PAY TO PLAY

How Corporations Trump Voters in Annapolis

A Research Report on Campaign Finance and Legislative Results in the Maryland General Assembly

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Overview of Campaign Finance and the Lobbying Game in the Maryland General Assembly

> *"There are two things that are important in politics. The first is money and I can't remember what the second one is."*
> --Mark Hanna, legendary 19th century political boss

> *"Have I ever bought a legislator? No, but I've rented them."*
> --Bruce Bereano, convicted felon, disbarred attorney and all-star corporate lobbyist in Annapolis

Under Maryland law, campaign contributors do not disclose their employer and occupation, a state of affairs designed to prevent calculation of how much special interest money goes to which politicians. Fortunately, a joint project of the Progressive Maryland Education Fund (PMEF) and the National Institute on Money in State Politics (NIMSP) has thrown a light on this dark and crucial aspect of Maryland politics. The project digitized the paper campaign contributor records of the 1998 election cycle (i.e., 1995-98) at the State Board of Elections, turning them into a database. NIMSP was then able to uncover the employer/occupation or interest group of 60 percent (soon to reach 70 percent) of the 147,154 contributions (of which 44,146 were donated by individuals). That's a sample that permits one to draw reasonably valid conclusions about the flows of interested money in Maryland state politics. For the first time, Marylanders can trace how much special interest money goes to which political actors.

Professor Paul Herrnson of the University of Maryland's Center for American Politics and Citizenship (CAPC) has analyzed the database and written a report (at http://www.capc.umd.edu/) summarizing his findings.

In a nutshell,[1] the database reveals that:

- Approximately $35 million was donated overall in the 1998 election cycle, roughly half of which went to General Assembly candidates and half to statewide candidates.
- The campaign inflation rate increases from election to election. While the overall Consumer Price Index rose 22 percent from 1990-98, the gubernatorial campaign inflation rate rose 486 percent.

- Who gave all that money? Among interest group donations, business contributions accounted for fully 87 percent of the total. Only 44,146 individuals made contributions – the equivalent of only 0.6 percent of all Marylanders.

- Most of the money, fully 69 percent, came in the form of large contributions of $100 or more.

- Who got the money? The average incumbent received roughly three times more than the average challenger.

- These same incumbents rarely faced competitive races: in the House, only 20 percent of races were competitive; in the Senate, 28 percent.

- In fact, it was precisely *unopposed* candidates who had the easiest time raising money. Unopposed Senate candidates -- 17 of 18 of whom were incumbents -- raised on average $88,229, whereas Senate candidates in competitive races raised on average only $83,682. Of all money contributed to incumbents, fully 2/3 went to incumbents in uncompetitive or uncontested races.

- Of the 16 most powerful Senate incumbents -- committee chairs and leadership – only three represented competitive districts. And this same small group claimed half of all contributions to incumbents.

In short, a tiny financial elite, representing mostly business interests, shovels ever more money at the most powerful incumbents, not to influence specific elections – the outcomes of which are rarely in doubt – but instead to gain access <u>after</u> the election and thereby influence legislation.

When confronted by these disturbing data, many members of the General Assembly wish to explore reform options. Others concede that they take special interest money, but insist that it does not influence their votes on specific bills. To test that claim, PMEF has researched a series of case studies (attached below or singly at www.progressivemaryland.org) that examine the connection between campaign finance and specific legislation in the Maryland General Assembly. This essay introduces and summarizes PMEF's case studies, highlighting their common themes and conclusions. <u>We find that the current campaign finance system enables an elite of big, mostly corporate interests to bend government in Maryland all too often to its own narrow purposes</u>.

While the situation is growing worse, there <u>is</u> a way out of the impasse. Public financing of campaigns – the "Clean Money" alternative – is already law in Maine and Arizona, where it is ending the political ascendancy of Big Business and returning government to the people.

Clean Money has a further advantage. By severing the financial link between corporate interests and politicians, it dramatically reduces the perceived need for further tinkering with Maryland's Byzantine rules regulating lawmakers and lobbyists. Ethics reforms have perhaps helped make the relationship between lawmakers and lobbyists less opaque. But as this essay illustrates repeatedly, Big Business lobbyists can always find new and ingenious ways to turn campaign contributions into political access. For that reason, Clean Money attacks the roots of plutocracy, not its noxious petals.

Campaign Contributions: the Foundation of Lobbying Success

We'll begin with a broad analysis of the current campaign finance system because it shapes in every way the lobbying game in Annapolis.

As seen above, campaigns in Maryland – relying on ever-pricier ads, technology and consultants – cost more and more with each election cycle. Even in "safe" districts, the campaign inflation rate obliges incumbents to fundraise non-stop in order to fill a war chest intended to scare off *potential* opponents. And if a politician seeks a leadership position in the General Assembly, he or she must raise money tirelessly to disburse contributions – and IOUs – to colleagues.

In this money-driven electoral system, the kingmakers are the elite who finance our campaigns : rich folks, Big Business, and their lobbyists who advise clients on which "helpful" lawmakers should get the money. In effect, these deep-pocket interests have created a "wealth primary": a preliminary contest that determines who gets to compete in the actual election. Only those aspirants who first pass muster with the plutocrats, i.e., who have the connections to the money-men, recruit the best fundraisers, and amass early financing, are deemed "viable" by the media and party insiders and are therefore able to deter potential rivals from entering the race. The affluent, mostly corporate donors – who evaluate potential candidates – might be progressive on non-economic issues (*e.g.,* freedom for Tibet, medicinal use of marijuana, animal rights), but they are not likely to be progressive on the economic issues of most concern to working Marylanders (*e.g.,* living wages, tenant rights, union rights, universal health care, mass transit). Consequently, the wealth primary narrows the political debate by eliminating candidates who espouse policies contrary to the financial interests of the donors.

The few progressive candidates brave enough to ignore the wealth primary and run for office usually discover that the money advantage enjoyed by business-backed candidates is simply too much to overcome. That's because the essence of a campaign lies in communicating a message to the electorate, i.e., *mass communication.* Mass communication can only be accomplished if the candidate has access to either or both of two resources: money (to pay for staff, pollsters,

direct mail, TV ads, websites, *etc.*) and volunteer political activists (who phone-bank, distribute literature, knock on doors, etc.). In the current campaign finance system, the resource mix upon which business-backed candidates rely is a lot of money and few volunteers. By contrast, the resource mix for progressive candidates is little money and a lot of volunteers. A fair contest? Almost never. Business-backed candidates have *so much money* that the total resources available to them easily outweigh those available to economic progressives. And economic progressives, if they want to be viable candidates, are forced to take money from special interests with whom they might not normally be comfortable.

While all that corporate money does indeed influence elections in the aggregate as a result of the wealth primary, it is rarely given, as we have seen, to influence *specific* elections. Instead, contributors give mostly because they want access to lawmakers – the most powerful lawmakers -- *after* the election. And they get it. To see why, put yourself in the shoes of a busy lawmaker during the General Assembly's hectic 90 day session. There are a pile of phone messages on your desk and one of them is from a $4,000 contributor to your campaign. Would you put that message near the top of the pile?

Of course, you would. And so do most of the genuine progressives who serve in the General Assembly. They don't like it, but they depend on special interest contributions and therefore grant access to major campaign contributors.

Thus, even before the lobbying game in Annapolis begins, corporate lobbyists can take comfort in the fact that the campaign finance system has created an audience of lawmakers receptive to their arguments or, at least, willing to grant them access.

Of course, not all campaign contributions are given in order to buy access or influence. Some well-meaning individuals donate to political campaigns because they sincerely support the candidate's philosophy and political agenda. Others donate to campaigns because they know the candidate personally or like to rub elbows with VIPs.

Moreover, not all legislation before the General Assembly has a business angle. Lawmakers sometimes deal with procedural issues, concerning, for example, how the General Assembly functions. And other issues, such as school prayer, are purely ideological with no economic dimension.

With these caveats in mind, however, our case studies leave little doubt on two points. First, most legislation considered in Annapolis concerns the allocation of resources, *i.e.,* money: whether to build an access road to a new shopping center; whether to hold oil tankers to heightened standards of liability when they enter Chesapeake Bay; whether to allow patients full rights to sue their HMO, etc. Second, the vast majority of campaign contributions is intended to *and does*

purchase access to lawmakers with the goal of affecting their policy-making decisions.

And those purchases are excellent bargains. Maryland, with 5.2 million residents enjoys the highest median family income in the nation and thus is a huge market. Thanks to the devolution of federal authority that began in the 1980s during the Reagan Administration, more and more regulatory decisions affecting this huge market are made at the state level. Corporate giants such as Constellation Energy Group, Kaiser Permanente, RJR Nabisco, Budweiser, Ballys Casinos, etc., can make what is for them a small investment of, say, $50,000 in targeted campaign contributions plus $50,000 in lobbying fees. In return, they get a return of many millions of dollars in tax breaks, special subsidies, regulatory advantages, and protection of monopolistic practices. These investments also generate future dividends in that they build relationships with lawmakers who will be useful again down the road.

Most Americans believe that something is radically wrong with the current system. In April 1997, the *New York Times* published a poll showing that 75 percent of Americans believe that "public officials make or change policy decisions as a result of money they receive from major contributors." The same poll showed that 89 percent of Americans believe that the current campaign finance system needs either a "fundamental" change, or should be scrapped altogether.[2] Given that level of popular support, why isn't meaningful campaign finance reform enacted in Maryland, which is a more progressive state than most?

Above all, there is a lack of knowledge about the problem. In contrast to the federal government and about one-half of the states, Maryland law does not require campaign donors to disclose their occupation and employer. Until the creation of the database by PMEF and NIMSP, it has been very difficult to link campaign contributions made by individual donors to the interest groups they represent. In addition, while the name of a Political Action Committee (PAC) is legally required to accurately reflect the interest group it represents, this requirement is sometimes ignored. Moreover, Maryland law does not require the full name of the PAC to be stated on the campaign donation forms. So, for example, when reviewing the disclosure forms, one may find that "MEDCHI" contributed money to Senator X. But unless you know that this opaque abbreviation means "Maryland State Medical Society", you won't realize that this particular donation comes from medical doctors.

Further obfuscating the extent of the problem is Maryland's peculiar institution of "slates". Whereas most PACs are organized and run by interest groups, slates are organized and run by politicians. Slates were invented several years ago for a seemingly harmless purpose: because Maryland has multi-member districts, and because all members representing a district are usually from the same party and are often allies, members could band together into a "slate" in order to raise

money together, pooling costs for things like a campaign headquarters, polling, yard signs and so on.

Now, however, slates are used to raise money for candidates *from many different districts.* The advantages of using slates as a fundraising tool include the fact that money can be easily laundered and rendered untraceable. Furthermore, there are no effective limits on the amount of money that can be contributed to a slate. And there is no way to trace how the slate spends its money.[3] Slates constitute "an extremely effective end-run around the limits," notes Kathleen Skullney, former executive director of the nonpartisan group Common Cause Maryland.[4]

The database developed by PMEF and NIMSP as well as the analysis of it by CAPC finally shines a spotlight on our murky campaign finance system. This essay summarizes the specific mechanisms by which all this special interest money consistently enables Big Business to turn its campaign contributions into results in the General Assembly.

The Lobbying Game: Major Players

There are three central players in the legislative process: the corporate interests who give money, the legislators who accept it, and the lobbyists who broker the deal on the front end, and negotiate the payoff in legislation during the session. All three players benefit from this game -- and ordinary Marylanders lose.

Corporate Interests

The same corporate interests that donate the most in campaign contributions also spend the most on lobbying. According to the State Ethics Commission's Annual Report 2000 (the most recent data available), the following ten entities spent the most on lobbying the Maryland General Assembly during the period Nov. 1, 1999 through Oct. 31, 2000:

AT&T	$298,061.67
Cable Telecommunications of MD, DE & DC	280,319.60
Verizon	228,655.62
Maryland Chamber of Commerce	221,681.00
Maryland State Teachers Association	210,776.79
Maryland Retail Merchants Association	202,322.17
MEDCHI, Maryland State Medical Society	200,778.13
Maryland Jockey Club/Pimlico Race Track	196,082.36
Maryland Association of Realtors	192,430.67
Laurel Racing Association, Inc.	192,032.35

Nine out of ten of the biggest lobbying presences in Annapolis are Big Business interests.

Other industries pertinent to the case studies spent the following amounts on lobbying:

Maryland Hospital Association	$185,909.80
Maryland Bankers Association, Inc.	176,456.93
Allegheny Energy	148,356.45
PEPCO	123,829.85
Automated Wagering, Inc.	108,489.20
Allegheny Racing LLC	95,337.09
Constellation Energy Group	82,741.88
Associated Builders and Contractors (Chesapeake Chapter)	82,076.88
Maryland Highway Contractors Assn.	78,422.00
National Federation of Independent Businesses	77,104.81
Maryland Farm Bureau	64,369.42
Ballys of Maryland, Inc. (gambling)	57,066.54
Northrup Grumman	39,793.00
Maryland Industrial Group	38,396.98
Maryland Bail Bond Association	32,177.28
Delmarva Poultry Industry, Inc.	32,227.80
Maryland Horse Breeders Association	26,481.98

These figures represent only what the listed organizations spent on lobbying fees during the 2000 session. As examined below, there are lots of other ways to curry favor with lawmakers.

The key to note here: these same corporate interest groups are also the biggest campaign contributors. The campaign contributions create the access to the lawmakers; the battalions of lobbyists then follow-up to make the pitch on specific bills.

Lawmakers

If Big Business is willing to give, lawmakers need to receive. Even among the many who don't like the current system, most find that the spiraling cost of campaigns forces them to play this tri-cornered game. As seen above, the lawmakers who get the lion's share of the money are leadership and committee chairs. The biggest recipients are:

- Senate President Mike Miller, with $480,269, plus approximately $700,000 raised by his slate, to which most every member of the Senate Democratic caucus belongs;

- House Speaker Casper Taylor, Jr., with $989,104;
- Finance Committee Chair Senator Thomas Bromwell, with $513,164;
- Economic Matters Committee Chair Del. Michael Busch, with $196,911.

Compare these princely sums to the average amount raised by a typical Senate rank-and-filer ($84,767) or typical House rank-and-filer ($43,747), not to mention the paltry amount raised by the average House challenger ($11,901).

Lobbyists

As regulatory powers devolved from the federal government to the states beginning in the 1980s, the presence and influence of lobbying in state legislatures started increasing dramatically. In Maryland in 1979, only $3 million was shelled out for lobbying in Annapolis. Nine years later, 545 organizations spent more than triple that amount. By 2000, 924 interests had registered lobbyists, and total lobbying expenditures totaled almost $22.6 million, according to John O'Donnell of the State Ethics Commission.[5] In actuality, this figure underestimates the true total, because lobbyists can shower lawmakers with many other kinds of benefits (more below).

"Lobbyists have become bigger and bigger players with more access and more influence," said O'Donnell.[6] According to the State Ethics Commission's most recent Annual Report (covering the period Nov. 1, 1999 through Oct. 31, 2000), the ten top-earning Maryland lobbyists were:

- Gary Alexander, earning $792,270.32. Alexander is a former Speaker *pro tem* in the Maryland House of Delegates. Current clients include ARCO, Baltimore Ravens, Distilled Spirits Counsel, Medstar Health, Mid-Atlantic Petroleum Distributors Assn., Rite Aid, Sherwin-Williams, Verizon, and, until yesterday, Enron.

- Alan Rifkin, earning $659,508.00. Rifkin's current lobbying clients include the American General Corporation, Automated Wagering, Inc., Cable & Telecommunications Assn. of MD, DE and DC, Channel One Network, Circuit City, Citifinancial Credit Co., Colonial Pipeline Co., Grocery Manufacturers of America, Laurel Racing Assn., Maryland Assn. of Chain Drug Stores, Maryland Jockey Club of Baltimore, Pimlico Race Track, Trigen-Baltimore Energy Corp. and many others.

- Gerard E. Evans, earning $640,007.93. Mr. Evans was recently released from a federal penitentiary for defrauding his clients. Before his conviction Evans' clients included Beretta Firearms U.S.A., Delmarva Poultry Industry, Inc., Dupont Pharmaceuticals, Greater Baltimore Medical Center, Lockheed

Martin, Magellan Health Services, Merck & Co., CareFirst Blue Cross Blue Shield, and Westinghouse, among many others.

