The Maryland Public Policy Institute

The Annapolis Report

A Review of the 2019 Legislative Session

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BY CAROL PARK and MARC KILMER

ABOUT THE MARYLAND PUBLIC POLICY INSTITUTE

Founded in 2001, the Maryland Public Policy Institute is a nonpartisan public policy research and education organization that focuses on state policy issues. Our goal is to provide accurate and timely research analysis of Maryland policy issues and market these findings to key primary audiences.

The mission of the Maryland Public Policy Institute is to formulate and promote public policies at all levels of government based on principles of free enterprise, limited government, and civil society.

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EVER SINCE THE MARYLAND PUBLIC POLICY INSTITUTE BEGAN ISSUING THE ANNAPOLIS REPORT IN 2009, legislators have showed little regard for taxpayers. This year was no different. The Maryland General Assembly sharply increased spending despite warnings of a possible impending recession. In addition, it passed an education spending plan that allocates more taxpayer dollars to schools but does not require accountability measures for this large spending hike. And efforts to cut taxes were, as usual, largely ignored.

Business owners and their workers also took a hit from legislators this year. By mandating a $15 statewide minimum wage, legislators embraced an economic plan that will hurt businesses. Their aim was to help workers, but many economists predict that the new law will do more harm than good.

Health-care reform efforts also consisted of misguided attempts to impose price controls on prescription drugs sold to state and local government plans. Lawmakers designed a cumbersome system that will prove ineffective in controlling costs, but they redeemed themselves somewhat by resisting calls to extend these price controls statewide.

There were some small efforts to expand individual liberty during this year's session, such as a recognition that occupational licensing laws should be reformed, and decriminalization of certain activities like gambling. Baltimore City also banned tax sales for unpaid water bills. On the whole, however, the 2019 legislative session gave fans of free markets and limited government little to cheer.

This report summarizes and evaluates results in major policy areas. The mission of the Maryland Public Policy Institute is to promote public policies—at all levels of government—that are based on principles of free enterprise, limited government, and civil society. Our analysis of each legislative session has been consistent with that mission. We note cases when legislation reduces the freedom of Marylanders or expands government intervention in people's lives, and praise legislation that is consistent with our mission.

Budget

Grade: D

This year's budget session was dominated by the topic of education funding. To begin implementing the recommendations of the Maryland Commission on Innovation and Excellence in Education (the Kirwan Commission), legislators passed a $46.6 billion budget for fiscal 2020 that reflects a 4 percent spending hike above the previous year. In doing so, legislators ignored the state comptroller's advice to be cautious with spending this year, and warnings of an upcoming economic downturn. While it is not unusual for Maryland lawmakers to make fiscally irresponsible decisions at the expense of taxpayers, this budget session was characterized by exceptional disregard for Maryland's long-term fiscal health in order to pour money into underperforming schools.

Tax

Grade: C

This year, Maryland lawmakers once again failed to pass tax-friendly bills that would reduce the corporate and personal income tax burden for Maryland businesses and workers. Meanwhile, they successfully passed bills, including SB 581, which creates the Opportunity Zone Enhancement Program that would authorize targeted tax breaks. Finally, under SB 96/HB 16, Baltimore City government will no longer be allowed to conduct tax sales for residences that have unpaid water bills. This was a large victory for Baltimore residents, some of whom risked losing their homes due to the city's water policy crisis.

Education

Grade: D

The Maryland Department of Budget and Management projects that implementing the Kirwan Commission's recommendations will cause a fiscal shortfall of $18.7 billion. The 2019 session ensured that this projection will become a reality. In addition to authorizing a half-billion dollars for school construction, this year's budget provides an extra $255 million to begin implementing the commission's recommendations. A separate bill also mandates an additional $850 million in Kirwan funding for the next two years. Unfortunately, Maryland's record education spending will not help improve schools without added accountability to minimize wasteful spending.

Pension

Grade: A

The Maryland Public Policy Institute has produced years of research pointing out that the Maryland State Retirement and Pension System does not fully disclose carried interest fees it pays to Wall Street investment managers. This year, Maryland legislators successfully passed HB 821, which requires the MSRPS to fully disclose its annual carried interest fees. The new law hopes not only to improve overall transparency of Maryland's pension system, but also to put more pressure on the MSRPS to reduce fees and improve its investment performance.

Business and Economy

Grade: D

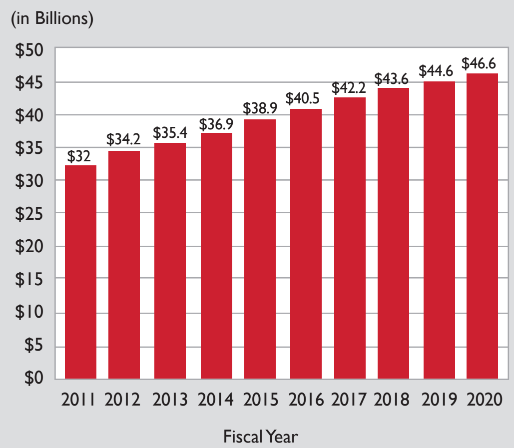
The minimum wage increase that legislators passed this year will have ramifications for the state's businesses and workers for years to come. By making it more expensive to do business in the state and pricing some low-income workers out of the job market, legislators took a profoundly negative step. The increased renewable energy mandate will also raise costs for businesses and consumers, further damaging the state's economy. These and the other anti-market bills passed by legislators were only slightly offset by positive action on occupational licensing reform and alcohol law revisions.

