at least one year. There is no exception for students in Kindergarten or first or second grade. However, a local superintendent may, on a case by case basis, assign a shorter period of expulsion if an alternative educational setting is approved by the local school board.

Baltimore City Alternative Learning Center

- Students in Baltimore City Public School System maybe referred to thee Alternative Learning Center if they (1) assault a teacher, student or other school employee (2) carry a gun, knife or other deadly weapon onto school property (3) commit any other act that would be a crime if committed by an adult.
- Students with disabilities may not be referred to the Center in addition to children in public pre-k, kindergarten, first or second grade.

BACKGROUND

- During the 2015-16 school year, 4.3% of students in Maryland public schools were subject to out-of-school suspensions or expulsions, a figure that except for the most recent year, has declined steadily each year since the 2006-07 school year, when it was 9%.
- According to the Maryland State Department of Education, 2,363 students in pre-k through the second grade were suspended in the 2015-16 school year. Of those, 82 were in pre-k.
- Some large jurisdictions have all but eliminated suspensions and expulsions in the lowest grades.
- Data shows that suspension and expulsion is meted out disproportionately to African-Americans and children with disabilities. While African-Americans make up 34% of the state's school population, they account for 64% of the suspensions. Students with disabilities make up 11% of the school population, but they account for 25% of the suspensions.

TEACHING CIVICS

Both Thomas Jefferson and Benjamin Franklin have declared, "Civic ignorance is the greatest threat to democracy."

Unfortunately, legislation to acquaint young Americans with civics in public school failed for the second consecutive year to gain approval. Specifically, the legislation requires that in order to graduate or earn a GED, a student must answer correctly at least 60% of 100 questions used for the civics portion of the naturalization test administered by the Citizen and Immigration Services.

The 100 questions on history and government are provided by the federal government on its website to enable applicants for citizenship to learn the material.

We require as a prerequisite for citizenship at least a rudimentary knowledge of how our government works - the three branches of government and how they work as a check on each other - the U.S. Constitution - and the rights and duties of citizenship. It makes no sense at all that we do not require public schools to teach our children these same things. They used to. But making time for assessment testing and teaching to the test, as required by "No Child Left Behind" has shaved time off of standard subjects long taught in our schools.

Civics education is a victim of testing, testing and testing.

Students can take the civics test until they pass it. Each school board must indicate on the official educational record of each student whether the student has received a passing grade on the civics test.

Listen to Cspan or any talk show and it becomes painfully obvious by the questions asked and the statements made by the call-in audience that there is little, if any, knowledge of our history, our Constitution, our rights and our government.

Former U.S. Supreme Court Justice David Souter, appointed by President George H. W. Bush, has called for renewed focus on civics education. It is imperative to the maintenance of our democracy to teach people how government works and how to be an active participant in the democratic process.

Today, most Americans know little or nothing about their Constitutional rights and their own government. No two ways about it, we made a big mistake when schools were allowed to stop teaching civics.

SCHOOL TESTING

The Assembly approved legislation to limit the amount of time school districts can spend on testing. The Less Testing, More Learning Act limits schools to 2% of classroom time on tests that are required by the federal government, the state or the school district, including standardized tests.

Tests and quizzes developed by individual teachers are not included in the 2% cap. The 2% cap equates to about 21.6 hours per year in elementary and middle schools and about 23.6 hours in high schools, according to the Maryland State Education Association, which has strongly backed the bill.

The measure also repeals the requirement for statewide social studies assessments in middle and high school. Instead, the bill requires that beginning in the 2017-2018 school year each local board of education develop a locally designed and implemented performance-based social studies assessment fully embedded in the local curriculum.

MSDE advises that local school systems have determined that no federal or state mandated assessments currently in place would have to be eliminated in order to meet the 2% assessment cap requirement at each grade level proposed in the bill. MSDE has published the time spent on testing by local school system during the 2015-2016 school year on its website.

CURRENT LAW

The most recent reauthorization of ESEA, (the Every Student Succeeds Act of 2015) requires annual assessments of all students in grades 3 through 8 and at least once in high school in reading/language arts and mathematics. Since 2008, ESEA also requires students to be tested in science at least once in grades 3 through 5, 6 through 8 and 9 through 12. ESEA does not require a government or social studies test.