- Denis Rasmussen, earning $513,632.48. Current clients include Comcast Cablevision, Maryland Professional Pharmacies, Inc., Maryland Alliance for Fair Competition, Maryland Asphalt Association, Maryland Mortgage Bankers Association, Microsoft, Mid-Atlantic Financial Services Association, Milestone Communications, Nextel Communications, Ocean City Chamber of Commerce, Skytech, Inc., and Winstar Wireless, Inc.

- Robert Enten, earning $499,291.00. Mr. Enten's current client list includes ADVANCEPCS, Manufactured Housing Institute of Maryland, Maryland Assn. of Health Plans, Maryland Bankers Assn., Maryland Thoroughbred Horsemen's Assn., Property Owners Assn. of Greater Baltimore, Sara Lee Corp., Sunoco, and Washington/Baltimore Cellular Limited Partnership (Cellular One).

- Bruce Bereano, earning $497,750.72.[7] Mr. Bereono's current clients include Associated Utility Contractors of MD, Comcast Cablevision, Credible Wireless, Gemini Realty, General Television of MD, Howard County Cable Television Assn., Jones Communications, Maryland Assn. of Tobacco & Candy Distributors, MD/DC Vending Assn., Phillips Foods, Inc. Recording Industry of America, Safeway, Smokeless Tobacco Council and the WMDA Service Station and Automotive Repair Assn., among others.

- John Stierhoff, earning $495,576.87. Stierhoff's current clients include AT&T Wireless Services, Carefirst Blue Cross/Blue Shield, Constellation Energy Group, Crown Central Petroleum Corp., GE Capital Corp., Investment Company Institute, Legg Mason, Magellan Health Services, Medical Mutual Liability Insurance Society of MD, Travelers Express, among others.

- Joel Rozner, earning $476,113.71. Current clients include Accenture, American Capital Access Service Corp., American General Corporation, Automated Wagering, Inc., Cable & Telecommunications Association of MD, DE and DC, Channel One Network, Circuit City, Citifinancial Credit Co., Colonial Pipeline Co., Grocery Manufacturers of America, Information Builders, Inc., Information Systems & Network Corp., Laurel Racing Association, Maryland Assn. of Chain Drug Stores, Maryland Association of Realtors, Inc., Pimlico Race Track, Maryland Rental Car Coalition, Prince George's County Chamber of Commerce, Ryko Development Co., Trigen-Baltimore Energy Corporation, Washington Area New Automobile Dealers Assn., and Waste Management, Inc.

- Joseph Schwartz, earning $443,930.92. Mr. Schwartz's current clients include American Share Insurance Corp., Credit Union Insurance Corp., Dupont Pharmaceuticals, Eli Lilly & Co., Maryland Coal Assn., Maryland Insurance

Council, Maryland State Licensed Beverage Assn., Mettiki Coal Corp., National Paint & Coatings Assn., Synagro Mid-Atlantic, Inc, and Waste Management, Inc.

- William J. Pitcher, earning $394,888.00. Mr. Pitcher currently represents, among others, Associated General Contractors, Brown & Williamson Tobacco Corp., Lorillard Tobacco Co., Maryland Horse Breeders Assn., Maryland Land Title Association, Mid-Atlantic Petroleum Distributors Assn., Miller Brewing Co., and Westvaco Corp.

- Michael Johansen, earning $389,634.29. Mr. Johansen is a member of the same lobbying firm as Joel Rozner and Alan Rifken, and represents the same clients.

This list reveals that the top-earning lobbyists represent overwhelmingly *private sector clients*, mostly big corporations and their trade associations. Annapolis' best-connected insiders with the biggest lobbying budgets work for Big Business. They don't work for working families, consumers, seniors, minorities, women, the disabled, the poor, or the environment.

The Lobbying Game: Methods of Mutual Back-Scratching

With the major players identified, we can describe how the tri-cornered game works. In a nutshell, the corporations need specific bills passed to enhance their profits. Local business interests, with years of experience in Annapolis, already know which lobbyists there have the best connections, and therefore which to hire. A multinational corporation only needs to know enough about Maryland to identify the General Assembly's leadership and relevant committee chairs. The corporations often go to these lawmakers and ask for recommendations as to which lobbyists to hire. The lawmakers recommend the lobbyists who are their friends and/or have steered campaign contributions their way in the past. The corporations get their legislation passed; lawmakers get campaign contributions; lobbyists get big fees. And ordinary Marylanders get ignored.

Once a corporate interest has hired its lobbyist, the latter needs to butter up the targeted lawmakers. The butter can be applied any number of ways. And the lobbyists' creativity guarantees that they will invent new methods in response to any future ethics reform legislation designed to limit the slathering.

Personal Connections to the Lawmakers

Access to lawmakers is the name of the game, and those lobbyists with the greatest access are former legislators and staff. For example:

- R. Clayton Mitchell, formerly Speaker for the House of Delegates, lobbies for the Constellation Energy Group. He's paid a bundle by Constellation, but his

extensive and long-standing contacts in Annapolis are worth every penny of it to the client. In fact, Delegate Leon Billings, one of the General Assembly's strongest consumer advocates, says he's never won passage of a bill the power companies (of which Constellation is the largest) didn't like. And it's Mitchell who leads the charge for the energy sector.

- Joel Rozner served as Chief of Staff to Parris Glendening when Glendening was Prince George's County executive.

- John Stierhoff was Senate President Mike Miller's chief legislative counsel for four years before becoming a lobbyist. Miller called Stierhoff "a person I raised, almost like a son to me … When Gerry [Evans] hired John, he hired a piece of me."[8] Considering that Miller is Maryland's second most powerful politician, that friendship garners princely fees for Stierhoff.

- Stierhoff's former partner, Gerard Evans (recently released from prison), is a close friend of Senator Miller and the godfather of his daughter. Evans also worked in Annapolis as a legislative staff member for ten years, many of them for Miller, before he became a lobbyist in 1986. Following his release from prison, Evans began rapidly climbing back into the ranks of Annapolis' best-paid lobbyists. But the state Ethics Commission voted to bar him from lobbying. He has appealed this decision.

- Michael Arrington, now representing, among other clients, the Laurel Racing Association, Mercedes Benz of Maryland, Starpower Communications and Channel Network, among other clients, is a former state Delegate.

- Gary Alexander is a former Speaker pro tem of the House of Delegates, a top aide in the Maryland Senate and close friend of House Speaker Casper Taylor, Jr.

- Pegeen Thompson, who represents the powerful Maryland Hospital Association, was formerly chief legislative analyst for Delegate Ron Guns, former chairman of the House Environmental Matters Committee – the committee, not coincidentally, with direct oversight of health care issues.

Lawmakers give the lobbyists access because of friendship and/or because the latter represent major campaign contributors. But there is another, less appreciated reason: some lawmakers have their eye on the revolving door to a high-paying job in the private sector. One lawmaker who went through that door is former Delegate Gerald Curran. He never looked back. "[Being a lobbyist] is much better than being a legislator. For one thing, you can come and go as you wish … People just go on and on [in committee and floor debates]. And I thought, do I really need to sit here and listen to this for 32 years?"[9] Before becoming a lobbyist, Gilbert Glenn was a Maryland lawmaker. Mr. Glenn described his privileged access as a former politician as follows: "The access is tremendous. I

call people I've known for a decade, and I'm immediately scheduled. I've had innumerable people come up and tell me: It's great to have you back but, boy, did you make the right decision."[10] The vast majority of lawmakers are honorable public servants caught in a bad system. But it cannot be denied that some legislators have their eye on a lucrative career after politics.

Campaign Contributions from and Fundraising by Lobbyists

Lobbyists may donate money to the campaign of a lawmaker. All the highest-paid lobbyists do so – big time. They set aside a portion of their corporate fees for this purpose because campaign contributions maintain the access that is the lifeblood of their business. And to make sure that lawmakers remember the favor, lobbyists contribute the money as close as possible to the opening of the General Assembly.[11] In 1997, top corporate lobbyist Gary Alexander had an aide slide checks under the door of lawmakers' offices in the Lowe House Office Building itself the very night before the opening day of the General Assembly.[12]

Some lawmakers are capable of their own improprieties. Some send packets of tickets to fundraising events directly to lobbyists, with the expectation that these will be distributed to the latter's well-heeled clients. Lobbyists say they regularly get calls from lawmakers demanding to know why the lobbyist didn't show up at their latest $250-per-plate fundraiser. William Pitcher, a prominent Annapolis lobbyist representing gambling, construction and tobacco interests, commented: "It makes my staff have to sit down, put [the individual tickets] in an envelope and put it through the postage machine. I become a campaign worker for them. It's a pain."[13] Has Pitcher considered that this minor inconvenience is what helps earn him hundreds of thousands of dollars each year?

Wining and Dining

In 1999, the legislature outlawed the wining and dining of individual lawmakers. This was supposed to be an ethics reform measure by restricting the flow of money into Maryland politics. But, predictably, it only spawned new and more effective methods by which lobbyists and their clients curry favor with lawmakers. The rules do permit lobbyists and their clients to invite *groups* of legislators, such as the entire House or the Senate, legislative committees and county delegations, to dinners, parties and other events, without reporting who was present. In addition, none of these rules apply out-of-state.

The group dinners are usually held at the finest restaurants in Annapolis and can cost several thousands of dollars. That means that a lobbyist with a big budget from his wealthy corporate client can still entertain, but a lobbyist on a tighter budget (such as one working for a public interest group) cannot. Corporate lobbyist James Doyle remarked: "I can't take a single legislator out for a bottle of beer. Yet, if I can finagle enough money from my clients, I can throw the most lavish dinners. That's an inconsistency that makes no sense. It's a reform that

doesn't work."[14] During the period November 1 through October 31, 2000, lobbyists spent nearly $700,000 on special events and parties for groups of lawmakers, a sharp jump from the previous year, when they spent $500,000 on such events.[15] And remember: neither lobbyists nor legislators are required to disclose the list of attendees.

None of these rules apply when events are held out of state. Lobbyists and corporations invite lawmakers to lavish events beyond Maryland borders; there are no disclosure rules at all governing such events, and no prohibition on wining and dining individual lawmakers. Last year, for example, the top-paid lobbyists followed a number of Maryland lawmakers to Chicago for the National Conference of State Legislatures annual meeting. Alan Rifkin and two other lobbyists at his firm combined forces with lobbyist Robin Shaivitz to host more than fifty Maryland lawmakers and guests at Smith & Wollensky's new restaurant near the Chicago River.[16] Such get-togethers allow lawmakers the opportunity to rub elbows not just with the lobbyists, but also with their clients *(e.g.,* corporate executives). Only a few weeks later, the road-show moved to the Beau Rivage, a hotel-casino in Biloxi, Mississippi, where dozens of Maryland lawmakers – accompanied by swarms of Annapolis lobbyists -- attended the annual Southern Legislative Conference.[17]

Wining and dining also takes place at the fundraisers which lobbyists attend in droves, not only to score points with the politician hosting the event, but also to get face-time with that lawmaker's many colleagues, who show up to express solidarity. Even when lobbyists refrain from discussing legislation in wining-and-dining situations, the sheer fact of so much face-time helps corporate lobbyists in two ways.

First, it cultivates personal relationships that will pay dividends later. Over a steak dinner at a fine Annapolis restaurant, a lawmaker drinks the lobbyist's booze, smokes his cigars and hears the lobbyist laughing at his jokes. He'll see that same lobbyist the very next evening at another fundraiser. And he'll see him again the following week, perhaps at a fundraiser held on the golf links. How can the lawmaker not, little by little, start to like the lobbyist? After all, the lobbyist is a professional charmer; he is hired partly for his *bonhomie.* And if the lawmaker likes the lobbyist, won't he be inclined to hear him out when the conversation does turn to legislation? In any event, the legislator and the lobbyist are probably already pals because most corporate lobbyists are hired precisely because they are former lawmakers or staffers with pre-existing relationships with those they importune.

Second, all that face-time with corporate lobbyists is time a lawmaker does <u>not</u> spend with constituents and non-profit lobbyists. The corporate lobbyists, thanks to their deep pockets, crowd out competitors for the attention of legislators. Lawmakers are thus disproportionately exposed to the corporate perspective on public policy.

Inaugural Galas

To get around limits on contributions, some corporate interests fund inaugural bashes for politicians after the election. The wording of the law governing these transactions is exceedingly vague, essentially leaving it up to the discretion of the lawmaker as to whether the subsidy would impair his impartiality. The evidence is sketchy, but this practice appears to be gaining in popularity.

Charities

Although the law does not allow a legislator to *directly* solicit gifts on behalf of another person from a lobbyist, lawmakers often identify for lobbyists their favorite local charities. The rest is understood. Besides aiding worthy causes, this practice generates good will for the lobbyist and clients in the State House and, in turn, helps the legislator win votes from his constituents.

Bell Ringing

"Bell ringing" is the practice by which lawmakers propose legislation not with the intention of seeing it become law, but because they want to get the attention of some special interest group that may like or dislike the proposal. Lawmakers' motives vary, but often they aim to garner campaign contributions from a group.

The fertile imagination of Gerard Evans hatched a bell ringing scheme notorious even by Annapolis' relaxed standards. In a scam lasting from 1997-99, Evans asked his friend Delegate Tony E. Fulton, Democrat from Baltimore, to propose legislation that would actually harm several of Evans' clients, who are paint manufacturers. The bogus bill would have made the manufacturers liable to plaintiffs in lead-poisoning cases based upon the manufacturer's share of the market rather than the company's direct culpability. Evans was able to reap $400,000 in fees from his clients for fighting the very legislation he asked Delegate Fulton to propose and which he knew had no chance of passage. Evans then hired Fulton, a real estate agent, to handle his purchase of a new office building in Annapolis, earning the lawmaker a $10,125 commission even though Fulton had no prior experience in the Annapolis real estate market (Fulton's business is based in Baltimore). Both Evans and Fulton were tried in federal court in Baltimore, resulting in a conviction for Evans and an acquittal for Fulton. Evans was recently released from a federal penitentiary.

Following the trial, U.S. Attorney Dale Kelberman told reporters that the atmosphere in Annapolis is so morally murky that jurors could not distinguish business as usual from a federal crime. "I think it was difficult for them to parse through . . . the accepted relationship between lobbyists and legislators [compared with] what went on here."[18] Kelberman's comment is disturbing even to the most cynical ear. The General Assembly, after all, is the institution that

makes the laws under which we live. How can anyone have confidence in it when the institution itself operates on the edge of illegality as a matter of course?

That murky atmosphere found perfect, if unwitting, expression in the comment of former state Senator and tavern owner Joseph J. Staszak. Asked if he had a conflict of interest on a liquor bill, he replied, "How does this conflict with my interest?" Staszak later pleaded guilty to mail fraud and tax charges in an unrelated matter.

Lawmaker referrals

If a lobbyist proves useful to a lawmaker by funneling money his way, the latter might recommend him to a corporate client. During a civil trial to resolve a dispute over the breakup of his lobbying firm, former top-earning lobbyist Gerard Evans testified that lobbyists principally get new business as a result of lawmakers who refer clients to them. Evans stated under oath that interest groups and businesses "go to legislators and ask for recommendations" of lobbyists to hire.[19] The lawmaker then recommends a lobbyist with whom the lawmaker has some sort of personal relationship or who has steered campaign contributions his way. Said Evans: "I'm not going to pretend Mike [Miller] and I aren't friends …If I do a good job representing clients in front of committees and in front of Mike Miller, I would hope he would recommend me to clients."

When told about Evans' testimony, Senator Miller assured reporters that he was shocked – *shocked* -- at such a statement. "I have never referred a client to anyone – ever," he said. "That practice would be unacceptable, immoral and unethical. That is such trash. I promise you it's not true."[20]

Such practices are not illegal in Annapolis, so long as there is no personal kickback to the lawmaker. But might there be other rewards for a lawmaker who recommends a particular lobbyist to a corporation? The answer is yes: campaign contributions. Prior to his conviction and incarceration on federal fraud charges, Evans was a major fund-raiser for state political campaigns. He even bragged to reporters that he could bring a campaign as much as $100,000 by telling his clients where to send campaign checks.[21] In 1997, before Evans' conviction, Miller's campaign war chest bulged with thousands of dollars from companies represented by Evans, including Merck & Co. and Westinghouse Electric Corp.