Health Care

Grade: D-

Legislators continued their efforts to control prescription drug prices through legislation of dubious legality and effectiveness during this year's session. They passed a bill that will establish a board to enact price controls for prescription drugs purchased through government health-care plans. They stripped out language that would have imposed these price controls on private plans, thus illustrating some recognition of the problems with this idea. Legislators do deserve some credit for passing bills that allow dental hygienists to practice in more locations and that slightly scale back the state requirement that health-care facilities must obtain state approval prior to construction or expansion.

FIGURE 1 MARYLAND'S HISTORICAL INCREASE IN SPENDING



Source: The 90 Day Report, *Department of Legislative Services, Maryland General Assembly, years 2010-2019*

Criminal Justice

Grade: B

There was not much major action this year in Annapolis on criminal justice issues. Legislators did pass bills that decriminalized some alcohol offenses, gambling offenses, and assisted suicide. They did not pass legislation that would legalize marijuana, despite a strong push from advocates. Since the state sanctions widespread gambling through legalized casinos and the state lottery, it makes little sense for it to continue viewing other gambling as a criminal offense. Decriminalizing open containers and public consumption of alcohol will reduce the number of people caught up in the state's criminal justice system for minor offenses, so this is also a step in a positive direction.

METHODOLOGY

Assigning grades to legislation is a subjective process. This report cannot consider every bill passed by the General Assembly, much less every bill introduced by legislators. Instead it gives an overview of the most important bills considered in certain broad subject areas, as well as some lower-profile bills that merit attention. The 2019 session is graded on whether lawmakers promoted free enterprise, limited government, and civil society.

Budget

The 2019 General Assembly help shed light on Maryland's ongoing spending problem. In March, state Comptroller Peter Franchot warned legislators to "exercise caution with respect to spending," because the Board of Revenue Estimates announced that Maryland should expect $269 million less in revenue over the next two years.[1] In theory, this revenue write-down should have been a wake-up call for legislators to begin thinking more seriously about the state's long-term fiscal health. In practice, Maryland lawmakers decided to ignore Franchot's advice and adopt another sharp spending hike.

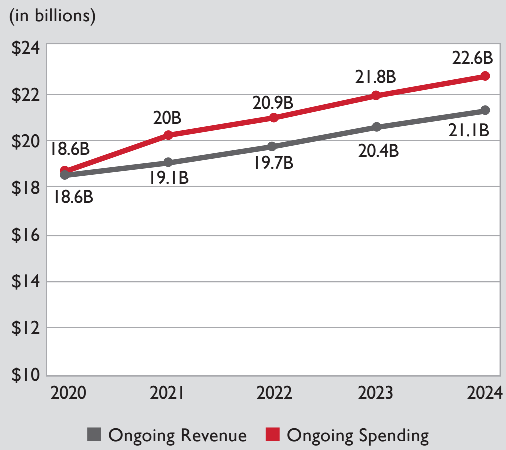
HB 100/SB 125 provides a budget of $46.6 billion for fiscal 2020.[2] This amount reflects a hefty 4 percent, or $1.8 billion, increase above the fiscal 2019 budget. While it is standard practice for the General Assembly to pass a larger budget each year, 4 percent growth of budget reverses any efforts from the recent years to improve Maryland's long-term fiscal health. Last year, for instance, legislators adopted a $44.6 billion budget for fiscal 2019 that reflects a 2.3 percent spending increase, which almost seems conservative when compared to the fiscal 2020 budget. (See Figure 1 for Maryland's historical increase in spending since fiscal 2011).

For the fiscal 2020 budget, the general fund budget accounts for 41.6 percent of total revenue. The general fund budget is volatile by nature since its revenue source (tax revenues) depends heavily on the business cycle. Therefore, the terms "structural deficit" or "structural surplus" refer to a fiscal balance that is corrected by the effect of the business cycle—the gap between general fund expenditure and general fund revenue.

For fiscal 2020, the General Assembly expects a small structural surplus of $12 million, which is below the $67 million structural surplus originally forecasted for fiscal 2019. To make matters worse, the outlook is even less optimistic for the years ahead. The forecasts of structural balance show the state's structural surplus turning into structural deficit of approximately $1.5 billion by fiscal 2024. This gloomy outlook takes into account the possible recession that experts predict may arrive in Maryland by 2020.