DEVELOPMENT OF SPECIFIED ASSESSMENTS

Among other things, the law requires the State Board of Education and the State Superintendent of Schools to implement assessment programs in reading language, mathematics, science and social studies that include written responses. Beginning with the 2014-2015 school year, the assessments are required to be administered annually.

After the 2014-2015 school year, the State Board of Education was required to determine whether the assessments at the middle school and high school levels adequately measure the skills and knowledge set forth in the state's adopted curricula for a core content areas of reading, language, mathematics, science and social studies.

If the State Board of Education determines that an assessment does not adequately measure the skills and knowledge set forth in the state's adopted curricula for a core content area, MSDE is required to develop a state-specific assessment in that core content area to be implemented in the 2016-2017 school year.

On February 29, 2016, the State Board of Education sent a letter to the Presiding Officers of the Maryland General Assembly informing them that MDES would not be able to, among other things, develop a State-specific assessment in social studies by the 2016-2017 school year. Chapter 264 of 2016 extended the time by which MSDE is required to develop state-specific assessment in social studies by two years to the 2018-2019 school year.

BACKGROUND

In order to make the determination of whether the Partnership for the Assessment of Readiness for College and Career (PARCC) assessments adequately measure the skills and knowledge set forth in the social studies curriculum, MSDE social studies program staff reviewed the 45 PARCC released items available to the public. Of those released items, MSDE determined that 5% have a social studies topic as the focal point of the reading stimulus. Upon their analysis of those items, MSDE found that none of the items explicitly measure social studies "skills and knowledge."

According to the analysis done by MSDE staff, the PARCC assessments do not adequately a student's social studies skill and knowledge; thus, the State Board of Education expressed at its February 2016 meeting its intent to take the next step regarding the development of state-specific assessment in social studies as required by statute.

SANCTUARY STATE

The bill, rejected by the General Assembly and known as the Trust Act, would have limited state and local police from assisting with the federal immigration-enforcement efforts by stopping or questioning individuals about their country of origin or immigration status.

It would also bar most Maryland jurisdictions from detaining undocumented immigrants in jail 48 hours past their release date, unless federal agents who want to deport them have a warrant or court order describing probable cause. In short, the Trust Act would prohibit police or jails from detaining people for immigration purposes at the request of U.S. Immigration Customs Enforcement (ICE) officials - unless a judge ordered it. Of Maryland's 24 jurisdictions, 18 already have such a policy.

There is nothing in the amended version of the bill that would bar localities from informing ICE of release dates so that federal officials could detain inmates when they walk out of jail.

Nothing in the bill blocks local officials from sharing information with federal authorities with federal authorities about an undocumented immigrant's criminal record or responding to subpoenas.

The House Speaker said, "The Trust Act was generated by Donald Trump when he went out having ICE knocking down doors. That had a chilling on the minority population. We had to be self-sufficient on everything to protect the people in Maryland."

"A sanctuary state" is a jurisdiction that in some way limits cooperation between local and federal authorities on immigration issues. The Trump Administration has said it will withhold federal funding from sanctuary jurisdictions, but did not clearly define what rules would have to be in place for a jurisdiction to qualify for such a sanction.

A March Washington Post-University of Maryland of University poll found that 71% of Marylanders say immigration enforcement should be left to federal authorities, while 25% say local police should take an active role in such matters. 75% of respondents said people in the country illegally would be reluctant to inform police of crimes if local law enforcement became more active in identifying individuals for deportation.

Governor Hogan has promised to veto the Trust Act. He has described the bill as "an outrageous irresponsible bill that would endanger our citizens."