As for the corporate client, the benefits are obvious: increased access to key lawmakers and the ability to influence policy with a direct impact on the company's bottom line.

For example, during the 1998 session, the General Assembly debated a bill that would deregulate the electric utility industry. As a part of that debate, Baltimore Gas & Electric (BG&E) supported legislation that would create a holding company for its subsidiaries, a move that would, for a variety of reasons, allow it

to reduce its tax liability at the expense of ordinary taxpayers. BG&E's chief lobbyist, Clayton Mitchell, was unable to persuade Senator Miller on the holding company concept. Soon thereafter, BG&E hired Gerard Evans and John Stierhoff to lobby for the company. Within weeks, Miller, House leaders, Governor Glendening and industry leaders reached an accord, pledging to approve the holding company bill in 1999.[22] It is impossible to know if Senator Miller changed his stance on BG&E as a result of the company's hiring of Evans and Stierhoff. If so, BG&E's modest investment in the form of the fees paid to Evans and Stierhoff helped pass legislation that is producing for the company untold millions of dollars in saved taxes.

Convicted felon, disbarred attorney and all-star corporate lobbyist Bruce Bereano summed up the game in Annapolis thus: "The whole core of lobbying is personal relationships."[23] He forgot to add that the highest bidder can rent out those relationships to help pass a specific bill.

Summary

Massive campaign contributions not only produce crop after crop of largely pro-corporate lawmakers, the money also creates access to the legislators after the election. In Maryland's 1998 election cycle, business outspent labor 9:1; depending on how you measure it, developer interests outspent environmental interests by as much as 17:1.

In the 1998 election, men gave 61 percent more campaign dollars than did women when compared head to head. With all that male money flowing to mostly male candidates, it is no wonder that so few women try to run for office (only 18% of candidates) and that so few end up winning (26% of all victors). Because women contribute so little, they also lack access to politicians after the election, in turn making it difficult to enact bills of special concern to them.

Ethnic minorities face a similar problem. While there is no racial data kept on individual campaign contributors, one can get an idea of the civil rights dimension of campaign finance when looking at contributions by zip code. The average resident of District Heights zip code 20747, which is 90 percent black, gave $0.14 to candidates for Maryland state office in the 1998 election. By contrast, the average resident of wealthy (and mostly white) zip code 20854 in Potomac gave $11.10. <u>That's a 79:1 differential</u>.

This type of "crowding out" applies not only to marginalized groups, but also to issues. Take, for example, afterschool programs. Poll after poll shows massive public support for universal afterschool for kids. Moreover, no organizations mobilize specifically against it (though, if such a bill ever had a chance of enactment, some might object to its cost). Yet, <u>universal</u> afterschool (as opposed to a modest increase in funding) could never become law in Maryland under the current campaign finance regime. That's because lawmakers'

attention is so dominated by the needs of corporate contributors that proposals outside that agenda – even when not vociferously opposed by Big Business – are simply dismissed as “politically unrealistic”.

The disparities in access to lawmakers created by campaign contributions are widened by massive corporate lobbying budgets. The deep corporate pockets rent out a lobbyist’s personal relationship with lawmakers and finance a political process characterized by continual high-dollar fundraisers. These events lock in ample face-time with lawmakers and crowd out ordinary voters and non-profit lobbyists, who can’t afford to attend.

Of course, a number of progressive and non-profit groups in Annapolis get their phone calls returned by lawmakers and can usually obtain meetings with them. But these public interest advocates should consider that lawmakers owe their corporate campaign funders much more than they owe the white-hat advocacy groups (many of which have no electoral capacity whatsoever).

Finally, and very importantly, all that corporate money buys not only a qualitative, but also a *quantitative* lobbying advantage. The qualitative advantage is the ability to hire lobbyists who have personal connections with the most powerful lawmakers in the General Assembly. The quantitative advantage stems from the sheer number of lobbyists a corporation can deploy on a given bill. While a typical non-profit group might have one full-time, well-connected lobbyist working the halls of Annapolis, a Verizon can – and has -- hired 12 or more. And on many bills, Verizon is but part of a coalition of industry groups, each with its own battalion of well-connected lobbyists. Thus, for every meeting with a lawmaker scheduled by the nonprofit lobbyist, her corporate opponents can schedule ten. And those lobbyists also have superior office support, allowing them to crank out the glossy reports and PowerPoint presentations that make an impression on part-time, understaffed lawmakers forced to consider complex legislation during the General Assembly’s hectic 90-day session.

Our case studies (at www.progressivemaryland.org) trace how these disparities translate into specific legislative results.

Towards a Solution: Clean Money Campaign Finance Reform

Annapolis’ many lobbyist scandals typically produce minor adjustment to the ethics rules governing the relationship between lobbyist and lawmakers. While tweaking these rules has made lawmaker-lobbyist relations more transparent, the fact remains that they also spur lobbyists to become more creative in trading money for access. As veteran Annapolis lobbyist James Doyle observes, “There are many people in the state who believe ‘lobbying ethics’ is an oxymoron.”

Another veteran insider concurs. Following the Evans/Fulton scandal, former House majority leader D. Bruce Poole summarized the labor of Sisyphus that is ethics reform: "Judging from all past history … there will be an attempt to address the headlines. You'll see more legislation passed that will further muddy the waters but will not address the things that cause the greater problems in the way Annapolis functions."[24]

What are these underlying "things that cause the greater problems" to which Poole refers? The Progressive Maryland Education Fund – and a growing coalition of allied organizations including Common Cause Maryland, League of Women Voters, AFL-CIO, Sierra Club, NAACP, American Jewish Congress, and many others – believes the answer is campaign finance. As long as massive corporate interests can, in effect, give unlimited amounts to politicians, they will always have the upper hand over workers, consumers, women, minorities, and environmentalists. Reduce that financial power, and you not only allow candidates to run for office who might not slavishly adhere to Big Business' agenda; you also radically reduce the access of the Bereanos and Stierhoffs and Alexanders, who would find that lawmakers not dependent on big-money contributions are much less likely to return their phone calls.

We have reached the point of diminishing return when it comes to ethics reform. It's time now to concentrate on fundamental campaign finance reform, which solves both the electoral problem of the wealth primary and the ethics/lobbying problem undermining the credibility of our state government.

Strict limits on fundraising and expenditures seem to offer the surest way to reduce the amount of special interest money in politics. But the Supreme Court refuses to countenance mandatory campaign expenditure limits, calling them a violation of free speech.

It is futile to tinker around the edges of a campaign finance system whose main features the courts declare sacrosanct. <u>We need to adopt a proven alternative to that system.</u> That alternative is Clean Money. <u>Here's how it works</u>:

- To participate, a candidate must demonstrate broad community support by collecting a large number of small contributions in the district she wishes to represent within a specified amount of time.
- If successful, she receives enough Clean Money from the public Treasury to wage a competitive campaign.
- If a privately financed opponent outspends her, she receives offsetting funds to keep pace, up to a certain limit.

Clean Money's advantages are manifold:

- It enables citizens with community support but ordinary financial means to run for office.
- By encouraging electoral competition, Clean Money widens debate. Policies formerly dismissed as "unrealistic" – universal health care, universal child care, living wages – get a hearing.
- It frees candidates and lawmakers from incessant fundraising, removing the appearance and reality of corruption.
- Participation in the Clean Money system is voluntary; by leaving the private campaign finance system alone, the Act is immune to judicial challenge.
- Clean Money candidates who win owe nothing to fat cat contributors, reducing the latter's privileged access – and that of their lobbyists -- in Annapolis.
- Maryland's Clean Money system will cost less than $2 per resident per year – a small price to pay for real democracy and significantly less than the current system, which lavishes pork on special interest contributors.
- Clean Money reform has already been implemented in Maine and Arizona, where it is accomplishing all the benefits described above.

Join the growing movement working to bring Clean Money to Maryland, a movement that includes the AFL-CIO, United Methodist Church, NAACP, Common Cause of Maryland, American Jewish Congress, Sierra Club, and dozens of other groups. Contact Progressive at sean@progressivemaryland.org or 301.495.7004.

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[1] Unless otherwise noted, the figures in these bullets pertain to candidates for the General Assembly.

[2] Frontline Special Report: *Money and Politics: A Primer*, http://www.pbs.org/wgbh/pages/frontline/shows/fixers/reports/primer.html

[3] For a detailed summary of slates, see Scott Wilson, "Democrats' New Fundraising Tool Rankles Republicans", Washington Post, March 2, 1998, p. B1.

[4] Quoted in Baltimore Business Journal, *Democrats' 'Slate' Campaign Angers Critics*, Dec. 12, 1999.

[5] The explosive growth in lobbying in Annapolis mirrors developments in state capitals around the nation. A recent study by the Center for Responsive Politics finds that lobbying budgets at the state level have nearly doubled in the past five past years. See www.crp.org

[6] Baltimore Business Journal, "Democrats' 'Slate' Campaign Angers Critics", Dec. 12, 1999

[7] Mr. Bereano was the top lobbyist in Maryland until his conviction in 1994 for defrauding a client via the U.S. Mail. His year 2000 earnings show that he has bounced back quite nicely, despite being disbarred as a lawyer.

[8] The Washington Post, *Cozy Ties in Maryland State House Questioned*, Jul. 24, 1998.

[9] This list of lobbyists with professional connections to the General Assembly is based on a smattering of newspaper articles, and is surely incomplete.

[10] Quoted in The Washington Post, *Maryland Notebook: Former Lawmakers Take Another Spin at Annapolis as Lobbyists*, Mar. 22, 2000.

[11] Common Cause of Maryland, *The Reporting Gap: Campaign Fundraising and Timely Public Disclosure*, 2001.

[12] Terry M. Neal, "11th-Hour Checks Put Lobbyist in Hot Seat; Timing Pushes Md. Assembly Rule to Limit", *Washington Post,* January 18, 1997; p. C3.

[13] The Washington Post, *Lobbyists Pull Out the Stops*, Jan. 9, 2000.

[14] The Washington Post, *Commission Reconsiders Rules for Lobbying*, Sep. 15, 1999.
[15] The Washington Post, *Facing Fraud Charges, Lobbyist Watches Earnings Drop*, Jun. 2, 2000.
[16] *Id.*
[17] Washington Post, "Resort Attracts Md. Lawmakers, Lobbyists", Aug. 9, 2000, p. B1.
[18] Quoted in The Washington Post, *After Fraud Trial, Fretting But Little Change*, July 16, 2000.
[19] Evans Quoted in The Washington Post, *Maryland Trial Airs Lobbyists' Ties to Lawmakers* (Jul. 23, 1998).
[20] *Id.*
[21] *Id.*
[22] The Washington Post, *Cozy Ties in Maryland State House Questioned*, Jul. 24, 1998.
[23] The Washington Post, *Political Tradition Will Be Dissected at Fraud Trials*, Jun. 4, 2000.
[24] The Washington Post, *After Fraud Trial, Fretting But Little Change*, Jul. 16, 2000.

Substantial Penalty for Working Families

The Banking Industry, the "Unbanked" and the Maryland General Assembly

Josh McCallum, a mechanic from Anne Arundel County, merely wanted his own money--i.e., cash his paycheck and income tax refund check. But Mr. McCallum, who earns about $20,000 annually, cannot afford the checking account fees and minimum balance necessary to open a bank account. So his payday ride home required a stop at a check-cashing service. In Mr. McCallum's case the result was $9 in fees to cash a $100 check. When, in his words, "every paycheck goes to paying bills," these cashing fees represent a sizable burden which comes out of money that otherwise would pay for food, rent, insurance and other family needs.[1] Sadly, hundreds of thousands of Marylanders face this same predicament.

Besides exorbitant fees, the "unbanked" must deal with countless other difficulties. Payment of rent, for which proof of payment is a must, requires the unbanked to purchase money orders or cashier's checks. Payment for standard monthly services, such as electric or telephone, likewise requires a money order or cashier's check if paid by mail. All of these money orders or cashier's checks cost fees. Beyond the monetary cost, imagine the inconvenience of having to go to a bank or post office every time a bill is due.

Also, the unbanked have to keep all of their cash on their person or at home, thereby, running an increased risk of becoming a crime victim. Financially, this inability to properly store money limits one's ability to build savings.

Further, people cannot get credit with no prior banking history. Without credit, the very idea of achieving the "American Dream"-- owning your own home -- is impossibility. A bank account is not a convenience, it's a necessity.

Mr. McCallum is not alone. Over 12 million American families, representing 15 percent of all households, cannot afford bank accounts.[2] Of this 15 percent, 85 percent have annual incomes under $25,000.[3] These are the very people who can least afford to pay extra fees and charges. For a family with an income of less than $25,000, check-cashing fees mean less food and clothing. In Maryland, over 500,000 Marylanders filing federal income taxes had incomes of less than $20,000.[4] Clearly, hundreds of thousands of Marylanders are unbanked and thus face these hardships. Statistics from New Jersey strengthen this hypothesis. New Jersey, a state with an economic and demographic profile very similar to Maryland, has a law requiring that banks provide basic free checking for all residents, a reform that enabled 700,000 New Jerseyans to open bank accounts. Considering that New Jersey's population is 64 percent bigger

than Maryland's, these numbers suggest there could be as many as 450,000 Maryland adults without bank accounts.[5]

And the number of unbanked is growing. A Bankrate.com study of 1,200 banking institutions found that the percentage of banks offering free, non-interest-bearing, checking accounts dropped from 23 percent to a mere 8.7 percent in recent years.[6] Arriving at slightly different conclusions but finding the same alarming trend, the Federal Reserve's 2000 Annual Report on banking fees found the percentage of banks offering free checking accounts had decreased from 17.3 percent in 1998 to 10.8 percent in 1999.[7] The Maryland Center for Community Development asked 30 Maryland banks whether they offered "basic checking," defined as requiring a minimum deposit of $25 to open, $0 minimum balance, 8 free withdrawals and a $3 monthly fee. Only three banks in Maryland provide this basic service.[8] A 1996 Consumers Union study found that between 1994 and 1996 minimum required balances increased by 40 percent.[9] As a result, many account holders are now stuck with fees. A 1999 U.S. Public Interest Research Group (USPIRG) study revealed that checking account maintenance fees—fees paid for not maintaining a minimum balance--average $217.32 per year. Marylanders suffered the highest checking account maintenance fees in the nation-- $258.00 per year.[10] According to a 1996 Consumer Union study, these checking account charges and fees, which prevent Mr. McCallum and others from opening checking accounts, have increased by more than 50 percent in recent years.[11]

The Maryland Bankers Association's ridiculous justification for such high fees was, "Maryland is one of the most expensive places to live in terms of cost of living."[12] By that circular logic, Saddam Hussein could tell the Iraqi people that they suffer under an authoritarian government "because Iraq is one of the most authoritarian places in the world."

All these fees and penalties have generated $62 billion dollars in profits for banks nationwide.[13] Consumers currently spend more than $25 billion a year just on checking and bankcard fees, $250 per American household. The FDIC confirms that Americans spent $20 billion on fees on deposit accounts.[14] All of these new charges fit into the non-interest fees category, which have been a boon for banks profits. Non-interest income has quickly replaced traditional interest charges as major source of earnings for bankers.[15] And poor Marylanders are bearing the brunt.

This trend of high banking fees and disappearing free checking accounts has coincided with the consolidation of the banking industry. Since 1984, the number of federally insured commercial banking institutions has declined form 14,500 to 9,500.[16] Between 1994 and 1996 alone, the number of banks declined by 1,000.[17] In *Big Banks, Bigger Fees*, the USPIRG reports that big banks on average charged 16 percent more in maintenance fees than small banks and much higher minimum balances.[18] The result of fewer and bigger banks,

according to Mierzwinski, has been that "banks are punishing consumers with higher and higher fees."[19] The Federal Reserve's Annual Reports to Congress documented similar findings on banking fees.[20] Gone are small Maryland banks like First National Bank of Maryland and Citizen's Bank of Maryland and in there place are the huge multi-state institutions such as Allfirst and Suntrust. As a result, Maryland has "a two-tiered system where people who can least afford it are paying the most," says Delegate Elizabeth Bobo.[21]

The evidence is overwhelming that checking accounts are not accessible to the poor. Study after study shows that in Maryland, as in the nation as a whole, bank consolidation has resulted in increased fees that many cannot pay. Clearly, these federally insured institutions should not be able to deny the poor a basic checking account. As they benefit from the backing of the American taxpayers, these mammoth corporations should return the favor by providing no-frills bank accounts to the poor. Banks are regulated at the federal level, but also at the state level. Two states have taken advantage of this authority by enacting legislation to mandate certain types of basic banking accounts. In New Jersey, it has proven successful in making checking accounts affordable to all. There is no reason why Maryland -- one of the most progressive states in the nation – could not follow suit. Right?