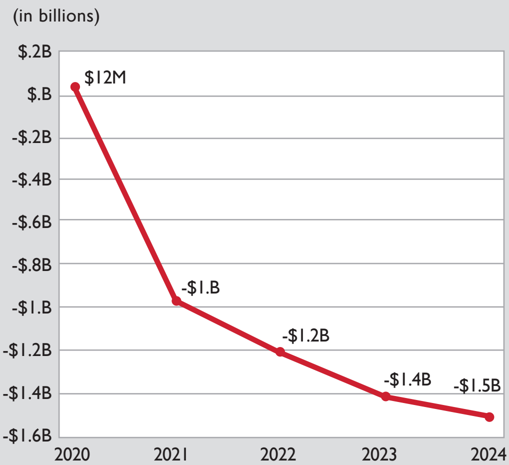
The pessimistic fiscal outlook for the years ahead can be explained by the General Assembly's habit of spending beyond its means. According to the Department of Legislative Services' 2019 *90 Day Report,* Maryland's ongoing revenues are projected to grow at an average annual rate of 3.2

FIGURE 2 ONGOING SPENDING VS. ONGOING REVENUE PROJECTION 2020-2024



Source: The 90 Day Report, *Department of Legislative Services, Maryland General Assembly, 2019, http://dls.maryland.gov/pubs/prod/RecurRpt/2019rs-90-day-report.pdf*

FIGURE 3 PROJECTED STRUCTURAL BALANCE 2020-2024



Source: The 90 Day Report, *Department of Legislative Services, Maryland General Assembly, 2019, http://dls.maryland.gov/pubs/prod/RecurRpt/2019rs-90-day-report.pdf*

percent, while the state's spending is projected to grow at an average rate of 5 percent. The rule about overspending, however, is that the hole must be filled. While Maryland lawmakers satiate their spending addiction, taxpayers inevitably face the threat of higher taxes to close the increasing budget gap. (See Figures 2 and 3).

Earlier this year, the Maryland General Assembly was advised to increase appropriations in the Rainy Day Fund.[3] Also known as budget stabilization funds, this is money saved during good economic times for use when the economy takes a downturn. The fiscal 2020 final budget leaves $1.1 billion (an increase of $498.8 million) for the Rainy Day Fund, bringing the balance up to 6 percent of the general fund revenue. Although $1.1 billion may or may not be enough to protect Maryland against a downturn, it was a wise move to put more money into the reserves this year.

As to be discussed in more detail in the education section of this report, the sharp increase in the budget for fiscal 2020 can be explained by a historical increase in education spending adopted to implement the recommendations of the Kirwan Commission. In addition to passing a record $7 billion education budget for fiscal 2020, the General Assembly successfully passed a bill that would mandate $850 million in extra state spending to flow into public schools through fiscal 2021 and 2022.

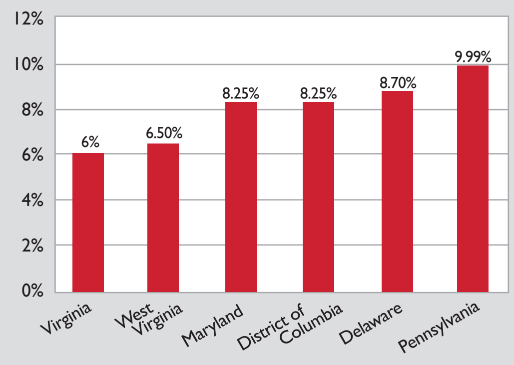
Other budget priorities for this year included Medicaid funding and budget for fighting substance abuse and disorder treatments. In total, the fiscal 2020 budget allocates $11.2 billion for Medicaid and nearly $710 million toward fighting the opioid crisis in Maryland.

Legislators decided 2019 is a good year for a spending hike, although economists are predicting a recession and Maryland's Board of Revenue Estimates forecasts declining revenue. At the same time, it is not entirely unusual for Maryland legislators to neglect warnings of experts and continue making fiscally irresponsible decisions at the expense of taxpayers who depend on elected officials to spend their money responsibly. Hence, the budget section receives a grade of D for this year.

Taxes

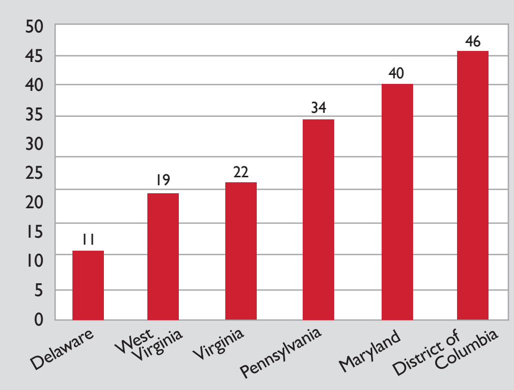
In a story that repeats itself every year, many pro-business and tax-friendly bills that were introduced went nowhere during this session. The usual drawback was that most of these tax-friendly legislations were sponsored by Republican legislators. As Maryland's minority party, Republicans once again faced tremendous difficulty advancing any of their bills that seek to improve Maryland's tax climate.