BACKGROUND

- While immigration is controlled by federal law, the Department of Homeland Security (DHS) and ICE have initiated numerous programs that involve state and local law enforcement agencies as allies and additional resources. For example, DHS's Priority Enforcement Program (PEP) was established in 2014 to enable DHS to work with state and local enforcement to take custody of individuals who pose a danger to public safety before those individuals are released.
- Pursuant to an Executive Order dated January 25, 2017, President Trump directed the Secretary of DHS to immediately take all appropriate action to terminate PEP and instead reinstitute the Secure Communities program. Under this program, launched in March 2008, participating correctional facilities would submit the fingerprints of arrestees into traditional criminal databases and immigration databases. If the database indicated that the arrestee matched a record of an individual with an immigration violation, ICE and local law enforcement would automatically be notified. ICE would then review the case and the arrestee's immigration status and determine what action it wished to take. In some instances, ICE would issue a detainer.
- Despite the President's increased focus on undocumented immigrants, federal law still does not mandate that state and local law enforcement agencies become involved in immigration efforts. The Maryland Attorney General issued a letter of advice in the fall of 2013 pertaining to immigration detainers. Such detainers are notices sent from ICE to state or local law enforcement agencies that request the agency to continue to hold a specific person for up to 48 hours past the date that the person is otherwise eligible for release. The letter advises that state and local jurisdictions may exercise discretion when determining how to respond to individual immigration detainers.

VICTIMS OF CHILD SEX ABUSE

After two unsuccessful attempts, the General Assembly unanimously approved legislation to lengthen the statute of Limitations for victims of child sexual abuse. The vote in the Senate was 47-0 and in the House it was 140-0.

The general acceptance and recognition of the long term psychological impact of child sexual abuse has led 45 states and the District of Columbia to enact laws that lengthen the statute of Limitations for legal action. The sexually abused child suffers such deep trauma that it can take years before he comes to grips with it and decides to report it.

While states have differed in their extensions of the Statute of Limitations, Delaware's response is notable. Delaware allows a cause of action based upon the sexual abuse of minor to be filed at any time if the cause of action is based upon sexual acts that would constitute a criminal offense under the Delaware Code.

The approved bill allows victims to file lawsuits until they are 38 years old. That's 13 years later than the current law allows.

The hero is Delegate C.T. Wilson who was sexually abused as child by his stepfather. Each time he has introduced the bill, he had to go through the painful ordeal of telling his story. Nevertheless, he was determined to keep introducing the bill until it passed.

The Catholic Church was a strong opponent of the bill, as was the Chairman of the House Judiciary Committee. Their support was won when the bill was amended to make it difficult for victims older than 25 years to win damages in civil lawsuits. For victims under 25 years, the bill allows courts to award damages against institutions that employ or supervise abusers if negligence is proven. For older victims, the bill requires that gross negligence be proven in order to allow the courts to award damages.

The Maryland Catholic Conference had previously objected to the bill because churches that employed abusers would be held to a different standard than government institutions. State law prohibits child sex abuse lawsuits from being filed against state and local governments, including school districts, foster care services and other public institutions - once the alleged victim turns 21. The new law does not change that.

The Catholic Church has been enmeshed in controversy for years over sexual abuse of children at the hands of priests. The Archdiocese of Baltimore has paid millions of dollars in claims lodged by dozens of people. The diocese's policy has been to offer voluntary settlements regardless of the amount of time that passed since the abuse took place.

Under the Maryland Tort Claims Act, while the State remains immune from liability for punitive damages, it places the State's liability to a single claimant for injuries arising from a single incident at \$400,000.

Under the Local Government Tort Claims Act, the local government's counterpart to the Maryland Tort Claims Act, local governments are immune from liability for punitive damages. However, the liability of local governments is \$400,000 per individual claim and \$800,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions. It further establishes that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment.

While the new law is not a silver bullet, it is hoped it will offer one measure of legal help to child abuse victims.

RAPE

16.

In what has been described as the most significant rewrite of Maryland's sexual assault laws in 15 years, the Assembly approved legislation to:

TERMINATE PARENTAL RIGHTS OF A RAPIST WHEN A CHILD IS CONCEIVED IN RAPE

The Assembly rejected a bill to authorize a court, after a trial, to terminate the parental rights of a rapist if the court determines: (that the respondent was either convicted of, or finds by clear and convincing evidence that the respondent committed an act of nonconsensual sexual conduct against the other parent that resulted in the conception of the child....finds by clear and convincing evidence that it is in the best interest of the child to terminate the parental of the respondent.

The court could not terminate parental rights if the parents were married at the time of conception, unless the respondent has been convicted of an act of nonconsensual sexual conduct against the other parent that resulted in the conception of the child.