Annapolis at Work

Wrong. Lawmakers in Annapolis have had plenty of opportunities to reform the banking system over the last half decade. For four years in a row between 1998 and 2001, Delegate Elizabeth Bobo and others championed legislation that would have pushed banks towards providing low-income Marylanders with basic, affordable checking accounts. These proposals called for banks to provide checking accounts where the initial deposit is $25 or less with no minimum balance required and a monthly maintenance fee less than $3.[22] Banks would be protected against losses because they would only have to provide one account per customer – and banks could charge a fee if they could prove a cost of $3 a month to service the account. The legislation's fiscal note found no negative business impact or fiscal problems. Nevertheless, the bill always failed. In fact, it never even made it out of the House Commerce and Government Matters Committee.

Initially, the first proposals called for all banks to provide such services. In response, opponents argued that the state had no authority to regulate multi-state banks. However, several states do regulate banks and require them to provide free basic accounts. Nevertheless, this concern is not entirely imaginary. Similar legislation in different states has been successfully challenged in court.

Delegate Bobo re-drafted her bill to solve that problem. The 2001 legislative proposal attempted to require banks *that wish to be used as a state depository* to offer basic checking accounts. A Maryland Center for Community Development

survey had determined that very few state depositories offer such accounts. In fact, the number was a dismal three out of thirty.[23] The legislation would not force all banks to provide such services, only those who wish to do business with the state of Maryland. Because it is voluntary, the legislation would pass judicial muster. But due to the profitability of state business, most banks desire to be official depositories and would conform to the demands. Yet, even this modified bill failed. This failure proved that the fear of legal challenges was not the main reason for the previous bill's failure. Perhaps there were stronger arguments against the bill that persuaded lawmakers?

The banking industry put forth many. First, the banks insist that they do offer such banking accounts. Kathleen Murphy, the executive vice president for the Maryland Bankers Association, said, "the basic services are already widely available."[24] In order to believe this claim, one would have to assume Maryland's banks defy the national trends described in all of the aforementioned studies, even the Federal Reserve's *Annual Reports to Congress on Retail Fees and Services of Depository Institutions*. Not likely. Moreover, the banking industry's claim that it currently offers free checking begs the question of why it is fighting this proposal.

For the most part, however, the banks argue that, in the words of Maryland Bankers Association Vice President Wayne Kirwan, "Government should not be in the business of telling private enterprise what it can or cannot charge for services."[25] Through competition, the market will efficiently give us the most service for the least price. This sounds very similar to the argument put forth by the industry when banking deregulation began in the early 1980s. They said that deregulation would lead to more choice, better service and cheaper costs. As seen above, deregulation has produced the exact opposite effect, leading to concentration, oligopoly and higher prices for consumers.

Moreover, under Delegate Bobo's 2001 proposal, there were no mandatory controls on bank fees. The State of Maryland would simply exercise its right, as a consumer, to negotiate with prospective banks how its deposits be used. In a free market, purchasers as well as producers are free to bargain. Right?

Not according to the General Assembly. But as the number of poor Marylanders forced to use check-cashing services continued to grow, Del. Bobo refused to give up. So in the 2002 session she proposed a bill that even her most Gradgrindian colleagues would seem to have trouble rejecting. HB 1264 proposed to create a mere study commission to examine short-term loans and the check cashing sector– i.e., the "payday lending" industry that charges the poor big fees for elementary banking services. The bill never even made it out of the House Commerce and Government Matters Committee.

Follow the Money Trail

Why would the Maryland General Assembly reject these common-sense bills? A look at the money provides more than a few clues. The banking industry as a whole contributed $536,311 to all candidates for office in Maryland in the 1998 election cycle, targeting $27,979 on the House Commerce and Government Matters Committee. Contrast that to a grand total of $0 contributed by consumer advocacy groups. And considering that the equivalent of only 0.6 percent of all Marylanders could afford to make a campaign contribution to a candidate in 1998, it's a safe to assume that not too many Josh McCallums donated to politicians either.

All those corporate contributions help produce a crop of business-friendly lawmakers. The money also buys access to lawmakers after the election. And massive lobbying budgets widen that access further. The banks employed the third highest paid lobbyist in Annapolis, Bobby Enten, to plead their case. Mr. Enten was paid $499,291 last year of which $95,422 came from the Maryland Bankers Association ("MBA"). The MBA employed three lobbyists and paid $175,000 for these services making it the 12th highest spender on lobbying activities in the state.[26]

Of course, when millions of dollars in fees and charges are on the line, these amounts of money are minuscule. Who wouldn't exchange a few hundred thousand dollars in campaign contributions and lobbying fees for millions and millions in extra profits?

Towards a Solution: Clean Money Campaign Finance Reform

As seen in the Introduction, ethics reform has reached the point of diminishing return in Maryland. It's time to attack the root cause of these skewed legislative outcomes: lawmakers' dependence on deep-pocket campaign contributors. As a campaign finance reform model, Clean Money's advantages over traditional attempts to limit contributions and expenditures are discussed in the Introduction and in more detail at progressivemaryland.org.

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[1] John W. Croft, "Legislator Fights for Banking Access" Capital News Service March 10, 2000 University of Maryland, College of Journalism--highlighted Mr. McCallum's story
[2] "Big Banks, Bigger Fees: The 1999 PIRG Bank Fee Survey" USPIRG, pg. 1
[3] "Issues Briefs: Basic Banking Accounts Summary" Maryland Center for Community Development website: www.mccd.org/publicpolicy/issuebrief1.html
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[14]Americans Spend Billions of Dollars Unnecessarily on Bank Fees--Individual Households Could Save up to $200 Each." November 9, 1999 CUNA & Affiliates website: www.cuna.org/data/cu/press_releases/cfa_110999.html
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[19] Mary Gordon, "Bank Checking Fees Up." ABCNEWS.com 10/99 website: 204.202.137.117/sections/business/DailyNews/bankfees991014.html
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[22] Bills proposed: 1998-HB 1147, 1999-HB 952, 2000-HB 524, 2001-HB 821
[23] "Issues Briefs: Basic Banking Accounts Summary" Maryland Center for Community Development website: www.mccd.org/publicpolicy/issuebrief1.html
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[26] State Ethics Commission, Annual Report 2000

Manufacturing Windfalls

The Manufacturing Industry, Corporate Welfare and the Maryland General Assembly

Maryland has an economy that in many ways is the envy of neighboring states and a standout for the entire nation. Even with the recent economic downturn, Maryland's unemployment rate is still consistently below the national average—3.3 percent for the month of April 2001 compared to 4.2 percent for the nation.[1] Maryland has the lowest poverty rate in the nation, 5 percent below the national average.[2] The state's median household income is over $52,000, the highest in the U.S. and 28 percent above the national average.[3] On top of this, Maryland had a 2001 fiscal year surplus of $375 million.[4]

This stands in direct contrast to many other states, particularly those dependent on manufacturing. The four states with the highest percentage of their workforce in manufacturing (Indiana, Wisconsin, Arkansas and Michigan) had an average median household income of $40,675.[5] This is $11,000 less than Maryland, a state with a small percentage of its workforce in that sector. Likewise, states like Michigan and Illinois have higher unemployment rates, both at 5 percent or greater, mostly because of manufacturing layoffs.[6] This in turn has led to budget shortfalls in these states. Alabama, North Carolina, South Carolina, Michigan and Mississippi, states with large percentages of their workforce in manufacturing, are wrestling with budget shortfalls. In fact, South Carolina had a $500 million shortfall out of a $5 billion budget.[7]

With these facts in mind, it would be difficult to understand a policy of lavishing taxpayer dollars on a subsidy program for Maryland's shrinking manufacturing sector. Difficult to understand, that is, until one follows the money trail of special interest campaign contributions and lobbying fees from that same sector.

Annapolis at Work

In the 2001 session of the General Assembly, lawmakers decided that Maryland manufacturers needed a big tax cut to encourage growth in this sector. In almost unanimous votes in the Maryland House of Delegates and Senate, the corporate income tax for in-state manufacturers (but not for other types of businesses) was dramatically reduced. Amazingly, the legislation was brought up and passed on its very first try, which is a rare feat for bills in Annapolis. More amazingly, the law is so loosely worded that other types of industries – printing, chemicals, basic metal production, even poultry – could perhaps try to exploit the tax cut as well.

By changing the state's corporate income tax apportionment formula to only reflect sales within the state, big in-state manufacturers such as Black & Decker

and McCormick & Company (with $1.4 billion[8] and $533.5 million[9] in 2001 first quarter sales, respectively) as well as other types of industries will net huge savings on their state tax returns. Originally, the corporate income tax formula utilized three factors--percentage of in-state wages, percentage of in-state property, and percentage of in-state sales---in order to determine a manufacture's tax liability. But the new approach counts in-state sales alone. By taking wages and payroll out of the formula, in-state manufacturers receive a large percentage of their income tax free. In testimony before the Senate Budget and Taxation Committee, Steve Hill of the Maryland Budget & Tax Policy Institute explained that an astounding 96 percent state tax reduction could occur for a manufacturer that has all of its property and payroll in Maryland, but only 2 percent of its sales in Maryland.[10]

The proponents of this bill claim that moving away from the old property-wages-sales formula to only sales is a way of favoring in-state manufacturers and making up that lost revenue by in effect, raising taxes on out-of-state manufacturers who sell in Maryland. The evidence, however, is unconvincing at best. The General Assembly's own Legislative Service's Fiscal Note said that the impact was inconclusive as to revenues generated.[11] In fact, in states where this tax approach had been tried, specifically Massachusetts and Illinois, revenues have declined.[12]

In his testimony before the House Ways and Means Committee, Michael Mazerov from the Center on Budget and Policy Priorities said, "corporations that suffer substantial tax increases because they have relatively small amounts of property and payroll in Maryland but larger shares of their sales in the state could remove facilities and jobs to eliminate their taxability entirely."[13] To illustrate Mazerov's point: if Shoe Company X, which makes its shoes in West Virginia but sells many of them in Maryland at its own outlets, felt itself being taxed too much by the new system, it could avoid Maryland corporate tax altogether by closing the outlets and instead selling shoes through other distributors, such as K-Mart, Wal-Mart, or Payless Shoes.

Clearly, Shoe Company X would embark on such stratagems before going to the trouble of closing and moving entire factories to Maryland, which is a much more costly undertaking. Because of actions like this, the expected off-setting revenues from out-of-state producers have not materialized in the states currently using a single-factor formula. In fact, huge losses in corporate tax revenue have occurred. For the fiscal year 2000, Massachusetts lost an estimated $130 million, California lost an estimated $96 million and Illinois lost an estimated $63 million.[14]

Will jobs be created by such a change in the tax code? This is highly unlikely. Since moving to a single-factor formula, Massachusetts has lost more than 15,000 manufacturing jobs. In fact, the defense contractor Raytheon actually moved a plant from Texas, a single-factor state, to Arizona, not a single-factor

state.[15] A longer-term perspective can be found by looking at Missouri since it imposed a single factor corporation tax based only on sales two decades ago. Since 1979, Missouri has seen a 13.4 percent decline in manufacturing jobs. Companies are not rushing to states that tax corporations based on a single-factor.[16]

Furthermore, if the low tax logic is true, Maryland should currently have a much bigger manufacturing base than its neighbors. A Barents Group study of 10 states in the region (South Carolina, North Carolina, Florida, Tennessee, Pennsylvania, Virginia, West Virginia, Georgia, Kentucky, Maryland) finds that Maryland had the lowest total business tax burden for 10 select manufacturing industries – even before the switch to a single-factor formula.[17] Also, Maryland had the 6th lowest corporate income tax of the ten. Despite the lower taxes, all of these states, except Florida, have higher percentages of work-force in manufacturing than Maryland.[18] As longtime manufacturing CEO, and current Treasury Secretary, Paul O'Neil explains corporate decision making :

> "I never made an investment decision based on the tax code…If you are giving money away I will take it. If you want to give me inducements for something I am going to do anyway, I will take it. But good business people do not do things because of inducements, they do it because they can see that they are going to be able to earn the cost of capital out of their own intelligence and organization of resources."[19]

The case of Northrop Grumman illustrates Secretary O'Neil's point. The mammoth defense contractor has a long history of taking government handouts – and then reneging on promises to create jobs. Brevard County, Florida, is considering rescinding the tax break it gave to Northrop because the company has fallen short on promised job creation targets.[20] The firm has also been criticized for eliminating over 20,000 jobs on Long Island after it received large tax incentives and other assistance from Nassau County.[21] Despite Northrop's duplicitious record, Maryland decided in 1996 to award the firm special grants and loans to the tune of $12 million.[22] Six years later, no evidence exists that Northrop has created extra jobs in Maryland.

Black & Decker has behaved even worse. One of the chief beneficiaries of the tax cut, Black & Decker recently closed its plant in Easton, throwing 1,200 Marylanders out of work. Predictably, Black & Decker has decided to shift the jobs to low-wage Mexico, China, and the Czech Republic.[23]

As long as Maryland is willing to give, the big corporations will continue to take. As George Washington University law professor David Brunori writes, "all the single-sales-factor-apportionment formula will do is ensure that manufacturers will be relieved of the responsibility of supporting Maryland's public services."[24] This burden will be shifted on to others. Lawmakers hoped it would be out-of-

state businesses, but in reality it will be other Maryland taxpayers – most of them hardworking families.

Follow the Money Trail

Why would Maryland's politicians slash this tax despite a mountain of evidence militating against such change? A look at the money trail provides more than a few clues.

As we have seen, the loose wording of the law raises the strong possibility that many different types of industries – not just manufacturers – could attempt to claim this tax give-away. But looking only at the manufacturing sector, we find that it gave a whopping $263,523 to Maryland state politicians during the 1998 election cycle.

All those corporate campaign contributions buy access to the politicians. And massive lobbying budgets widen that access further. The "single-factor coalition" alone paid lobbyist Gene Burner $40,000 last session to push for this tax cut. That amount was dwarfed by the budgets of the individual members of the coalition, companies including giants such as Alco East-Alcoa Works ($37,000 on lobbying in the last session), Northrup Grumman ($35,978), Perdue Farms, Inc. (over $20,000), Black & Decker, Ciena Corp., W.L. Gore & Associates, W.R. Grace and Co., McCormick & Company, Micro-Machinery, Printing Industry of Maryland, Inc. Other groups such as the Chemical Industry Council of Maryland, which spent $30,000 in lobbying fees, and the Printing Industry spent, which spent over $15,000, helped push the bill as well.

These hundreds of thousands in campaign contributions and lobbying fees might sound like a lot of money. But they generated millions and millions in corporate welfare for already profitable companies. Maryland's taxpayers footed the bill.

Towards a Solution: Clean Money Campaign Finance Reform

As seen in the Introduction, ethics reform has reached the point of diminishing return in Maryland. It's time to attack the root cause of these skewed legislative outcomes: lawmakers' dependence on deep-pocket campaign contributors. As a campaign finance reform model, Clean Money's advantages over traditional attempts to limit contributions and expenditures are discussed in the Introduction and in more detail at progressivemaryland.org.

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WHO'S GOT THE POWER?

ELECTRICITY DEREGULATION, THE ENVIRONMENT, AND CAMPAIGN FINANCE IN THE MARYLAND GENERAL ASSEMBLY

In 1999, the Maryland General Assembly passed, and the Governor signed, the Electric Utility Industry Restructuring Act. This landmark legislation was passed primarily at the behest of the State's largest power companies and big industrial consumers of electricity.

From a consumer standpoint, electricity deregulation is a gigantic gamble for Maryland. All we really know is that the utility companies love it. Whether Maryland consumers will realize any benefit -- or whether it will turn out to be a California-style debacle -- remains an open question.