FIGURE 4 CORPORATE INCOME TAX RATES BY STATES



Source: Jannelle Cammenga, "State Corporate Income Tax Rates and Brackets for 2019," Fiscal Fact, No. 639, *Tax Foundation, February 2019, https://files.taxfoundation.org/20190320103634/TaxFoundation_FF639.pdf*

TAX FOUNDATION'S TAX CLIMATE INDEX RANKING OF STATES (2019)



Source: Jared Walczak, Scott Drenkard, and Joseph Bishop-Henchman, 2019 State Business Tax Climate Index, *Tax Foundation, September 2018, https://files.taxfoundation.org/20180925174436/2019-State-Business-Tax-Climate-Index.pdf*

Corporate and Personal Income Tax Reduction

Maryland businesses face a competitive disadvantage compared with businesses in Virginia, where the corporate tax just is just 6 percent. (See Figure 4). SB 37, a bill sponsored by Senator Andrew A. Serafini (R-Washington County), would have lowered Maryland's corporate income tax rate from 8.25 percent to 7.0 percent by 2021, thereby reducing Maryland's disadvantage. But taxpayer-friendly bills generally do not stand a chance in Maryland. Predictably, SB 37 failed in its early stages.[4] Although this rate reduction was recommended by the Maryland Economic Development and Business Climate Commission in 2016 to improve the business climate, it was never implemented.[5]

Another bill sponsored by Senator Serafini, SB 18, proposed a flat personal income tax rate of 3.9 percent for all Maryland individuals earning over $30,000. The bill would have also exempted those who earn less than $30,000 from paying any state personal income tax.[6] This bold legislation would have made Maryland's tax revenue more predictable and helped dramatically reduce the tax burden of Maryland's lowest income earners. It is worth noting that Senator Serafini has attempted to pass a similar bill every year since 2013 without success.[7]

Another important tax bill that failed in its early stages was HB 854, or the Commonsense Tax Cut Act of 2019. Proposed by Delegate Kathy Szeliga (R-District 7), this bill sought to reduce the marginal personal income tax rate for all Maryland taxpayers by 0.25 percent.[8] This bill, if passed, would have helped to boost Maryland's economy by employing more workers and bringing more small businesses to the state. Predictably, legislators did not give this bill a chance, as it would reduce Maryland's tax revenue in the short run.

Online Sales Tax

While the tax-friendly bills failed, the legislators voted favorably on bills that would increase Marylanders' tax burden. Most importantly, the General Assembly passed SB 728/HB 1301, which would require online marketplace facilitators without a physical presence in Maryland to collect state sales taxes.[9] This bill follows from the 2018 U.S. Supreme Court decision, *South Dakota v. Wayfair, Inc.*, which allowed South Dakota to require some remote sellers to collect the buyer's state sales tax.[10]

Instead of giving the sales tax revenue back to Marylanders in form of another tax reduction or saving money for times of economic downturn, the legislation establishes that any additional tax revenue resulting from the new law in excess of $100 million must be distributed to finance Maryland's K-12 education.

Opportunity Zone Enhancement Program

Maryland legislators also decided to pass various bills that would continue Maryland's legacy of targeted tax breaks and subsidies for the selected winners. In 2017, the Federal Tax Cuts and Jobs Act established the Opportunity Zones program to encourage investment in economically distressed regions. Under the program, investors are eligible to receive federal tax incentives for investing in designated zones. This year, the General Assembly passed SB 581, which creates the Opportunity Zone Enhancement Program. SB 581 extends the program and increases the tax credit value and maximum credit that businesses can claim under one of Maryland's tax credit programs.[11]

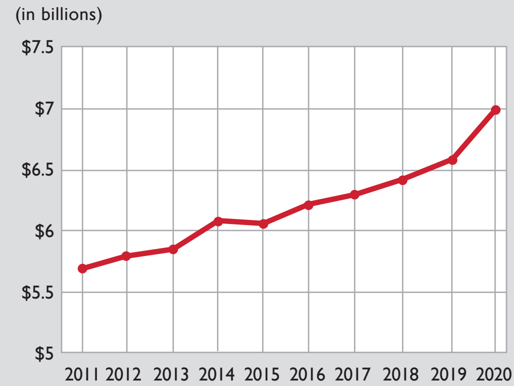
The Opportunity Zone Enhancement Program is clearly designed with good intentions to attract more businesses to Maryland, but there are some obvious drawbacks. First, the program is expensive and would cost the state $117.9 million cumulatively by fiscal 2024. Meanwhile, establishing a tax break program for selected winners of the program falls short of improving Maryland's overall tax climate through comprehensive tax reform. Clearly, such a program can help to attract certain type of businesses to Maryland in the short run, but in the long run, businesses will always prefer to invest in a state with a better overall tax climate.

SB 581 also extends the More Jobs for Marylanders program by two years and expands the program's eligibility criteria. The program was originally designed to promote growth of the manufacturing industry in Maryland through tax incentives.[12] Again, this extension would cost taxpayers approximately $200 million in additional tax credits and refunds. While the effort to extend the program's benefit to the non-manufacturing businesses is a move forward, targeted tax breaks will not make Maryland competitive against other states with a better overall tax climate.

Tax Sales Ban for Unpaid Water Bills

Finally, under SB 96/HB, Baltimore City government would no longer be allowed to conduct tax sales for houses for an unpaid water bills.[13] The harsh practice of selling tax liens to the highest bidders for homes whose owners failed to pay their water bills has resulted in many of the city's poor families losing their homes over the years. Therefore, abolishing the tax sales for unpaid water bills is a significant accomplishment for this session. This measure will help alleviate the excessive burden on low-income Baltimore residents who struggled to cope with the city's escalating water bills.