BACKGROUND -

- Under current law, parents are joint natural guardians of their minor child.
- The National Conference of State Legislatures (NCSL) reports that various studies over the last 20 years estimate that between 17,000 and 32,000 rape-related pregnancies occur in the U.S. every year.
- Studies on the outcome of pregnancies resulting from rape. One study found that 26% of women who became pregnant through rape underwent abortions. Another study found that 50% of the women underwent abortion.
- Of those women who carried their pregnancies to term, 64% raised the children and the remainder of the women placed the children for adoption.
- According to the NCSL, as of January 2016, approximately 34 states and D.C. have enacted legislation regarding the parental rights of perpetrators of sexual assault. At least 20 of those states allow for the termination of parental rights if the parent was convicted of sexual assault which resulted in the birth of the child. The remaining states and D.C. deny or restrict custody and visitation. While most of these states require a conviction in order for the loss of parental rights to be triggered, several states, including Oklahoma, Vermont and Wisconsin, do not require a conviction.

EVIDENCE OF PHYSICAL RESISTANCE IS NOT REQUIRED TO PROVE RAPE

CURRENT LAW

Maryland jury instructions for rape state that: "Force is an essential element of the crime. To justify a conviction, the evidence must warrant a conclusion either that the victim resisted and that resistance was overcome by force or by threat to the victim's safety. No particular amount of force is required. The amount of force required depends upon the totality of the circumstances. Force may exist without violence.

SEXUAL VICTIMS' RIGHTS - DISPOSAL OF RAPE KITS

This bill requires a health care provider that performs a sexual assault evidence collection kit exam on a victim of sexual assault to provide the victim with contact information for the investigating law enforcement agency that the victim may contact about the status and results of the kit analysis. An investigating law enforcement agency that receives a sexual assault evidence collection kit, within 30 days after a request by the victim from whom the evidence was collected, must provide the victim with (1) information about the status of the kit analysis and (2) all available results of the kit analysis except results that would impede or compromise an ongoing investigation.

RAPE (Continued)

The bill also requires that a sexual assault evidence collection kit must be transferred to a law enforcement agency by:

- (1) a hospital or child advocacy center within 30 days after a specified exam is performed or
- (2) by a government agency in possession of a kit, unless the agency is otherwise required to retain the kit by law or court rule.

According to the bill, a law enforcement agency is prohibited from destroying or disposing of a sexual assault evidence collection kit or other crime scene evidence relating to a sexual assault that has been identified by the State's Attorney as relevant to prosecution within 20 years after the evidence is collected, unless the case for which the evidence was collected resulted in a conviction and the sentence has been completed or all suspects identified by testing a kit are deceased.

A law enforcement agency with custody of a sexual assault evidence collection kit, within 30 days after the request on written request by the victim must:

- (1) notify the victim at least 60 days before the date of intended destruction or disposal of the evidence
- (2) retain the evidence, as specified

BACKGROUND

- Current law requires a law enforcement agency or other state agency charged with the maintenance, storage and preservation of sexual assault kit evidence to conduct an inventory of all kits that were stored by the agency by January 1, 2016 and report the results to the Office of the Attorney General (OAG).
- The OAG is required to transmit to the General Assembly by December 1, 2016 a report detailing: (1) the number of untested sexual assault kits stored by each agency..... (2) the date that each untested sexual assault collection kit was collected.....(3) recommendations for addressing any backlog of untested sexual assault collection kits.
- In January 2017, OAG released the required report detailing the findings of the audit and including recommendations for addressing the backlog.
- Findings from the 102 law enforcement agencies surveyed revealed that approximately 3,700 untested sexual assault kits exist statewide. About 60% of the kits were collected between 2009 and 2016. Five percent were collected between 1981 and 1997, and the rest were collected between 1998 and 2009. Most jurisdictions reported no backlog of untested kits because the kits were deliberately not tested due to the agency's testing policies.
- Statutory retention periods for sexual assault evidence kits vary among states that have enacted such laws. According to the OAG, Kentucky, Pennsylvania and Utah are among the states that have recently enacted legislation requiring law enforcement to advise survivors of key information related to testing and database matching. California and Idaho have more comprehensive victim notice requirements, which include mandatory notification to victims prior to destruction of a sexual assault evidence kit.
- In 2016, Congress passed the Survivor's Bill of Rights Act of 2016, which suggests that kits be preserved for 20 years.