As for deregulation's impact on the environment, there can be little doubt that this bill, as currently written, will be bad news. Before deregulation, utilities had some incentive to encourage energy conservation because they were responsible for both the generation and transmission of electricity. They could avoid the regulatory and political headaches of building new power plants (as well as the cost of buying extra and high-priced power on the interstate spot market) by investing in efficiency and encouraging conservation. After deregulation, however, companies such as PEPCO and Baltimore Gas & Electric (the latter owned by the massive Constellation Energy Group) have either sold or spun off their power plants into separate companies and now simply provide electricity to homes and businesses through their power lines. As Ed Osann of the Natural Resources Defense Council explains, "Because their revenues are now based on how much power goes through the wires, there's no incentive for them to encourage conservation. And the companies that generate the power clearly don't have any incentive because they're operating those plants to sell all the power they can generate."[1]

Annapolis at Work

This disturbing set of incentives prompted environmental advocates and pro-conservation lawmakers to try to amend the Restructuring Act in the 2000 session of the General Assembly. Senator Frosh introduced an Amendment to the Act that would have set up a public benefits fund to provide investment for energy efficiency. The Frosh Amendment was defeated on the Senate floor by a lopsided vote of 11-34. Similarly, a group of Senators sponsored SB 557, which would have made a number of minor, technical alternations to current regulations to encourage energy conservation. SB 557 died after an unfavorable vote in the

Senate Finance committee, chaired by Senator Thomas Bromwell from Baltimore County, where the massive Constellation Energy Group (owner of Baltimore Gas & Electric) is based. Bromwell was a principal sponsor of the original deregulation bill.

During the 2001 session, Senator Frosh and other progressive lawmakers in Annapolis again introduced energy conservation measures to clean up the mess left by the electricity deregulation bill. Two of those bills especially merit discussion, both as environmental conservation and as consumer protection initiatives.

SB 688/HB 1322, the Energy-Saving Investment Program, had two inter-related goals: (1) to help Maryland's households and businesses conserve energy, thereby promoting the use of sustainable energy resources as an alternative to dirtier fossil-based sources; and (2) to lower consumers' electric bills. Its major provisions called for:

- Creating an Energy-Saving Investment Fund to provide funding for energy efficiency programs;
- Requiring electric and residential gas customers to contribute to the Fund through an energy-saving investment charge set by the Public Service Commission;
- Mandating at least 1 percent of the electricity sold to Maryland by 2002 to come from renewable energy, such as solar or wind;
- Directing the Maryland Energy Administration to develop and manage energy efficiency programs; and
- Providing a plan for the disbursement of funds to implement the programs throughout the State; establishing an Energy-Saving Investment Advisory Board.

The feasibility of the legislation was demonstrated by an Economic and Environmental Analysis jointly filed with the Public Service Commission by the Northeast Energy Efficiency Partnerships, Inc. ("NEEP"), the Maryland Public Interest Research Group ("MaryPIRG"), the American Council for an Energy Efficient Economy ("ACEEE"), the Natural Resources Defense Council ("NRDC"), the Chesapeake Bay Foundation ("CBF") and the Alliance to Save Energy ("ASE").[2] This exhaustively researched study concluded that the proposed legislation would:

- reduce energy sales growth by 30 percent in the first three years of implementation;
- by year 10 of implementation reduce CO2 emissions by 1,863,086 tons, roughly the emission volume produced by 280,000 average automobiles;
- also by year ten of implementation produce energy savings for Maryland consumers of roughly $571 million.

The Senate version of the Energy-Saving Investment Program failed in Senator Bromwell's Finance Committee. The House version failed in the Environmental Matters Committee, chaired by Delegate Ron Guns. These two bills failed again in the 2002 session in these same two committees.

Second, former Senator Dorman and others proposed SB 767, Electricity Regulation – Clean Energy Portfolio Standard. This bill would have required that a certain percentage of electricity sold to Maryland customers come from renewable energy sources, including solar, wind, certain biomass, as well as penalties for power distributors that fail to comply. The result would have been a lowering of polluting emissions from the production and consumption of fossil-based energy sources, promotion of environmentally responsible alternatives, and, in the long run, savings for consumers.

Like SB 688, the Clean Energy Portfolio Standard initiative failed after receiving an unfavorable vote from the Finance Committee. An identical bill failed in committee in 2002.

Follow the Money Trail

Overall, Senators Frosh and Dorman both have excellent records in moving legislation in the General Assembly. Moreover, environmental and consumer protection advocates – especially the Maryland League of Conservation Voters, MaryPIRG, 1000 Friends of Maryland, the Chesapeake Bay Foundation, the Sierra Club, the Maryland Conservation Council, and the American Counsel for Energy Efficiency, among others – have worked tirelessly and effectively to educate lawmakers and the general public on the need for energy conservation measures in the wake of electric utility deregulation. If those efforts have yet to succeed, it was surely not because these groups were unable to make a convincing case or reach lawmakers and the public with it. Instead, this outcome can only be explained by the massive campaign contributions and lobbying budgets of the corporate interests that will reap a bonanza from unfettered deregulation: electricity generators and distributors as well as their large commercial customers.

When we look at contributions from these two sectors, they total $467,640 to all Maryland state politicians in the 1998 cycle. Of this, the industry donors spread $42,027 to the House leadership, $27,884 to Senate leadership, $17,660 to the House Environmental Matters Committee, and $19,230 to the Senate Finance Committee. Against this tidal wave of cash, environmental organizations contributed $4,896 – **for roughly a 100:1 discrepancy**.

All those industry campaign contributions give the corporate big boys access in Annapolis. Big lobbying budgets widen that access further. The last session was a relatively quiet one for utilities in Annapolis, but Constellation still spent

$112,000 on lobbying expenses, mostly to defeat energy conservation measures such as those discussed above.[3]

Utility lobbyists are among the best connected and highly-paid advocates in Annapolis. Constellation, which owns Baltimore Gas & Electric, spent more than $1.3 million on the lobbying campaign, making it the number one spender in 1999. PEPCO spent $471,000 during that year, and Allegheny Power has spent about $300,000 over the past two years.[4] Environmentalists and consumer advocates simply cannot match the firepower of the giant utilities. As usual, it is mostly a matter of dollars and cents. Money, usually in the form of campaign contributions or lavish parties for lawmakers, buys influence and access, which is why the electric utility industry spends so much in Annapolis. But money also buys ubiquity; deep industry pockets can afford to pay multiple lobbyists to swarm the halls of the General Assembly, while the comparatively tiny number of environmental and consumer advocates must spread themselves thinly. Lawmakers in Annapolis are part-time and typically only have one assistant. Thus, they are forced to rely on outside staff work for much of the information they need to evaluate legislation. When the thin ranks of public interest advocates aren't available, any of dozens of corporate lobbyists are more than happy to be of assistance – complete with glossy brochures and slick PowerPoint presentations.

Legislators have come to learn that when they see Constellation's main lobbyists, Mary Dempsey and former Speaker of the House R. Clayton Mitchell, testify against legislation, the bill is in serious trouble. "You would have thought one of the benefits of deregulation would have been a diminished influence of these monopolies," Del. Leon Billings notes ruefully. "It seems to be just as great."[5]

Towards a Solution: Clean Money Campaign Finance Reform

As seen in the Introduction, ethics reform has reached the point of diminishing return in Maryland. It's time to attack the root cause of these skewed legislative outcomes: lawmakers' dependence on deep-pocket campaign contributors. As a campaign finance reform model, Clean Money's advantages over traditional attempts to limit contributions and expenditures are discussed in the Introduction and in more detail at progressivemaryland.org.

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Capitol Dividends

Why the Maryland General Assembly Keeps Cutting Taxes for the Rich

Maryland is one of the most progressive states in the nation, so most of us believe that tax rates should be graduated based on ability to pay. A working family, whose each dollar goes to food, rent and other necessities, ought to shoulder a lower tax burden than a wealthy one, for whom disposable dollars purchase second homes, BMWs and ski vacations in Aspen.

Surprisingly, however, Maryland turns out to have a rather regressive tax structure. According to a report by the Maryland Budget & Tax Policy Institute, "people of low and moderate incomes bear a higher state and local tax burden than wealthier Marylanders." The research shows that Marylanders making below $35,000 a year in income pay an average of 11 percent of their income in local and state taxes while those making over $400,000 a year in income pay only 8.3 percent.[1] Maryland's overall tax structure is more regressive than those of most other states.[2]

This regressive tax system would have been even more unfair were it not for Maryland's inheritance tax. That's because a very small percentage of estates generated most of the revenue collected from the tax. In 1993, the majority -- fully 57 percent -- of deceased Marylanders left behind no estate. Of the small group that did bequeath an estate, a very small percentage -- only 22 percent -- passed down an estate of $300,000 or more.[3] In other words, only 9 percent of Marylanders left behind an estate of $300,000 or more. This small number of estates generated most of the revenue collected from the inheritance tax, fully 67 percent of the total.[4] Thus, the inheritance tax helped make the overall tax system less regressive.

Incredibly, in its 2000 session, the General Assembly weakened even this modest gesture toward fairness, tilting the tax code even further in favor of the rich. At a time of skyrocketing executive compensation and a booming stock market, our elected representatives voted overwhelmingly to make the rich even richer while under-funding education, health care, transit, etc. How could this happen?

Annapolis at Work

In the 2000 session, the Maryland General Assembly passed a bill to increase inheritance tax exemptions. This bill passed nearly unanimously and on its very first attempt – a rare feat in the General Assembly. Under the new law, estates

between $300,000 and $600,000, accounting for a mere 4 percent of all legacies, get the biggest tax break.[5]

While most lawmakers were stumbling over each other to support this giveaway to the rich, a few at least worried about the fiscal impact. Senate President Mike Miller said, “We need to see how long this economic boomlet is going to continue and make sure we don’t do any damage to the long-term fiscal health of the state.”[6] As the national economy lurches into recession, Miller's warning looks prophetic. The Department of Legislative Services’ Fiscal Note on the bill shows that revenue loss will explode from $10.9 million in 2001 to $29.1 million in 2005.[7] Other estimates put the cost at $50 million a year.[8] Is this how we want to allocate scarce resources? Fifty million dollars could pay for seven new elementary schools[9], 1100 new teachers[10], or provide a year of health care services for 45,400 poor kids.[11]

Supporters of state repeal claimed the tax was ruining small family businesses by forcing heirs to sell out. But these same supporters were hard-pressed to come up with a *single* real example to prove their claim. Even a supporter of the inheritance tax cut, Fred Franke, an Annapolis estates and trust lawyer, conceded that "it’s sort of a stretch to see how this repeal would be good for business."[12]

These same groups also hailed the bill as a savior for family farms. But by any reasonable calculation, family farms make up an infinitesimal share of estates in Maryland. An IRS analysis showed that nationally farms comprise less than one percent of the value of taxable estates subject to federal estate tax.[13] Maryland is a less agricultural state than most. So in Maryland, farms must account for far less than one percent of the value of taxable estates (and true family farms even less than that). Moreover, for the few family farm estates that do exist, Maryland already grants an exemption for those larger than 50 acres passing on to a direct descendant.

Proponents also argue that an inheritance tax will drive away wealthy Marylanders to low-tax states. These same proponents supply no empirical evidence to back up a claim that defies common sense. Would you sell your house and leave behind friends and family solely to beat a tax that is levied after your death?

Finally, the question has to be asked: Could a more targeted approach have been tried to help the tiny number of Marylanders who might truly need inheritance tax relief? Instead of changing the inheritance tax to increase exemptions, the lawmakers could have targeted their efforts specifically to protect small family farms and small family businesses passed to direct descendants. In a proposal put forth by the Maryland Budget and Tax Policy Institute, the classification of small estates could have been extended from less than $20,000 to less than $100,000. Such estates could pay a nominal fee of

less than $100. The cost of this more targeted approach would have drained the Treasury far less because estates below $100,000 pay only 8 percent of inheritance tax revenues.[14] And such an approach certainly would have been fairer to the overwhelming majority of Marylanders, who inherit no wealth at all.

Why would lawmakers almost unanimously lavish a tax cut on wealthy Marylanders that denies funding for vital programs now and promises to cause revenue shortfalls in the near future? Why reward the rich when they've never had it so good? Why make Maryland's already regressive tax structure even flatter?

Follow the Money Trail

Those who benefit from tax cuts such as this are much more likely to contribute to political campaigns than those who do not benefit. While it is impossible to code contributors by income, one can get an idea of the socio-economic profile of donors through zip-code analysis. The average resident in zip code 21216 in inner-city Baltimore, one of the poorest in the state, gave $1.62 to candidates for Maryland state government office. By contrast, the average resident of wealthy zip code 20854 in Potomac gave $10.20. That's a 6:1 differential. Guess whose voice is louder in Annapolis?

The fact that campaign contributions are given overwhelmingly by the rich means that their perspective comes to seem like "common sense" to lawmakers. That's because lawmakers, besides being disproportionately high-income themselves, mostly hear the views of other rich folks. To see why, imagine you are a busy lawmaker eyeing a stack of phone messages on your desk. Whose would you return first? Would you put the one from a $4,000 contributor near the top of the pile? Of course, you would. Add to that all the face-time the wealthy get with lawmakers at fundraisers and at the country club, and you begin to understand how our elected officials might come to believe that the wealthiest Marylanders – even during a time of skyrocketing executive compensation and a booming stock market – need "tax relief".

Face-time also takes place in the General Assembly itself in the form of direct lobbying. Not surprisingly, the groups most vociferous in support of the estate tax cut were those composed disproportionately of the richest Marylanders: the Maryland Chamber of Commerce, Maryland Tax Payers Association, Maryland Bankers Association, 60 Plus (a kind of gold plated AARP), and the Maryland Farm Bureau (representing not family farmers, but instead big agribusiness). These groups employed Annapolis' highest-paid, best-connected lobbyists, such as Bob Enten, who earned $499,291 in 2000. The Chamber spent $221,681 on lobbying in that session; the Farm Bureau $64,369; 60 Plus $26,000.

Towards a Solution: Clean Money Campaign Finance Reform

In a nutshell, our democracy is becoming ever more plutocratic: the rich and Big Business have a much louder voice in Annapolis than ordinary Marylanders. We need to ensure that elected officials listen to all the voters, not just the wealthiest 1 percent who give almost all of the campaign contributions. To do so, we need to break the dependence of lawmakers on deep-pocket special interests to finance their campaigns.

As seen in the Introduction, ethics reform has reached the point of diminishing return in Maryland. It's time to attack the root cause of these skewed legislative outcomes: lawmakers' dependence on Big Money campaign contributors. As a campaign finance reform model, Clean Money's advantages over traditional attempts to limit contributions and expenditures are discussed in the Introduction and in more detail at progressivemaryland.org.

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Bank Robbery

ATMs, the Banking Industry and the Shakedown of Maryland in the General Assembly

No, you are not just imagining it. ATM fees are indeed skyrocketing. A U.S. Public Interest Research Group (USPIRG) study, covering the three-year period from 1996 to 1999, found ATM fees nationwide increased by 151 percent.[1] ATM fees in Maryland have surpassed the national average.[2]

It was not supposed to happen this way. Before 1996, banks charged a single fee ("foreign fee") to their account holders who used another institution's ATM machine ("foreign ATM"). Currently, this foreign fee averages about $1.00 per transaction.[3] The account holder's bank uses those fees to (1) reimburse the institution that owns the ATM machine for its cost, (2) pay for access to the ATM network and (3) keep the rest as profits. All banks benefit from decreased costs since the average human teller costs $2.93 per transaction while an ATM only costs 27 cents.[4] Recognizing this, many banks promoted the use of ATMs by offering lower minimum balances on ATM use-only checking accounts and charging account holders extra for a bank teller's services. Customers benefited from 24-hour banking and a greater availability of banking services. It sounded like a win-win deal: consumers get convenience while banks cut transaction costs, thereby boosting profits.