FIGURE 5 STATE AID FOR EDUCATION 2011-2020



Source: The 90 Day Report, *Department of Legislative Services, Maryland General Assembly, years 2010-2019*

Unfortunately, the city can still conduct tax sales for unpaid taxes. However, HB 1209 allows Baltimore City to pass legislation to exempt tax sales in connection with homeowners who are low-income, at least 65 years old, or disabled.[14] Therefore, this bill will protect the most vulnerable from being punished too severely for the city's heavy tax burden. Hopefully, ending tax sales for unpaid water bills can act as a precedent to eventually abolish the practice for delinquent taxes. Meanwhile, Baltimore lawmakers must develop less counterproductive ways to encourage city residents to pay their bills and taxes on time.

Education

Kirwan Commission Education Funding

Maryland's overall attitude toward education seems to be that money solves everything. Since Hogan took office in 2015, the his administration had already spent $32 billion on K-12 education.[15] Despite this, the Maryland Commission on Innovation and Excellence in Education (the Kirwan Commission) released a report in 2019, recommending an additional $3.8 billion a year in school funding over the next decade.[16] Therefore, education became a priority for this year's session, as legislators rushed to secure the money to begin implementing the recommendations of the commission.

The total state aid for public primary and secondary education for fiscal 2020 increased by 7.2 percent, or $469.4 million, over the previous year. (See Figure 5 for historical trends in state aid for education). In total, a record $7.0 billion was dedicated to schools for fiscal 2020.

This year's budget also includes $500 million for school construction and $255 million to begin implementing the recommendations of the Kirwan Commission in fiscal 2020. SB 1030 also mandates an additional $355 million in fiscal 2021 and another $500 million in fiscal 2022 for Kirwan funding. On May 15, Governor Larry Hogan allowed SB 1030 to become a law without his signature, but he expressed deep concerns about what the bill could do to the state's fiscal health:[17]

> I have significant reservations about your short-sighted methods for implementing the Kirwan Commission's final recommendations—namely that they will lead to massive increases in expenditures without providing the fiscal safeguards and much-needed accountability our students, parents, teachers and taxpayers deserve.[18]

The extra money for Kirwan funding would go towards teacher raises, pre-kindergarten expansion, and community schools in poor areas. Unfortunately, none of these measures are guaranteed to help Maryland's children who are struggling in schools. Spending billions in additional dollars will not suddenly improve learning outcomes.

By authorizing these massive expenditures without requiring more accountability and transparency for the extra billions that will be spent, this year's session ensured more fiscal problems for Maryland. The Maryland Department of Budget and Management projects that implementing the Kirwan Commission's recommendations would lead to a fiscal deficit of $18.7 billion.[19]

This is not the first time in Maryland's recent history that the legislature decided to radically increase education spending. In 2002, lawmakers passed the "Thornton formula" that provided an additional $1.3 billion in annual education funding. This new formula was recommended by Maryland's previous education commission, known as the Thornton Commission.[20]

As a result, Maryland is already one of the top spenders in the nation today when it comes to public education. For 10 years in a row, at least four Maryland school districts ranked among the top 10 education spenders in the U.S. on a per-student basis. For instance, Baltimore City placed third in per-pupil spending among the 100 biggest school systems in the U.S. during fiscal 2017. On average, the city spends $16,184 per pupil.[21]

Yet today, less than 40 percent of Maryland high school graduates are proficient in math and English.[22] Even worse, only 11 percent of public school students in Baltimore City are proficient in math and only 13 percent in reading. Baltimore City ranked third-lowest in terms of the percentage of students who are proficient in math and reading, only after Detroit and Cleveland.[23] Based on these figures, Governor Hogan is right to be concerned that SB 1030 will continue Maryland's legacy of "highly funded but failing and underperforming schools."[24]

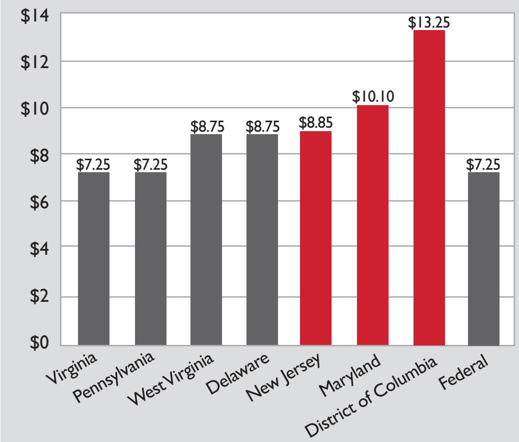
Second, the Maryland Department of Budget and Management projects that the Kirwan recommendations would require an additional $6,200 more in taxes per taxpayer over the next five years.[25] However, taxpayers were never asked whether they support a tax hike to fund schools. In fact, according a 2018 survey by the Maryland Public Policy Institute, the vast majority of respondents oppose an income or property tax hike to expand pre-K programs.[26] Expanding pre-K is one of the major initiatives to be funded by Kirwan.

To be fair, this year's session was also difficult for legislators. In March, the Maryland State Education Association had gathered thousands of members to rally for the "Red for Ed" movement in Annapolis, determined to make Kirwan funding the focus of their advocacy during this session.[27] In a deep blue state like Maryland, where unions are large and teachers are vocal, legislators face enormous political pressure to meet at least some of their demands. This often leads to poor decisions that end up hurting children and taxpayers.