ANOTHER BILL APPROVED REDEFINES RAPE

In Maryland law rape is defined as a crime involving vaginal penetration. However, this year legislation was approved to set aside the distinction between and other kinds of serious sex offenses. The passage of this bill means that for the first time, in the legal sense, men could be victims of rape in Maryland.

PLANNED PARENTHOOD

The Assembly approved legislation to make Maryland the first state in the nation to guarantee funding for Planned Parenthood in case funds for the nonprofit health organization are cut by Congress. Planned Parenthood serves 25,000 patients at nine centers in Maryland. The measure establishes a Family Planning Program in the Department of Health and Mental Hygiene (DHMH) to ensure the continuity of family planning services.

BACKGROUND

- Title X is the only federal program dedicated to the provision of family planning and related preventive health service. Projects funded by Title X grants must offer a broad range of acceptable and effective contraceptive and related services on a voluntary and confidential basis. Under federal law, Title X funds cannot be used for abortion services.
- Title X serves all individuals in need, with a focus on low-income, uninsured, underinsured, hard to reach and/or vulnerable populations who lack access to health care and are at risk of unintended pregnancy.
- According to DHMH, Title X prevention efforts reduce unintended pregnancies, reproductive cancers, and STIs.
- In 2014, Maryland's Title X program was estimated to have prevented 15,000 unintended pregnancies, including 3,200 teen pregnancies, 1,490 preterm or low birth-weight births and 1,018 STIs.
- The Governor's proposed 2018 budget includes \$9.9 million for the Title X Family Planning Program, which serves approximately 71,000 Maryland women at 75 clinical sites.
- Family planning is a mandatory Medicaid benefit. Medicaid enrollees, whether enrolled in a HealthChoice managed care organization or the fee-for-service program, receive family planning, prenatal services and gynecological services. According to DHMH, there were 101,353 family planning users in the Health Choice program as of December 2016. Total HealthChoice family planning expenditures were \$33.7 million in calendar 2015.

BIRTH CONTROL - ORAL CONTRACEPTIVES

The Assembly approved legislation to allow pharmacists to supply women with oral contraceptives without a doctor's prescription. Supporters of over-the-counter access contended that modern contraceptives are safe enough that a physician's approval is no longer necessary.

The law takes effect January 2018 and gives the State Board of Pharmacy until September 1, 2018 to write rules for over-the-counter purchases.

FAREBOX RECOVERY

The Assembly approved legislation to end the Maryland Transit Administration mandate, which is known as the farebox recovery. The mandate set the unrealistic goal of financing 35% of the agency's operation through fares.

Opponents of the legislation have consistently tried to keep the farebox recovery standard as a method of holding down taxpayer subsidies for buses and trains.

Maryland was one of the few states that legally required a transit system to cover a certain percentage of the operating costs from fares. Maryland has no such mandate in place for other modes of transportation receiving public investment, such as roads and highways.

SEPTIC SYSTEMS - BATS

Legislation to require that new home construction use Best Available Technology - BAT - for on-site new home construction outside of the critical area was rejected. That mandate came in the form of a 2012 regulation during the O'Malley Administration. The regulation was repealed by Governor Hogan in 2016. In 2017 the mandate was reinstated as legislation.

Current law already prohibits a person from installing or replacing a septic system on property in the critical area unless it uses BAT.

The legislation represents a significant expansion to the program that also uses the Bay Restoration Fund (BRF). Revenue for the BFR, established in 2004, is from users of septic systems and sewage holding tanks. 60% must be deposited into a separate account to provide loans to septic system owners for the upgrade of their septic systems.

In both the critical areas and outside the critical areas, there are failed, failing and inadequate systems.