However, this was not enough for the profit-hungry bankers. In 1996, banks in Maryland were allowed to charge a second fee a ("surcharge") to non-customers who used their ATM machines. That's right: now not only your own bank charges you for a transaction (the foreign fee), but also the institution that owns the ATM charges a surcharge. This practice is known as "double-dipping." And it didn't take long for double-dipping to become the industry norm. Today, 93 percent of banks charge such fees, resulting in $2.1 billion in revenues annually.[5] A General Accounting Office investigation in 1998 showed that ATM surcharges nationwide more than tripled in 14 months.[6] By 2000 in Maryland, these surcharge fees averaged $1.41 per transactions, thus requiring Maryland consumers to pay, on average, $2.86 for foreign ATM use in 2000 when it was only $1.00 in 1996.[7]

Thanks to this huge increase in ATM revenues, banks nationwide earned record profits of $71.2 billion in 1999, [8] which their executives tried to downplay by making claims such as this one by a Maryland banker: "Maybe we make a few pennies, but nowhere near as much as you think."[9] Profits skyrocketed despite decreases in deposit-interest revenue—banks' standard income source from interest on loans and the like. As Christopher Mutascio, banking analyst of Legg Mason Wood Walker in Baltimore, explains, banks "need to develop other revenue, and a major avenue for that has been [ATM] fees."[10] Other businesses

have seen the tremendous profits that can be made, and they have begun to get in on the action. Those machines sitting in most convenience stores are not owned by banks but by the store itself.

On top of double-dipping, the number of banks that charge their own customers to use their ATMs has tripled since 1996.[11] The day will likely come when no one can use an ATM without paying a fee. Customers will no longer be able to access their money without paying – even though ATMs, because they automate transactions, were originally put in place by banks voluntarily as a profit-booster.

Considering this overwhelming and by now widely disseminated empirical data documenting the gouging of Maryland consumers by the banking industry, you'd think that our lawmakers in Annapolis would intervene.

Annapolis at Work

Unfortunately, Maryland's legislators can't seem to get off the dime. Or don't want to get off the dime. For three consecutive years, 1998, 1999 and 2000, Delegate Brain Moe's proposals to limit surcharge fees were unsuccessful.[12] In all three cases the public interest group MaryPIRG aggressively supported these efforts, made a compelling case for reform, and generated widespread public support for the legislation. Yet the first two attempts, which sought an outright ban on surcharges, failed in the House of Delegates Commerce and Government Matters Committee. In the last attempt, during the 2000 Session, the proposal aimed simply to limit the amount of the "surcharge" fees to 50 cents, rather than completely prohibit them. This was, by all accounts, a modest attempt at a compromise that would limit merely the worst excesses of double-dipping. This modified proposal never made it out of the Commerce and Government Matters Committee either. Because passage of this bill was obviously hopeless, the legislation was not even proposed during the 2001 and 2002 sessions.

Judging by the weak arguments against these bills offered by the banking industry, lawmakers in Annapolis needed little persuasion to kill the legislation.

First, the industry argued that the free market should be left alone to determine the amount of ATM fees. Banks call limits on the fees they can charge, in the words of Kathleen Murphy, executive vice president of the Maryland Bankers Association, "price fixing." Bankers claim the market will ensure the most choice for the lowest price. But as we have seen, the exact opposite has occurred. "Small banks and credit unions charging lower (account maintenance) fees are the only thing that keeps bigger banks from charging even higher fees," explains David Shawhan of MaryPIRG.[13] But, Shawhan continues, since these small institutions offer few locations (ATM or brick and mortar establishment) to carry out transactions, customers are increasingly obliged to use big bank ATMs. In other words, the same high "foreign fees" charged by the big banks help force consumers into their arms. These foreign fees more than wipe out any savings a

consumer would make by having a cheaper checking account maintenance fee at a smaller bank, so more and more of them are switching to big banks – despite, or more accurately, <u>because</u> of the outrageous foreign fees. According to Thomas Caron of the Community Bank League of New England, "rather than pay the increased fee, most customers will simply change banks, resulting in the large-scale transfer of small community bank deposits bases to the large."[14] This, combined with the last ten years of banking consolidation, works to destroy competition and increase industry concentration.

Bankers also say that the fees are necessary to pay for maintenance of existing and construction of new ATM machines. As seen above, however, by slashing costs from $2.93 per transaction to 27 cents, banks were clearly making a handsome profit even before double-dipping began. Moreover, cash-only machines cost as little as $5,000 and most studies estimate the true cost of maintenance at about $12,000 per year, including depreciation.[15] That costs a lot less than the salary and benefits of a full-time human teller. The U.S. PIRG estimates that even if an additional 40,000 ATMs have been put into action since the surcharges began in 1996, the increased revenues would amount to $50,000 per machine, per year.[16] According to ATM companies, "an ATM...can bring in hundreds to thousands of extra dollars in revenue easily..."[17] The evidence overwhelmingly shows that ATMs are net revenue generators—big time.

Kathleen Murphy of the Maryland Bankers Association offers a third specious argument in favor of gouging: “If you do away with these access fees, then there would be fewer ATMs for people to use."[18] Yet in two states where fees were banned, Iowa and Connecticut, the numbers of ATMs has not declined.[19] A Connecticut Tribune story reports, "ATMs are fully available here, and in fact they have been proliferating in number..."[20] According to the Iowa PIRG, ATM fees have never been charged and there are plenty of ATMs in Iowa. Recently, Great Britain enacted laws doing away with almost all ATM fees with no adverse consequences. The Department of Defense also supports such a ban on military bases. Limits and restrictions have become law and the evidence points to no drop in the number of ATMs.

Why is the Maryland General Assembly so determined to protect gouging by the banking industry?

Follow the Money Trail

The banking industry as a whole contributed $536,311to all candidates for office in Maryland in the 1998 election cycle. Contrast that to a grand total of $0 contributed by consumer advocacy groups. The bankers targeted $27,979 on the House Commerce and Government Matters Committee – and, as seen above, got excellent return for its investment.

All those contributions help produce a crop of business-friendly lawmakers. The money also buys access to lawmakers after the election. And massive lobbying budgets widen that access further. The industry's leading advocate group, the Maryland Bankers Association (MBA), employed the third highest paid lobbyist in Annapolis, Bobby Enten, to plead its case. MBA paid him $95,422.00. Beyond that, MBA employed the services of two other lobbyists and in total spent over $176,456 in 2000, the last year this bill was brought.[21] This does not include individual banks like Bank of America, which spent $55,998 lobbying on its own. For the banking industry, these are all small investments that generate hundreds of millions in extra profits.

Towards a Solution: Clean Money Campaign Finance Reform

As seen in the Introduction, ethics reform has reached the point of diminishing return in Maryland. It's time to attack the root cause of these skewed legislative outcomes: lawmakers' dependence on deep-pocket campaign contributors. As a campaign finance reform model, Clean Money's advantages over traditional attempts to limit contributions and expenditures are discussed in the Introduction and in more detail at progressivemaryland.org.

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A Matter of Life and Death

The Death Penalty, Campaign Finance, and the Maryland General Assembly

Ever more frequently, we read a headline like this one: "Innocent man released after 9 ½ years on Virginia's death row."[1] Nationally, 89 men have been freed from state death rows since 1976.[2] In Illinois alone 13 men on death row have been released since 1997 thanks to DNA evidence. Because of these cases, Illinois Governor George Ryan, a lifelong advocate of capital punishment, suspended that state's use of the death penalty.

Here in Maryland, our judicial system is equally flawed. In 1993 Kirk Bloodsworth, a death row inmate, was pardoned by then Governor William Donald Shaffer when DNA evidence proved his innocence.[3] He had, in his own words "slept above the gas chamber for two years", spending a total of 8 years on death row.[4] "I'm having great difficulty putting my life together,"[5] he says today.

Mr. Bloodsworth's story is not an aberration for Maryland's judicial system. In just the last year and a half, five other death row inmates have had their sentences overturned or commuted.[6] It is highly unlikely that all of the wrongfully convicted are freed, and it is very probable that some have been executed.

Equally disturbing is the racial bias that emerges from even a cursory review of Maryland's death penalty data. Currently, 69 percent of the men on death row in Maryland are African American, yet they make up only 28 percent of the state's population. Eighty-one percent of the alleged murder victims of these men on death row are white, while 75 percent of the victims of homicide in the entire state are African American.[7] Evidently, the murder of a white is punished much more severely than one of a non-white

Furthermore, Maryland's death penalty is imposed differently across jurisdictions. Of the thirteen men currently on Maryland's death row, nine of them come from one jurisdiction, Baltimore County. This despite the fact that in 1998 there were only 20 murders in Baltimore County compared to 107 in Prince George's County and 315 in Baltimore City.[8] In Baltimore County, a whiter and wealthier jurisdiction than Baltimore City, an aggressive prosecutor goes for the death penalty as often as possible.[9] Other jurisdictions rarely seek such a penalty.

Because of these problems, support for a death penalty moratorium to allow study has been building. African American groups, such as the Maryland state branch of the NAACP and the Maryland Legislative Black Caucus, have teamed up with religious groups, like the Maryland Catholic Conference, to push for

legislative action. Civil libertarians such as the ACLU and the Maryland Coalition Against State Executions (CASE Maryland) also demand a moratorium study. Thanks to these efforts, Governor Glendening indicates that he would likely sign such a bill into law if it reached his desk.[10] As Delegate William Cole IV said, "the governor is now aware that there's a fairly large community concerned with the fairness of the death penalty."[11]

Despite the many cases where defendants have been wrongfully convicted and sentenced to death, the obvious racial and jurisdictional bias in the system, and the broad support for a moratorium, Maryland's executions, after a long dormant period, are now becoming more common. In the past six years three people have been put to death. Two of the executed were African Americans and all of them had killed white victims. Today, four people sit on death row with time running out.

Given all of the facts you would think that Maryland's lawmakers would surely support a short stoppage of executions while a formal study of the process is conducted.

Annapolis at Work

You'd be wrong. During the past five sessions, bills have been introduced attempting to address various parts of the death penalty, and all failed. The last two sessions, the proposals have called for a two-year moratorium on the use of the death penalty while researchers at the University of Maryland, College Park review the data on its application. Similar laws have passed in Nebraska, Illinois and Indiana, all much more conservative than Maryland.[12] The cost to the state would be minimal. In the words of the bills lead sponsor, Senator Clarence Blount "Whether you are for the death penalty or against it, I don't see where (the moratorium) hurts anything."

During the 2001 session, the bill (HB 563/SB 316) passed the House of Delegates due in large part to the efforts of Speaker Casper Taylor, who intervened when the process bogged down.[13] Unfortunately, there was no such help in the Senate, where the bill died. In fact it never received a floor vote. Motions, amendments and other parliamentary stunts sent the bill to defeat.

From the very beginning the bill had little chance in the Senate, where the President, Mike Miller, says, “I remain firmly committed to support the death penalty.”[14] Miller assigns the bill to the Judiciary Committee, where the chairman, Walter Baker, calls people on death row "bums," and brags that he is "not going to do anything" with the bill, i.e., denying it even a vote.[15] Grudgingly, Baker eventually gave in during the final days of the legislative session, allowing a vote on the bill, but not without crippling the legislation with an amendment. The bill that emerged included an amendment that cut the moratorium down to one year, thus requiring the death penalty study to be completed earlier than

possible. The head of the Governor's death penalty commission, Ray Paternoster, said that the one-year moratorium and study deadline, "just cannot be done."[16] He needs the full two years to go through the mountain of information. Nevertheless, the bill with the added time-limit amendment did make it out of the Senate Judiciary Committee, a major feat in its own right.

As the bill arrived on the Senate floor late in the legislative session, it was vulnerable to motions and filibusters designed to run out the clock before a vote could be held. Again, Walter Baker was the lead obstructionist. He vowed: "I've got about three or four or five days to talk about this on the floor, which I am prepared to do." Senate President Mike Miller is said to view a moratorium as an attempt to abolish capital punishment and threatened that "a lot of other bills are going to die" before he would give in.[17] With such powerful foes, moratorium supporter Senator Leo Green ruefully noted, "the bill probably stands a snowball's chance in hell."[18] He was right. In fact, the Senate for unclear reasons closed 15 minutes early on its final evening. Senator Blount notes that this was the, "first time we didn't wait until 12 o'clock to adjourn."[19] Just before this early closing, a symbolic vote was finally allowed, but mysteriously there was an electronic malfunction in the vote tallying system.

Fortunately, after the General Assembly adjourned, Governor Glendening intervened with an Executive Order to put a moratorium on executions while the study commission completes its work. Despite this happy outcome, the fact remains that for years the General Assembly refused to enact this commonsense civil rights legislation. How come?

Follow the Money Trail

All Marylanders lose when justice is denied. But for the poor and minorities, especially African Americans, these miscarriages of justice are especially serious because they are disproportionately charged with capital crimes.

The kind of people who end up on death row – whether innocent or not – are the poorest of the poor. And thanks to discrimination, African-Americans are the other group that ends up on death row disproportionately.

Black Marylanders face a double challenge. First, some white lawmakers in the General Assembly simply have a tin ear – or worse -- when it comes to issues of concern to minorities. Second, even if these white lawmakers opened their ears, it is still difficult for African-Americans to get access to them. Both these problems are tightly linked to the role of money in politics.

To tackle the first problem, we obviously need to elect more black lawmakers. Although African-Americans comprise 28% of Maryland's population, no black Marylanders serve in state-wide office and they make up only 19% of the General Assembly. Why do African-Americans have such trouble running for and winning office?

The redistricting process does not create enough minority districts in a Maryland rapidly becoming diverse. And we need to complete the modernization of our voting procedures so that no more Florida-style fiascos ever happen again.

But a very important part of getting minorities elected involves money. Without it, a prospective candidate cannot even think of running for office. But African-Americans earn on average less than other Marylanders and thus often lack connections in the business world that would help them raise money.

One reason black candidates lack access to campaign cash is because so few African-Americans donate. While there is no racial data kept on individual campaign contributors, one can get an idea of the civil rights dimension of campaign finance when looking at contributions by zip code. The average resident of District Heights zip code 20747, which is 90 percent black, gave $0.14 to candidates for Maryland state office in the 1998 election. By contrast, the average resident of wealthy (and mostly white) zip code 20854 in Potomac gave $11.10. **That's a 79:1 differential**.

Because African-Americans contribute so little, they lack access to politicians after the election, in turn making it difficult to pass bills such as the death penalty moratorium. During the General Assembly's frenzied 90-day session, lawmakers simply do not have enough time to return every phone call, let alone grant every request for a meeting. So, who gets the access to the politicians? Put yourself in the shoes of a busy lawmaker with a stack of phone messages on your desk. One of those messages is from a $4,000 contributor to your campaign. Would you put that message near the top of the pile? Of course, you would. And how many black Marylanders write $4,000 campaign contribution checks?

A Big Part of the Solution: Clean Money Campaign Finance Reform

As seen in the Introduction, ethics reform has reached the point of diminishing return in Maryland. It's time to attack the root cause of these skewed legislative outcomes: lawmakers' dependence on deep-pocket campaign contributors. As a campaign finance reform model, Clean Money's advantages over traditional attempts to limit contributions and expenditures are discussed in the Introduction and in more detail at progressivemaryland.org.

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It Ain't Chicken Feed

Agribusiness, Antibiotics, and Public Health in Maryland

The use of antibiotics for "subtherapeutic" purposes (*i.e.,* those other than to treat human diseases) poses a serious public health risk. The primary subtherapeutic use of antibiotics in the United States is in feeding livestock, especially poultry, swine and cattle. Antibiotics have long been fed to animals on the assumption that they improve feeding efficiency and therefore increase farmers' profits by enabling animals to reach slaughter weight more quickly and on less feed. With thousands of animals crammed into unhygienic, crowded quarters of a typical factory operation, massive amounts of antibiotics are administered through the animals' feed and water.

Unfortunately, antibiotics used in animals can make human diseases harder to treat by causing infectious bacteria to become resistant to antibiotics through overexposure to them. Hardy strains of the bacteria survive the exposure and pass on that resistance to successive generations. They also pass the trait across to other bacteria that are unrelated, including some that cause human disease. Eventually, the antibiotic wipes out all the vulnerable bacteria, and only resistant ones remain. At that point, the antibiotic is no longer effective.

The United States Food and Drug Administration (FDA) currently allows 19 different antibiotics to be used for animal growth promotion. Of these, at least 7 drugs are used in human medicine, including penicillin, streptomycin and virginiamycin and floroquinolones. There is strong and growing evidence that at least some of these antibiotics are becoming less effective due to their subtherapeutic use on animals. According to a 1998 National Research Council study, *The Use of Drugs in Animals: Benefits and Risks*, the reported incidence of bacteria-related food-borne illness is increasing. The government is especially concerned about food-borne diseases caused by campylobacter and salmonella.