The problem with accommodating school lobbyists is that it encourages the status quo to continue. This means allowing Maryland's education bureaucracy to grow and the culture of corruption to persist. Over the years, Maryland's school districts have been plagued with corruption scandals, ranging from grade-altering[28] in Prince George's County to the Dallas Dance scandal[29] of Baltimore County. Despite these stories making national headlines, the General Assembly decided not to pass the Accountability in Education Act of 2018, which sought to investigate and control school corruption and mismanagement.[30]

This year, some progress was made because SB 1030 calls for the creation of an Office of Inspector General to investigate corruption and waste in Maryland school system. While this is definitely a positive move forward, this measure does not go far enough. There is little doubt that allocating extra billions for schools will lead to extra waste and corruption. In addition to the Office of Inspector General, there must be strict laws put in place to enforce and punish officials who waste or otherwise abuse taxpayers' hard-earned money.

FIGURE 6 MINIMUM WAGE: MARYLAND VS. OTHER STATES



* Red bars represent states that has enacted $15 minimum wage.

Source: National Conference of State Legislatures, "State Minimum Wages 2019: Minimum Wage by State," January 7, 2019, http://www.ncsl.org/research/labor-and-employment/state-minimum-wage-chart.aspx

School Start and End Dates

Finally, the passage of SB 128 during this session overturned Governor Hogan's executive order from 2016 requiring schools to begin after Labor Day and end by June 15. The bill allows local school boards to independently decide school start and end dates, thereby allowing the option of longer school years. Governor Hogan vetoed this bill in March, but the General Assembly overrode it. The bill became the Chapter 13 Act of 2019.[31] While SB 128 was an important bill for this session, it also failed to address issues that really matter, including the quality of teaching and student performance.

With little progress made this year to ensure that Maryland spends its education dollars more efficiently and cuts back on wasteful programs, the outlook for underperforming schools still remains pessimistic. For increasing the burden on Maryland's taxpayers by billions of dollars while failing to tackle the underlying problems plaguing our education system, the education section receives a grade of D for this year.

Pension

For many years, the Maryland Public Policy Institute has published research on Maryland's pension fees. According to the "2018 State Pension Fund Investment Performance Report," the Maryland State Retirement and Pension System does not disclose all investment fees to the public. In 2017, the MSRPS revealed paying only $19.6 million in carried interest fees, but the report estimates that the real figure is close to $192 million. (Carried interest fees are the share of "profits" that hedge fund and private equity managers receive for their service).

Inspired by the Maryland Public Policy Institute's findings, this year, Maryland legislators passed HB 821, which requires the MSRPS to disclose all carried interest fees it pays to its Wall Street managers. Although the final version of the bill passed falls short of its earlier version, which would have also tightened restrictions on fees the MSRPS can pay annually, HB 821's passage was an enormous move forward in improving the transparency of Maryland's pension system.

In addition, the new law would put more pressure on the MSRPS to improve its investment performance. According to the 2018 report, Maryland underperformed the composite passive index of public stocks and bonds by approximately 2 percent for the past 10 years. The co-sponsor of HB 821, Delegate Kumar Barve, hopes to start a discussion about moving Maryland's pension fund more towards passive investment—an approach the Maryland Public

Policy Institute has recommended for almost a decade. For making the first move to eventually address the MSRPS's high fees and lackluster investment performance, the pension section receives a grade of A for this year.

Business and Economy

Minimum Wage Increase

The most consequential legislation passed this year on economic matters was a new mandate to increase the minimum wage. Under SB 280 and HB 166, employers with 15 or more employees will see the minimum wage climb in six yearly increments from the current $11 an hour to $15 in 2025. Employers with fewer than 15 employees will experience the full phase-in of $15 by 2026. For employees under the age of 18, this law allows employers to pay them 85 percent of the minimum wage.

As shown in Figure 6, Maryland already has one of the highest minimum wage requirements among its neighboring states as of 2019. The large minimum wage gap between Maryland and states like Virginia and Pennsylvania is about to further widen when Maryland's $15 minimum wage phase-in is completed by 2025.

One effect of this increase will be easy to see: certain employees will experience a wage increase. But there will also be numerous unseen effects, most of them negative. This is illustrated by the effects of Seattle raising its minimum wage in two stages. The first increase took effect in 2015 and the second increase, to $13 an hour, took effect in 2016. After the second year, researchers from the University of Washington found that:

- Hourly wages for low-wage employees increased by 3%
- For jobs with wages below $19 an hour, working hours were reduced by 9%
- The payroll for low-wage jobs decreased by $100 million[32]

In other words, some people received a pay increase, but the tradeoff was low-wage workers did not work as many hours and, overall, low-wage workers received less money.

The study's authors note there are many factors unique to Seattle that may have led to these results, but the same can be said for any state. What seems likely is that Maryland will see something similar occur after the full implementation of a higher minimum wage. In fact, the effects will likely be harsher than what occurred in Seattle. That city is a small geographic area with a generally high wage rate. Maryland is much larger and encompasses both very wealthy jurisdictions (such as those right outside of Washington, D.C.) and rural, poorer areas (on the Eastern Shore and in western Maryland).

Food Container Ban

Maryland legislators made history this session when they passed bills (SB 285 and HB 109) to ban the use of expanded polystyrene food containers statewide. Some local governments around the country (including Montgomery and Prince George's counties in Maryland) have banned such containers, but no states had enacted a ban until Maryland did so.