BACKGROUND

- Law enacted in 2009 required installation of septic systems that use BAT for new construction or replacement systems in the Chesapeake and Atlantic Coastal Bays Critical Area. The law requires the Maryland Department of the Environment (MDE) to assist homeowners to upgrade a conventional septic system to a system that uses BAT with money authorized for that purpose within the Bay Restoration Fund (BRF), if sufficient funds are available.
- In 2012, MDE adopted regulations that expanded the law's requirements beyond the Critical Area, requiring septic systems that use BAT for new construction in the Chesapeake Bay watershed, the Atlantic Coastal Bay watershed and the watershed of any nitrogen-impaired water body. The regulations also required BAT for any replacement system on property located in the Critical Area, which is consistent with provisions of the law (Chapter 280) In addition, the regulations required operation and maintenance of a septic system using BAT by the property owner for the life of the system. Finally, the regulation defined "new construction" to include the renovation and repair of a residence or other building where the approving authority determines the existing septic system is inadequate to serve the proposed alteration or altered building.
- In 2016, MDE adopted new regulations that retracted the expansions established by the 2012 regulation. The new regulations established that septic systems that use BAT are only required for new construction in the Critical Area, unless: (1) the system has a design flow of 5,000 gallons per day or more or: (2) the local jurisdiction has required septic systems using BAT outside of the Critical Area order to protect public health or the waters of the state. The regulations require all systems using BAT that are sold in the state to include a two-year operation and maintenance contract and a two-year warranty.
- Of the BFR revenue collected from users of septic systems and sewage holding tanks, 60% must be deposited in a separate account, the Septic Account, to provide grants and loans to septic system owners for the upgrade of their septic systems and to implement an education and outreach program. The remaining funds collected from users of septic systems and sewage holding tanks- 40% - must be transferred to the Maryland Agricultural Water Quality Cost Share Program within MDA to provide financial assistance to farmers for planting cover crops.
- MDE estimates that approximately 703 additional BATR systems may be installed annually in the state as a result of the passage of the bill. According to MDE, the average cost difference between a conventional septic system and a BAT system is \$7,500. Thus, the estimated annual economic impact could approximate \$5.3 million in increased revenue relating to the sales of BAT systems. According to a recent estimate provided by MDE, there are 15 manufacturers, approximately 1,350 certified BAT installers and 200 certified BAT operation and maintenance providers in the state.

PRESCRIPTION DRUGS - PRICE GOUGING

Prescription drug prices have soared with a regularity that has stunned the public. The public is not given any explanation of why a prescription drug price rose 100% or more from one year to the next. Wild price increases make prescription drugs unattainable to people who need them.

A poll taken by OpinionWorks showed that 84% of Maryland voters want prescription drug transparency requiring drug companies to explain how they set their prices, including their profits and how much they spend on research, advertising and production. In addition, the poll found widespread support for requiring drug companies to notify the public if they plan to increase prices by 10% or more, as well as a provision enabling the State Attorney General to take legal action to prevent unconscionable price hikes. Vermont has a similar law.

Bills, called transparency bills, to make the world of drug pricing transparent were introduced. None were approved. However, a bill, requested by the State's Attorney General, Brian Frosh, was approved. It deals exclusively with off-patent or generic drugs.

The bill prohibits manufacturers or wholesale distributors of off-patent or generic drugs from price gouging. A generic drug is any prescription for which all exclusive marketing rights have expired.

- Medicaid is required to notify the Attorney General (AG) when a price increase occurs when three or fewer manufacturers are actively selling the drug in the U.S..... or when the price increase is 50% or more in the wholesale acquisition cost of the drug within the preceding one-year period...or in the price paid by Medicaid within the preceding one-year period.
- On the request of the AG, a generic drug manufacturer, identified by Medicaid for an excessive price increase, must within 45 days, send a statement to the AG itemizing the reasons for the price increase.
- The AG can require a manufacturer or wholesale distributor to produce records relevant to the unconscionable price increase.
- On petition of the AG, a circuit court may issue an order requiring the manufacturer or whole distributor to produce records to justify the price increase and to make the drug available to participants in the State Plan for a period of up to one year at the price of the drug immediately prior to the increase. The court can impose a penalty of up to \$10,000 for each violation.
- Opponents of the bill contend that the draconian reporting requirements for generic manufacturers will damage the generic market, which is the one area of health care that saves consumers money. In addition, it provides the AG with unprecedented power to investigate and penalize companies.

BACKGROUND

- The FDA reports that generics are typically 80% to 85% less expensive than their brand drug equivalent. Generic medicines saved Maryland patient and taxpayers \$3.7 billion, including \$700 million annually for Medicaid.
- Generics make up 90% of the prescriptions in the U.S., but only 27% of total drug spending.
- At the federal level, the EpiPen controversy, where the price of two doses of this life-saving drug increased from \$93.88 in 2007 to \$608.61 in 2016, prompted calls for more generic versions of common drugs and the U.S. Food and Drug Administration is under pressure to reduce a backlog of more than 4,000 generic drug applications.
- Manufacturers report that competition, determined by the price and availability of the same drug from other manufacturers, is the primary driver of generic drug prices, as less competition could drive the price higher.