Campylobacter is carried into kitchens in poultry and can cause illness when the meat is eaten undercooked. Campylobacter is the most common cause of food-borne illness in the United States, and the Centers for Disease Control and Prevention (CDC) estimate that there are two to four million campylobacter infections annually, resulting in as many as 250 deaths each year nationally. Furthermore, about one in a thousand camplyobacter infections leads to Guillan-Barre syndrome, a disease that can cause paralysis.

Campylobacter is becoming resistant to flouroquinolones, an antibiotic used

as an essential treatment for food-borne disease since 1986. Very little resistance to this antibiotic occurred until flouroquinolones began being used for poultry growth in 1995. By 1998, the CDC found that over 13% of food-borne campylobacter were resistant to flouroquinolones. In 1999, resistance rose to nearly 18 percent, and according to a recent FDA risk assessment, nearly 11,000 people with campylobacter infections who sought treatment with flouroquinolones received therapy that was less or not at all effective.[1] Accordingly, the FDA has proposed banning the use of flouroquinolones on poultry.

According to the CDC, in more than one-third of the salmonella-poisoning cases in 1997, the bacteria were resistant to five antibiotics used to treat the disease. Moreover, staph bacteria, which cause skin, blood, heart valve, and bone infections that can lead to septic shock and death, are becoming increasingly resistant to the chief antibiotic that has been used to treat them, methicillin. From 1975 to 1991, the incidence of methicillin-resistant staph bacteria in U.S. hospitals increased from 2.4 percent to 29 percent.[2] The CDC has concluded that antimicrobial use in food animals is the *dominant* source of antibiotic resistance among food-borne pathogens in the United States. The American Medical Association recently adopted a resolution (AMA Resolution #508) calling for a ban on such use.

The scope of the public health issue at stake is amply demonstrated by the sheer volume of antibiotics used for animal growth. The Union of Concerned Scientists estimates that livestock producers in the United States use 24.6 million pounds of antimicrobials in the absence of disease for nontherapeutic purposes; approximately 10.5 million pounds in poultry, 10.3 million pounds in hogs, and 3.7 million pounds in cattle. This figure represents a dramatic increase in the nontherapeutic use of antimicrobials for animal growth since the mid-1980s, when about 16.1 million pounds were so used. This increase has been driven primarily by the poultry industry, which increased its use of antibiotics by an astounding 307 percent over the last fifteen years.[3]

Maryland’s Eastern Shore is one of the largest poultry producing areas in the United States. According to Delmarva Poultry Industry, Inc., during year 2000 Maryland produced 283.3 million broilers, ranking seventh among poultry-producing states. The major farms in Maryland include Tyson Foods, Inc. (number 1 in the nation), Perdue Farms, Inc. (number 4), Mountaire Farms, Inc. (number 9) and Allen Family Farms, Inc. (number 16). All of these producers administer massive quantities of human-used antibiotics to poultry for nontherapeutic purposes.

By contrast, only about 3 million pounds of antimicrobials are used in human medicine each year, *one-eighth the quantity used for the nontherapeutic treatment of animals.* The Union of Concerned Scientists estimates that nontherapeutic livestock use accounts for 70 percent of total antimicrobial

use.[4] And the more antibiotics agribusinesses use, the more likely that bacteria will become resistant.

Despite growing concern in the public health and environmental communities, there is very little reliable information publicly available to measure the dimensions of the risk involved. State and federal agencies charged with protection of public health have no comprehensive data about the type and amount of antibiotics in use. In June 2000, the World Health Organization recommended "the creation of systems to monitor anti-microbial (antibiotic) usage in food animals." In a recent (January 2001) study, the Union of Concerned Scientists concluded that as public health officials attempt to forge a response, "data on quantities of antimicrobials used are not publicly available, even though these data are critical to designing an effective response to the problem." Closer to home, the Secretary of the Maryland Department of Health and Mental Hygiene has written that "since there is neither a central repository nor required reporting by any State agency regarding antibiotic and hormone use in animal feeding operations, we do not know what types and what amounts of feed supplements are used or where and how often they are administered."

Annapolis at Work

During the 2001 session of the Maryland General Assembly, Del. Dan Morhaim and Sen. Paula Hollinger sponsored HB740/SB692, the Antibiotic and Hormone Use Reporting Act. This legislation was a simple right-to-know bill; it did not prohibit farmers or agricultural corporations from using antibiotics for nontherapeutic purposes. Rather, the bill would have required the Maryland Secretary of Agriculture to collect information on: (1) the generic and trade name of the antibiotic used in animal production; (2) the amount of antibiotic administered in the feed; (3) the name of the distributor of the antibiotic; (4) the type of animal receiving the feed; and (5) the reason for administering the antibiotic. The Secretary would also have been required to publish an annual report describing the information gathered on antibiotic use in animal production in Maryland. As discussed above, public health authorities *must* have this information in order to analyze the degree of the danger posed by antibiotic use in animals to promote growth and to plan a public health response.

The Antibiotic Reporting Act (Senate and House versions) was referred to the Senate Economic and Environmental Affairs Committee. Supporters of the Antibiotic Reporting bill included members of the public health and scientific communities, as well as environmental groups (especially the Sierra Club). At the Committee hearing, the bill was opposed by several powerful industry groups, including the Maryland Farm Bureau, the Animal Health Institute, Delmarva Poultry Industry, Inc., the Maryland Pork Producers and the

Maryland Grange and Dairy Farmers Association. Despite receiving a favorable vote from the Senate Committee and despite Sen. Hollinger's outstanding record of successfully moving legislation, the bill was voted down on the Senate floor by a two-to-one margin.

Given this defeat, no attempt was made in the 2002 session to reintroduce the legislation.

Follow the Money Trail

How could such a common-sense bill fail to pass? The question becomes less perplexing when we look at the deep pocket special interests opposed to it.

The Maryland Farm Bureau is state chapter of the American Farm Bureau Federation (AFBF). While purporting to represent family farmers, the AFBF is in fact a coalition of agribusiness interests (including insurance, banking and factory-farming, for example), which takes in more than $200 million each year in membership dues. A major player in the U.S. Congress, AFBF can certainly take care of its interests in the smaller arena of the Maryland General Assembly.[5]

The Animal Health Institute is a coalition of pharmaceutical and related companies, including the Bayer Corporation. Bayer's Animal Division, based in Kansas, dominates the market for animal-feed floroquinolones with a drug called Baytril, and has strongly opposed the FDA's proposal to ban that class of antibiotics from subtherapeutic uses as well as numerous state efforts to reduce nontherapeutic livestock use – or even to study the issue.

The Animal Health Institute (AHI) was represented in the Maryland General Assembly by its national Executive Director, a fact that demonstrates the importance of the antibiotic reporting issue to the animal pharmaceutical industry. In fact, a visit to AHI's website (**http://www.ahi.org/New_Welcome.htm**) shows that defusing the entire issue is among the organization's highest priorities; the website is replete with various studies and "fact sheets" highly critical of any effort to question the subtherapeutic use of antibiotics for animal growth. For the AHI, it's a question of the bottom line: Of the fifty million pounds of antibiotics produced every year in the United States, 40 percent of that is given to animals, and 80% of what is given to animals is used to promote their growth.[6] Were poultry producers to change their antibiotic feeding practices, the result could be that AHI member companies such as Bayer would lose a very significant market for its product.

Delmarva Poultry Industry, Inc. (DPI), is a tri-state trade association representing large poultry producers (and related interests) on the Eastern

Shore. DPI has long been very active and powerful in the Maryland General Assembly, employing some of the state's highest paid professional lobbyists. Those lobbyists include Gerard Evans (now in jail for defrauding clients), William Satterfield, Michael Canning as well as George and Nicholas Manis.

Agribusiness and pharmaceuticals contributed a total of $554,819 to all candidates for Maryland office in the 1998 election cycle, targeting $132,052 to candidates for the Senate. A single pharmaceutical interest group – the "Pharm PAC" family of PACS -- all by itself contributed $27,980.

All those campaign contributions purchase access in Annapolis. And massive lobbying budgets widen that access.

On the other side are public health advocates based at non-profits and universities with no campaign dollars to contribute and very modest lobbying budgets (if any at all).

Towards a Solution: Clean Money Campaign Finance Reform

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DIAL "M" FOR MONOPOLY

VERIZON, CAMPAIGN FINANCE AND THE MARYLAND GENERAL ASSEMBLY

One telephone company, Verizon, controls 97 percent of the residential and small business market in Maryland. Verizon's monopoly persists despite the federal Telecommunications Act of 1996, which requires states to open local markets to competition.

There are many reasons why this federal law continues to be ignored in Maryland (and indeed in almost all states), but none as important as the power of the incumbent local exchange carriers (ILECs, also called "Baby Bells", such as Verizon) to stamp out competition. For to compete against these behemoths, upstart "competitive local exchange carriers" (CLECs, which often include smaller carriers and/or internet service providers) must utilize parts of the ILECs network infrastructure and thus depend upon the incumbents to help provide the services that the CLECs have sold to their customers. Any delays, service or quality problems by the ILECs reflect badly on the CLECs (which are, in fact, rivals of the ILECs). The ILECs, therefore, have an incentive to cause problems for competitors using their networks – and that's exactly what they do. In California, for example, AT&T (which is a CLEC in that area) reports that 4 to 6 percent of its new customers lose service each month because of errors caused by Pacific Bell (the ILEC). Internet service providers (which are often CLECs) claim that the Bells have cut off service to their customers and then try to win those customers for themselves.[1]

Worsening matters is the fact that very few states have the authority to levy fines on local phone companies. And even in those states that possess such authority, penalties are derisory. For example, Maryland may fine Verizon only $10,000 for each transgression against a CLEC. "Our penalty is a joke," according to Maryland Delegate Joan F. Stern, an expert in telecommunications law and policy. It is a joke because Verizon can make far more than $10,000 by means of the anticompetitive behavior for which it is fined.

To combat this problem, lawmakers in a number of states are proposing "structural separation" legislation that would split the ILECs into separate retail and wholesale operations. The retail company, in effect a new CLEC, would retain the Bell's retail customers and compete against rival CLECs in

terms of price, quality and service. The wholesale company would sell network access to the new retail company as well as other CLECs on equal terms and conditions. Structural separation would force the network company to be an impartial wholesaler, with a strong incentive to upgrade its network with new technology in order to accommodate more traffic. Most importantly, it would result in genuine competition for the Maryland local phone market, reducing consumer costs and providing superior service. Maryland customers – both individuals and businesses – stand to save hundreds of millions of dollars.

Annapolis at Work

During the 2001 legislative session, Delegate Joan Stern sponsored legislation to promote telephone competition in Maryland.

HB 137 was a "structural separation" bill that would have required Maryland's ILEC (Verizon) to structurally separate its retail and wholesale operations into two separate and independent businesses. Under the bill, the newly created "retail affiliate" is defined as a telephone company that provides local retail telecommunications services, and the newly created "wholesale affiliate" is defined as a local telephone company that provides telecommunications services to local exchange carriers and to retail affiliates. The retail affiliate operates as a competitive local exchange carrier and the wholesale affiliate owns and operates all the network facilities that existed prior to the separation. The affiliates may not jointly own or control network facilities or infrastructure.

Clearly, this bill would be, as Delegate Stern said, "the quickest and most effective way to bring about competition" in Maryland's telecomm market[2] It would save Marylanders hundreds of millions of dollars, improve service, bring our state into compliance with federal law, and cost the state government nothing. A no-brainer, right?

Wrong – at least in the peculiar world of Annapolis. The bill enjoyed such scant support in the House Environmental Matters Committee, where it was assigned, that Delegate Stern was forced to withdraw it before the bill could get a hearing. She was even forced to withdraw a much more modest bill, HB 137, which would have merely established a task force to study Maryland's dysfunctional telecomm market.

The General Assembly's failure to even allow floor votes on these two common-sense bills provides yet another example of the power of money in Annapolis.

In the 2002 session, Delegate Stern submitted even more modest legislation, HB 1164, which would speed up the complaint review process and define anticompetitive practices. This bill sought to limit the time to hear corporate complaints to 180 days because time means money and a long wait for a startup company is often the kiss of death.

An amended version of HB 1164 did pass, serving as a clear testimony to the persistence of Delegate Stern and the consumer groups backing her. However, Verizon lobbyists succeeded in deleting a provision creating a telecommunications code of conduct so as to restrict coercive, anticompetitive tactics used by Verizon. Moreover, the final version of the bill contains no penalty to ensure compliance, so the current inadequate fine of $10,000 is the only punishment. If you were Verizon, would you abandon the anticompetitive practices that net your company millions in profits because of the *possibility* of a $10,000 fine?

Verizon's behavior, though reprehensible, at least makes sense. But how about the behavior of our elected officials in Annapolis? Why, year after year, do they spike legislation that would lower telecomm rates and improve service for millions of Marylanders?

Follow the Money Trail

At first glance, it seems incredible that Verizon's modest investment of $57,778 in campaign contributions in the 1998 election cycle could help it protect monopolistic privileges worth millions each year to the company. But this astounding return-on-investment becomes more comprehensible when one considers that consumer advocacy groups could afford to donate a grand total of $0 to Maryland politicians in that same election cycle.

These campaign contributions ensure that Verizon gets access to the lawmakers. To see why, imagine you are a busy lawmaker eyeing a stack of phone messages on your desk. Whose would you return first? Would you put the one from Verizon, which gave a $4,000 contribution to your last campaign, near the top of the pile? Of course, you would.

Massive lobbying budgets widen Verizon's access to the politicians even more. Verizon's deep pockets hired **13** registered lobbyists in General Assembly, led by veteran Annapolis-insider Sean Mooney. Mooney's full-court press coupled with the fact that Chairman Guns was actually an employee of Verizon left little doubt that the bills would not even get a fair hearing in the committee. Verizon spent $161,980 on lobbying activities during the 2001 session and $242,038 during the previous year. Pro-consumer groups probably did not spend one-tenth that amount on lobbying for telecomm legislation.

After the session, Mooney remarked, "It's been a great year. There were a couple of bills we were very concerned about," but the utility prevented both from even getting a committee hearing, let alone a floor vote. Verizon's battalion of lobbyists also thwarted roughly 20 other bills that might have cut into Verizon's monopolistic profits.[3]

Consumer advocates – notably Marypirg – achieve frequent victories against these kinds of long odds. But the fight is perpetually uphill. Imagine what they could accomplish – and how better served would be Maryland consumers -- if the campaign finance playing field were leveled?

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Stacked Deck

The Gambling Industry and Campaign Finance in Maryland

The gambling industry's sales pitch is tempting, even for a relatively wealthy state like Maryland: "Let us build our squeaky clean, tourist-drawing, family-friendly 'gaming centers' in your state, and you will have a new industry whose tax revenues can be used to balance the budget and finance popular programs, such as education."

But, as we all know, there is no free lunch in this world. The question is whether gambling's social costs are too expensive.

The National Gambling Impact Study Commission's 1999 report urges a moratorium on any expansion of gambling to allow state and local officials more time to consider all of the costs.[1] These costs were highlighted in a recent National Opinion Research Center (NORC) study that estimates the number of pathological gamblers to be at 2.5 million for the nation, with 3 million more who should be considered problem gamblers. A total of 15 million Americans are said to be at risk.[2] The cost of this social ill is estimated at $5 billion a year nationally, and an additional $40 billion in lifetime costs.[3] One study found that for every tax dollar paid by the gambling industry, taxpayers pay $1.90 in treating the social costs of gambling.[4] Some of the reasons for these high costs are bankruptcies, lost wages, unemployment and other social problems.

And these social ills hit those members of society who are most vulnerable. A Mississippi State University study found that "gamblers earning less than $10,000 per year lost about 10 percent of their family income to casinos, while those earning more than $40,000 spent only about 1 percent of their earnings on casino gambling."[5] Another study found that 38 percent of problem gamblers earn under $15,000 per year.[6] The poor will bear an increased burden not only in social costs but in financial costs as well. In effect, legalized gambling in Maryland would constitute a new tax on those who can least afford it and would make Maryland's already regressive tax system even worse.

Maryland need not turn to gambling to raise revenue. To surmount the current budget crisis, Maryland -- one of the wealthiest yet also lowest-tax states[7] -- can surely find more enlightened and less socially destructive ways to raise revenue. Right?