Expanded polystyrene is sometimes referred to by the trade name of Styrofoam, and many businesses and nonprofits use it for take-home food containers. These businesses and nonprofits will face higher prices under this ban, as alternatives to these now-banned containers are more expensive.

Environmental concerns drove this ban. However, as a study of the life-cycle environmental impacts of various food service products illustrates, there may not be any environmental benefits from this ban.[33] It will shift demand from polystyrene containers to paper and plastic containers, which require far more energy and water to produce. Concerns about the inability of polystyrene containers to decompose are also off the mark in most instances, since landfills inhibit the decomposition of paper food serving products. In the end, this ban will likely result in higher costs to Maryland businesses and their consumers with no environmental benefits in return.

Renewable Energy Mandate

Legislators mandated an increase in costs for energy consumers across the state by legislation to double the Renewable Energy Portfolio Standard from 25 percent to 50 percent. Under SB 516, half of the state's electricity must be generated from renewable sources by 2030.

The cost to consumers and businesses will be significant. Two researchers at the Becker

Friedman Institute at the University of Chicago published a working paper examining what happened in states that adopted renewable portfolio standards and in those that did not:

> The estimates indicate that 7 years after passage of an RPS program, the required renewable share of generation is 1.8 percentage points higher and average retail electricity prices are 1.3 cents per kWh, or 11 percent higher; the comparable figures for 12 years after adoption are a 4.2 percentage point increase in renewables' share and a price increase of 2.0 cents per kWh or 17 percent. These cost estimates significantly exceed the marginal operational costs of renewables and likely reflect costs that renewables impose on the generation system, including those associated with their intermittency, higher transmission costs, and any stranded asset costs assigned to ratepayers.[34]

The sponsors of SB 516 labeled it the Clean Energy Jobs bill, attempting to sell it as a way to create jobs in the state. The legislation will undoubtedly increase demand for jobs in the renewable energy industry. That is to be expected in any industry where government forces consumers to use its products or services. However, the sponsors of the bill ignore the cost of such new jobs. By increasing electricity prices and by shifting demand from lower-cost sources of energy, this bill will destroy jobs. In fact, by mandating the use of higher-cost energy sources, which are not as efficient in the marketplace, the net economic effect of this legislation is likely negative and will result in overall job loss.

Mandating the use of renewable energy is aimed at reducing carbon emissions, but such reductions come at a high price. The Becker Friedman Institute paper explains:

> The estimated reduction in carbon emissions is imprecise, but, together with the price results, indicates that the cost per metric ton of CO2 abated exceeds $115 in all specifications and ranges up to $530, making it least several times larger than conventional estimates of the social cost of carbon.[35]

Milk Labeling

SB 922 prohibits labeling a food product as milk unless it comes from bovines, cervids, or equines. In other words, unless something is cow, deer, or horse milk, it cannot be labeled as "milk." This legislation is aimed at plant-based products that manufactures describe as "milk." Under this bill, such products could not be labeled as "almond milk" or "soy milk." This requirement would only go into effect if 11 other states in the region enact similar laws.

The ostensible purpose of the legislation is to avoid consumer confusion. However, it is unclear if any consumer accidentally bought almond milk when they intended to buy cow milk. The packaging of these non-dairy products make it clear that they do not contain dairy; in fact, this is a selling point for many of them. The bill is merely a way to protect the interests of dairy farmers from competition from non-dairy products.

Alcohol and Tobacco Regulation

As discussed in previous Annapolis Reports, Maryland's alcohol laws restrict growth of the beer industry in the state. Compared with neighboring states, they are overly restrictive and artificially limit the ability of small brewers to expand and meet customer demand. Comptroller Franchot has proposed legislation that would reform these laws and remove many of the archaic constraints on brewing and selling beer in Maryland.

Instead of passing Franchot's reform bill, however, legislators instead targeted him by removing enforcement of alcohol and tobacco laws from his office via HB 1052. This move can be justified as a way of streamlining enforcement, but it is clear that legislative leaders were unhappy about the comptroller's alcohol advocacy efforts.

While not embracing wholesale brewery reform, legislators did pass some measures that revise the state's restrictive alcohol laws. SB 801 and HB 1010 allow certain breweries to brew greater quantities of beer and distribute. SB 704 and HB 1080 relax the franchises agreement that breweries must sign with wholesalers. Instead of locking brewers into a contract that they can only break for "good cause" and with 180 days' notice, the new law will allow a shorter termination period and the reimbursement of costs to wholesalers.

In 2019, legislators continued their trend of making it more difficult for Marylanders to purchase tobacco products. HB 1169 raises the minimum age for tobacco purchases to 21, except for active duty military members (who can still purchase tobacco at 18). It also classifies electronic cigarettes and vaping systems as "tobacco products," even though these devices do not contain tobacco. Under such a definition, no one under 21 can purchase these devices, which are effective in reducing the use of tobacco products.

Among Maryland's neighboring states, Pennsylvania and West Virginia allow tobacco purchases at 18. Virginia and Washington, D.C. set the minimum age at 21, and Delaware will also do so in August 2019.