In 2016, Vermont became the first state to enact drug transparency legislation. The new law provides that the state must identify up to 15 prescription drugs on which the state spends significant health care dollars and where wholesale acquisition costs have increased by 50% or more over the past five years or by 15% or more over the past twelve months. The AG must require manufacturers to provide justification for all factors that have contributed to a price increase and the role of each factor in contributing to the increase. Manufacturers who don't comply are subject to a fine of \$10,000. Vermont's first drug pricing report, released in December 2016, noted that of 87,248 national drug codes evaluated, 9.4% saw more than a 50% increase in the last five years and 4.6% saw more than a 15% increase in the last year.

TRANSPORTATION SCORING - WHERE IS IT NOW?

The Maryland Open Transportation Investment Act of 2016 (Transportation Scoring) or as Governor Hogan calls it, the "road kill bill," was vetoed. The veto was overridden.

The Governor saw the bill as a power grab although its only effect was to add some additional steps to the process by which the Department of Transportation determined its spending priorities for new capital projects and to create a ranking system The Governor would be free to bypass the ranking system as long as he stated his rationale for doing so. In addition, the Governor and other opponents of the bill feared its implementation would to concentrate transportation projects in the populous urban and suburban areas of the state. And he claimed the Transportation Scoring bill would "immediately terminate" five dozen road projects statewide and instead, funnel nearly all of Maryland's transportation dollars to a few large jurisdictions.

The Governor said he would work with the bill's supporters on a compromise if the bill were totally repealed. The supporters rejected that deal and instead offered a compromise, which would create a panel of legislators and administration officials that would study the new and other scoring systems for two years and make recommendations.

In the meantime, Hogan would be allowed to assign transportation funding under the old rules, which requires no scoring system or gubernatorial explanation for why he chose to fund one project over another. In effect, this compromise would put transportation scoring on hold for two years until after the next gubernatorial election. The bill was approved.

METRO SAFETY BOARD

During the session, the Governor signed into law a bill to create a long-delayed Metro safety oversight body. This moves the Washington region a step closer to obtaining million of dollars in suspended federal transit aid.

The effort to set up the Metro-rail Safety Commission next goes to Congress for approval after the three jurisdictions it serves (Maryland, Virginia and D.C.) have approved it. Congressional lawmakers can stymie the establishment of the Commission if they amend it on issues, such as labor policies, funding or any of a dozen other issues.

Area officials are planning to create the nine-member Commission even before Congress votes. They do not want to wait for Congressional action to start the process of hiring an executive director and staff or appointing commissioners. They want to get fully mobilized.

The federal government is withholding about \$15 million a year in transit grants from the three jurisdictions until the safety commission is set up. The process of establishing the commission and getting it certified by the Federal Transit Administration (FTA) will take until late 2017 or early 2018.

The FTA took the unprecedented step of assuming responsibility for Metro safety in 2015, when federal officials determined that the Tri-State Oversight Committee, which had been in charge, was inadequate. In place of the FTA, the new Commission will oversee Metro safety.

THE VETOES

During the 2016 General Assembly session 2,817 bills were introduced. Of 834 bills approved and sent to the Governor for his signature, 130 were duplicate bills. The Assembly rejected 70% of the bills introduced. Governor Hogan signed 620 bills into law and allowed 84 bills to become law without his signature. He vetoed five bills or less than 1% of the legislation approved by the Assembly. The vetoed bills include:

- **Senate Bill 921 expanded the use of renewable sources, such as solar and wind power, from 20% by 2022 to 25% by 2020. The Governor viewed this as a hidden tax waiting to happen. In order to fund reaching the new goal electric users will have to be taxed between \$40 million and \$196 million by 2020. While it is not a tax in the strictest sense, the money will have to be taken from the pockets of electric customers. THE GOVERNOR'S VETO WAS OVERRIDEN.**
- **Senate Bill 910 established the Maryland Education Development Collaborative as an advisory group for the Maryland State Department of Education and local school boards on education policy. The Governor reasoned that the bill violated the separation of powers between the legislative and executive branches of government because it included one member of the Senate and one member of the House. The Hogan Administration's opinion was not backed up by the Attorney General. Nevertheless, THE GENERAL ASSEMBLY SUSTAINED THE GOVERNOR'S VETO.**
- **Senate Bill 907 required the state to set aside \$75 million annually between 2018 and 2027 to replace the Harry W. Nice Memorial Bridge, which spans the Potomac River in Southern Maryland. The Governor said the bill was unnecessary because the state has already planned for \$61 million in allocations for the bridge in its 6-year transportation plan. SB 907 prioritizes the Nice Bridge project over other projects. The Governor said he didn't think it fair for the Nice Bridge replacement to leap frog over other important projects, especially when it is included in the transportation plan. THE GOVERNOR'S VETO WAS SUSTAINED.**
- **House Bill 1010 creates a citizen oversight and planning board for the Maryland Transit Administration (MTA), which is now exclusively under the purview of the Governor. Governor Hogan sees the bill as a power grab. NO ACTION WAS TAKEN.**
- **Senate Bill 540 prohibited the Board of Regents of Morgan State University in Baltimore City from approving a student housing project on Havenwood Road without a local community association's approval. The Governor characterized the bill as improper interference in a City zoning matter. THE GOVERNOR'S VETO WAS SUSTAINED.**

MORE JOBS FOR MARYLANDERS ACT OF 2017

Governor Hogan's bill to give new manufacturing companies special tax breaks for moving into economically depressed areas was rewritten and approved by the Assembly. The rewritten bill would give breaks to any manufacturing company that creates new jobs.

The bill provides a 10-year income tax credit to manufacturers that meet specified requirements and create new jobs

A project eligible for the tax credit must be located in Allegany, Dorchester, Garrett, Somerset, Wicomico or Worcester counties or Baltimore City. If not located in one of these jurisdictions, the project must be on a site that is at least 3,000 acres.

A business must offer an ongoing job skills enhancement training program or postsecondary education program that is approved by the Department of Commerce.

The amount of the income tax credit is equal to the total wages paid for the qualified positions multiplied by 5.75%. If the value of the credit exceeds the tax liability imposed in a year, a business can claim a refund in the amount of the excess.

A business cannot continue to claim the tax credit if the number of qualified positions decreases below the total number in the first year in which the business qualified for the tax credit. The tax credit may be claimed, beginning in the tax year 2017 and the Department of Commerce may not certify a business as eligible after May 31, 2020.

In addition, the bill creates a tax credit against the state income tax for individuals or corporations that employ an apprentice for at least seven months during a taxable year in an apprenticeship program registered with the Maryland Apprenticeship and Training Council. The income tax credit is equal to the lesser of \$1,000 for each apprentice or the taxpayer's tax liability. The credit may be carried forward to succeeding tax years until the full amount of the credit is claimed.

TAX SUBSIDY FINDINGS

The bill states that the General Assembly finds that the widespread adoption of tax subsidies intended to move jobs from one state to another state reduces revenues in all participating states without increasing the total number and quality of jobs.

The bill instructs the Governor to work with the chief executive officers of Delaware, the District of Columbia, North Carolina, Pennsylvania, Virginia and West Virginia to negotiate an agreement by July 1, 2018 for the repeal of any law in each state that provides a tax subsidy, including any tax credit, deduction, exemption, or other modification that is intended to create new job or entice new job to the state. The Governor is required to report by September 15, 2018 to the Senate Budget and Taxation Committee and the House Ways and Means Committee on the status of the agreement.

BACKGROUND

- The manufacturing industry's share of the Maryland economy (8%) is about double its share of total employment and the industry remains the second largest source of corporate income tax revenues.
- Since 1990, total Maryland nonfarm employment has increased by 432,300 or about one-fifth.
- In the second quarter of 2015, Maryland manufacturing businesses employed a total of 103,909 workers, about 4% of Maryland's total nonfarm employment.
- Although manufacturing employment has fallen within the U.S., output continues to increase, reflecting more widespread use of technology that increases productivity.
- The share of the U.S. workforce employed within manufacturing and agriculture since WWII has declined from about one-third to 10%.