Annapolis at Work

Wrong – at least according to many of our elected officials in Annapolis. Even before the current budget crisis, Senate President Mike Miller and former House Speaker Casper Taylor created special committees to study gambling. That they named these new bodies "Special Committees on Gaming" (not "gambling") and that they charged them to investigate "how gaming in neighbor states has affected Maryland horse-racing" (implying that our state is losing business to gambling across the border and should therefore allow it in Maryland), the leadership telegraphed its pro-gambling orientation. Senate President Miller says gambling "is inevitable,"[8] and "the possibility of gaming is going to become reality."[9] On the House side, the new Speaker Michael Busch opposes gambling. But powerful committee chairman Pete Rawlings supports it. Most importantly (and ominously), Gov.-elect Bob Ehrlich has made legalization of slot machines the cornerstone of his plan to balance the budget.

Proponents argue that gambling is necessary to balance the budget and to save the Maryland horse-racing industry. Both arguments are specious.

As for balancing the budget, there is no doubt that gambling would, in the short term, add money to state coffers. The horde of gambling lobbyists cleverly makes this pitch to lawmakers from poor districts, promising them increased resources for schools and jobs in blighted areas.[10] Sadly, this lobbying strategy seems to be enjoying some success.

But any short-term fiscal benefit must be weighed against the future fiscal burden of dealing with lost taxes and added social spending resulting form lost wages, gambling addiction, personal bankruptcies, etc. This scenario is especially likely since studies show that middle and low income Americans are the ones hardest hit by gambling addiction.[11]

And gambling brings with it a further danger, points out Christopher McCabe, President of Marylanders Against Casinos (MAC). "The real potential danger to good government may well be when the state assigns the limited amount of licenses to run slots."[12] Acquiring a license to run slots will mean millions to those selected, in turn creating an enormous incentive for them to pump more campaign contributions and lobbyist fees into the political system to protect their monopolies. That is exactly what happens in states like Nevada, where casinos are the 800 pound gorillas on the political landscape. In Nevada, very few politicians dare oppose the casinos and their sleazy agenda. Why would it be different in Maryland?

Finally, lawmakers in Delaware, Pennsylvania and West Virginia have all vowed to liberalize their gambling laws further so as not to lose customers to Maryland, should we decide to legalize gambling. Thus, if Maryland allows slots and

casinos, we will simply ignite a regionwide gambling arms race, which in turn would mean less revenue than expected for Maryland.[13]

There are a plenty of better, more progressive and less socially destructive ways to raise revenue so as to balance the budget. Progressive Maryland has identified these potential revenue streams in its report, *Fairness in Taxes: A Pro-Working Family Plan to Balance the Maryland State Budget*, released in January of 2003 and available at www.progressivemaryland.org

As for saving the horse-racing industry, the question is "Why bother?" Why should we introduce one type of gambling (slots followed by casinos) to save another type of gambling (horse racing), especially considering that horse racing is in exorable decline?

But even if Marylanders were inclined to try to save horse-racing, cramming tracks full of one-arm bandits is not the way to do it. As evidence from tracks at neighboring states shows, slots do not increase attendance at horse races. Instead, it turns the tracks into casinos with the horse races as a sideshow. As the *Baltimore Sun* reports, "At Delaware Park, horseracing is secondary...doors leading to the 7,500 seat grandstand are just steps away, but they're rarely opened. Outside, the vast grandstand is nearly deserted...if you want noise, wander over to the slot area...What a difference."[14]

Moreover, one must question lawmakers' real concern for horse racing. In the last session of the General Assembly they chose not to subsidize racing purses as they had previously done to the tune of $10 million a year. It seems that many lawmakers pay lip service to horse racing, when in fact they hope merely to legalize slots (and, after that, casinos).

How could such a misguided and immoral policy as gambling emerge as such a strong possibility in the post-Glendening era?

Follow the Money Trail

In the 1998 election cycle, the gambling industry gave $67,851 to candidates for the General Assembly, almost every penny of it to incumbents, and most of that to leadership and committee chairs. The contributors included such Las Vegas mega-casinos as Bally's and Harrah's.

All those campaign contributions buy access in Annapolis. And the industry's giant lobbying budgets widen the access further. In the 2000 session of the General Assembly, the gambling interests employed the best-connected, top-earning lobbyists in Annapolis: Alan Rifkin (second highest-paid lobbyist in Annapolis at $659,508), Joel Rozner (number 8 at $476,113), Michael Johansen (number 11 at $389,634), and Laurence Levitan (number 21 at $198,881).[15] In

all, the industry employed ten different lobbyists, paying them in excess of $205,000 – and that during a session when there was little activity on the gambling issue.[16]

The year before, the mega-casinos spent even more on lobbying – fully $550,000.[17] And the Vegas crowd hit the jackpot on its half-million dollar wager: the Senate leadership (with the House not far behind) agreed to establish the above-mentioned "gaming" commissions whose recommendations will, no doubt, find a crying need to legalize casinos and/or slots in our state.

Numbers will soon become available as to how much the gambling industry pumped into the Maryland 2002 elections. With those elections barely over, Gucci-clad lobbyists from Vegas are already swarming the halls of Annapolis. On a recent swing through the state, casino developer-billionaire Steve Wynn met with a number of legislative leaders.[18]

Even though these millions in campaign contributions and lobbying budgets are a drop in the bucket for the gambling industry, the fact remains that nobody spends that kind of money for fun. The casinos (and horsetracks that want slots) know very well that Maryland – with its 5.2 million relatively affluent residents, millions of tourists each year, and position on the nation's busiest transportation corridor – is a potentially very lucrative market. The industry has a long-term perspective and is willing to fork out big contributions and lobbying fees into the indefinite future. Unless we change how Annapolis works, the casinos have probably made a good bet.

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[5] William Rivenbark & Don Slabach, "Who Pays to Play? Voluntary Tax Incidence and Mississippi Gaming." Mississippi State University, The John C. Stennis Institute of Government, July 1996 p.33
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[14]June 18, 2000 Baltimore Sun, Sec. Editorial 2C

[15] State Ethics Commission Annual Report 2000: Lobbyist employed by the Maryland Jockey Club/Pimilico Race and Automated Wagering, Inc.

[16] They are Robert J. Dipietro,Michael V. Johansen, Laurence Levitan, Alan Rifkin, Joel Rozner, Edgar Silver, Michael Arrington, Geraldine Valentino-Smith, Paul Weisengoff and Scott Livingston

[17] State Ethics Commission Annual Report 2000: Groups are the Maryland Jockey Club/Pimilico Race Track, Laurel Racing Association, Automated Wagering, Inc. and Allegheny Racing, L.L.C.

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Boys Will be Good Ol' Boys

Campaign Finance and Legislation of Special Concern to Women in the Maryland General Assembly

Women comprise the majority of Marylanders, making up 52 percent of the state's population. In 1997, they earned 57 percent of all bachelor degrees awarded by state universities and a majority of Master's degrees, with the trend increasing. Educational achievement helps explain their economic success: Maryland women earn on average $5,000 more than women nationwide.

Against this backdrop, women are playing a bigger and bigger role in Maryland's politics. They constitute 54 percent of voters and a disproportionate share of political activists. Their advocates in Annapolis – notably the National Organization of Women, Planned Parenthood, National Abortion Rights Action League, League of Women Voters, Maryland Network Against Domestic Violence, and the Legislative Agenda for Maryland Women, among others -- include some of the State House's most effective lobbyists. Maryland's Lt. Governor and gubernatorial front-runner, Kathleen Kennedy-Townsend, is, of course, a woman.

Poll after poll shows that most Marylanders support a woman's right to choose, greater availability of family planning services, stronger protections against domestic abuse, liberalized family leave policies, and other family- and woman-friendly policies.

Considering all these factors, you'd think that the Maryland General Assembly would be among the most progressive legislatures in the nation when it comes to bills of special concern to women.

Annapolis at Work

You'd be wrong. Time and time again in Annapolis, commonsense, woman-friendly bills die in committee without even getting a floor vote. Opponents, who prefer to kill these bills quietly, shake their heads and say afterwards, "Too bad, there just was not enough money in the budget" or "If only we did not run out of time this session." Yet, these same lawmakers did find the money and time to slash the inheritance tax for affluent Marylanders in 2000 and the corporate tax for big manufacturers in 2001. And they did find the time to tackle such weighty issues as repealing taxes on sales of prisoner-of-war flags and to declare the calico the "Maryland State Cat".

Alibis about lack of money and time are just that: alibis. If commonsense legislation fails to pass the General Assembly, it's because lawmakers want it that way. Here are some of the bills of special concern to women they spiked during the 2001 session:

House Bill 593 was sponsored by Delegate Michael Dobson and enjoyed the backing of many groups, including the Women's Law Center of Maryland, National Partnership for Women & Families, AFL-CIO and Advocates for Children and Youth, among others. It proposed extending unemployment benefits to individuals who voluntarily take a leave of absence of up to 12 weeks from their jobs after the birth or adoption of a child. Those receiving payments must otherwise qualify for unemployment benefits. The bill is an attempt to allow parents who cannot otherwise afford it to take time off for a new child. Currently, workers are allowed to take this time off, but they do not receive unemployment. Seventy-eight percent of all people who needed but did not take family or medical leave said it was because of financial concerns.[1] Costs, a concern cited by opponents, would be quite manageable, according to The Women's Law Center of Maryland: a mere $21 million per year, out of Maryland Unemployment Compensation Trust Fund's $820 million.[2] On top of this, polls show that 82 percent of women and 75 percent of men support such proposals.[3] This bill failed in the House's Economic Matters Committee.

Sponsored by Delegate Sharon Grosfeld, **House Bill 248** had the support of The Women Legislators of Maryland, Maryland Commission for Women and Maryland NOW). It proposed to prohibit a state's attorney or law enforcement officer from requiring an alleged rape victim to take a polygraph examination. Forcing sexual assault victims to take a lie detector test presupposes that they might very well be lying. It is just one more case where a woman who comes forward about a sexual assault is put on trial herself. Other crime victims are not subjected to such treatment. According to the Department of Legislative Services, there would be no increased costs for the state. Who wants this double standard perpetuated? The House of Delegates Judicial Committee does, otherwise it would have voted it out of committee.

The lead sponsor of **House Bill 382** was Delegate Ann Marie Doory. It was supported by many groups, including the Women Legislators of Maryland, Maryland Network Against Domestic Violence, Maryland Interfaith Legislative Committee, Legislative Agenda for Maryland Women and the League of Women Voters. The bill proposed removing firearms from abusive people if identified as such in a protective order for the duration of that order. This bill would have required the court to determine if a person has a firearm and get him or her to surrender it for the duration of the protective order. Currently, removal of firearms is left up to the court's discretion. In Maryland, one person dies approximately every six days at the hands of a family member.[4] Over 3,000 reported domestic violence cases each year involve a dangerous weapon--normally a gun.[5]

According to the Department of Legislative Services, there would have been virtually no fiscal costs to the state and the duties could have been carried out by local law enforcement agencies. Who in the world could oppose such a bill? The House Judiciary Committee, that's who, which gave it an unfavorable report.

Sponsored by Delegate Sharon Grosfeld, **House Bill 324** had the support from Lt. Governor Kathleen Kennedy-Townsend and Attorney General Joseph Curran as well as many groups, including the Maryland chapter of NOW, Maryland Women's Commission, the House of Ruth and the Maryland Family Violence Council. The bill proposed to make failure to attend court-ordered counseling and/or domestic violence programs a misdemeanor. An attempt to put some teeth in court orders for abusive spouses to get counseling, the penalty would have called for a fine of up to $1,000 and potentially 90 days in jail for the first violation. According to the Department of Legislative Services, there would be minimal increased costs for the state. What good is it to have counseling as a sentencing option if people are not required to attend? This bill actually got out of committee, passing both the House of Delegates and State Senate. But ultimately it died because the requisite conference committee was never created, almost certainly because lawmakers wanted to quietly kill it.

Women are a majority of voters in Maryland and they have first-rate advocates in Annapolis to represent their interests. Yet, all these commonsense bills except one failed even to get out of committee. What gives?

Follow the Money Trail

Women face two basic problems in Annapolis.

First, the mostly male lawmakers simply have a tin ear – or worse -- when it comes to issues of concern to women (in the last session, one committee chairman actually hung a sign on his door that read "Good Ol' Boys Committee").

Second, even if male politicians were more open-minded, advocates for women lack access to them. Both these problems are tightly linked to the role of money in politics.

As for the first problem, bills of special concern to women would, of course, pass more often if there were more female lawmakers. That's because women – even those who decline to label themselves "feminists" – support woman-friendly policies in much higher numbers than do men. Unfortunately, women were only 18% of the candidates for the General Assembly in 1998 and only 26% of the winners.

Why do women have such trouble running for and winning office? The name of the game in electoral politics is money. Without it, a prospective candidate cannot even think about running for office. But women, who on average are poorer than men and often lack connections in the business world, have trouble raising money. Since most incumbents are men, the typical woman considering a run for office in the General Assembly would face a male incumbent. Looking at the data from the 1998 election, such a woman would see that the typical female challenger raised, on average, $23,731 while the typical male incumbent raised, on average, $73,419. Looking at the Senate (where head-to-head matchups are easiest to see), she would also find that of the 47 Senate races, only two candidates raised less money than an opponent and still won. Is it any surprise that so few women decide to run for office?

One reason female candidates lack access to campaign cash is because so few women donate. In that same election, men gave 61 percent more campaign dollars than did women when compared head-to-head.

Because women contribute so little, they also lack access to politicians after the election, in turn making it difficult to enact bills of special concern to them. During the General Assembly's frenzied 90-day session, lawmakers simply do not have enough time to return every phone call, let alone grant every request for a meeting. So, who gets the access to the politicians? Put yourself in the shoes of a busy lawmaker with a stack of phone messages on your desk. One of those messages is from a $4,000 contributor to your campaign. Would you put that message near the top of the pile? Of course, you would. Of all $4,000 contributions in the 1998 election cycle, only 14 percent were donated by individual women.

Finally, Maryland's money-driven political system requires lawmakers to attend ever more fundraisers -- their own plus those of their colleagues, which they attend to express solidarity.[6] Only wealthy and corporate donors (plus their lobbyists) can afford to attend these high-dollar events. All that face-time with corporate donors and lobbyists is time a lawmaker does not spend with ordinary voters and non-profit lobbyists. The corporate lobbyists, thanks to their deep pockets, crowd out competitors for the attention of legislators. As a result, the needs of cash-poor constituencies, notably women, get short shrift.

Towards a Solution: Clean Money Campaign Finance Reform

If privileged access to campaign cash represents one of the main electoral advantages men have over women, then fundamental campaign finance reform should be at the top of the feminist agenda. Clean Money's advantages over

traditional attempts to limit contributions and expenditures are discussed in the Introduction and in more detail at progressivemaryland.org.

But it needs to be noted here that Clean Money enables more women to run for office and win. In Arizona's 2000 election – the very first time Clean Money was ever implemented -- fully 31% of women candidates chose to run publicly funded campaigns. In Maine, women ran Clean Money campaigns at a rate of 44%, nearly double that of their male counterparts. 87% of women running Clean Money campaigns in both states said they would not have sought office at all without public funding. Maine's Deborah Simpson, a waitress and single mother, got elected state representative. Would that have happened under the normal rules of campaign finance?

If you believe that passing pro-woman, pro-family legislation depends on getting more women elected, then Clean Money should be your primary political objective. It's not one of many reforms we should pursue: it's the reform that enables all others.

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[4]Maryland Domestic Violence Statistics, Maryland Network Against Domestic Violence. website: www.mnadv.org/pr01.htm

[5]Maryland Domestic Violence Statistics, Maryland Network Against Domestic Violence. website: www.mnadv.org/pr01.htm

[6] An authoritative academic study found that nearly one-third of state legislative candidates surveyed report that they devote at least one in four hours on the campaign trail collecting campaign contributions. And fully 55 percent of candidates for statewide office devote at least a quarter of their campaign time to fundraising. Paul S. Herrnson and Ronald A. Faucheux, "Candidates Devote Substantial Time and Effort to Fundraising", Study Funded by a Grant from the Pew Charitable Trusts, July, 2000, located at http://www.bsos.umd.edu/gvpt/herrnson/reporttime.html