SB 310 prohibits the selling of "unpackaged cigarettes," or "loosies," in Baltimore City. Selling these single cigarettes provides a way for people to buy them without the expense of buying an entire pack, so this law will hit low-income city residents the hardest. When New York City police officers killed Eric Garner in 2014, they were enforcing that city's law against selling single cigarettes.

Occupational Licensing Reform

Legislators and governors across the country have begun examining ways to reform their licensing regime that requires individuals to obtain government permission to work in certain occupations. During this year's legislative session, Maryland took very minor steps to reduce the burdens on workers seeking an occupational license.

HB 22 prohibits a state agency from denying someone a license based solely on that person's criminal history if at least seven years have passed since the person finished serving his or her sentence and that person has not been charged with a crime since then. The bill makes an exception for crimes of violence or sex crimes that require registration on the sex offender registry. SB 652 enters Maryland into an interstate compact for physical therapists.

Under this compact, member states recognize physical therapist licenses of each other in most circumstances. This will make it easier for a licensed therapist from one state to practice in another state or move between states. SB 852 requires state agencies to provide an expedited occupational license to qualified service members, veterans, or spouse of a military member within 60 days of application. Since military families move often, they face a unique burden from interstate licensing barriers. This bill will slightly ease this burden.

Maryland would benefit from a comprehensive review of its occupational licensing regime. Other states have undertaken such reviews, usually instigated by the governor. Until this happens, however, these small but important steps to loosen the restrictions on those seeking work.

Health Care

Expanding Health-Care Options

Legislators undertook a few minor reforms that slightly expanded Marylanders' freedom to choose or obtain health-care services. For individuals who use cannabis for medical conditions, legislators passed HB 17 to allow dispensaries to sell edible cannabis products. There will also be a little greater access to dental services under HB 738, which allows dental hygienists to practice in nursing homes, physicians' offices, and group homes.

Maryland's Certificate of Need law requires many health-care facilities to receive permission from the state to open or expand. If legislators were interested in improving patient health-care options, they would repeal this law that artificially limits competition in the health-care sector. They did not do so this year, but did enact some small reforms that make the CON law less burdensome (some of these changes were in response to a task force that issued a report in December 2018 recommending ways to modernizing the state's CON law).

HB 626 allows intermediate care substance abuse facilities and hospice facilities to increase their bed count without applying for state permission. SB 597 and HB 646 increase the threshold above which hospitals must obtain state permission to make some capital improvements. SB 940 and HB 931 require the state to deem a CON application approved if it is uncontested or goes without state action for 120 days.

Prescription Drug Price Controls

Prescription drug prices are a concern for many Marylanders. Many of those issues are national in scope and are shaped by the way federal laws govern drug manufacturing and patenting. Legislators decided that they could address at the state level, and that their preferred plan was imposing price controls on drugs purchased by state and local government health-care plans or through the state's Medicaid program.

HB 768 establishes the Prescription Drug Affordability Board to evaluate the cost of drugs. If the board determines that this cost will pose an "affordability challenge" for the state, then it is authorized to set an upper payment limit. In essence, this board would impose price controls on drugs. While limited to government insurance programs and Medicaid, this would cover a significant portion of all drugs sold in the state. The initial proposal would have affected all prescription drugs sold in the state that are covered by health plans.

Price controls are generally appealing to politicians, since they offer what seems to be a simple solution to problems caused by high prices. However, these controls do not eliminate the underlying issues that cause high prices. In fact, price controls distort the market and lead to harmful unintended consequences, such as shortages. If this price control board survives legal challenge, it will likely lead to drug companies offering far fewer drugs to individuals covered by the health-care plans encompassed by the law.

This is not the first time that legislators attempted to take on high drug prices. In 2017, they passed a law that prohibited "price gouging" for generic or off-label drugs. The law empowered the attorney general to determine whether prices were "unconscionable" or "excessive" and take legal action in cases where he or she made that determination. A federal judge ruled that law unconstitutional.

Criminal Justice

In recent years, legislators have revised state laws in an attempt to reduce the number of people incarcerated or subject to criminal penalties. While not to the extent as past years, these efforts continued this year.

For this legislative session, legislators focused on decriminalization. HB 88 decriminalizes consuming an alcoholic beverage in public or possessing alcohol in an open container. These offenses will now be civil offenses instead of criminal misdemeanors. HB 77 decriminalized assisted suicide. SB 842 and HB 113 decriminalize gambling offenses, which seems especially appropriate given the widespread state-sanctioned gambling that now takes place in Maryland.

HB 542 creates a task force to study criminal penalties. This task force will make recommendations by December 2020, setting up further revisions of the state's criminal statutes in the 2021 legislative session.

There was a push to follow the lead of other states and legalize marijuana. Legislators defeated bills that would have done this as well as a bill that would have put the issue to voters during the 2020 election.

CONCLUSION

The General Assembly's culture continues to be one that prioritizes spending increases while ignoring taxpayers and fiscal discipline. Given the likelihood of a recession within the next few years, the actions of this year's legislative session set up a perilous outlook. In addition, the higher minimum wage will be yet another mandate placed on business owners and local governments across the state that will do more harm and good. From the perspective of those who value free enterprise, limited government, and civil society, this was yet another negative year from our legislators in Annapolis.

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