



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 10-14

April 2010 - *Sine Die*

(Click on Issue above for previous Wrap-Ups)

ADJOURNMENT AND BILL SIGNINGS

At midnight on April 12, 2010, the General Assembly of Maryland ended its 427th session with 810 bills and 4 resolutions passed. 2,700 bills were introduced in 2010. There were 1,129 bills and six joint resolutions originating in the Senate. The House introduced 1,571 bills and 14 joint resolutions. After passage by both chambers in identical form, bills go to the Governor for consideration. The Governor's approval of the Budget Bill, [SB 140](#), is not required and that bill becomes effective on the day of passage, which was April 10, 2010. Joint resolutions also do not need the Governor's approval.

Under the Maryland Constitution, the Governor has the option of signing, vetoing, or letting legislation become law without his signature. Further, the constitution specifies that bills must be presented to the Governor by the 20th day after adjournment (May 2, 2010) and that the Governor must act on these bills by the 30th day after presentment (June 1, 2010). Each bill that is not vetoed becomes law on the effective date specified in the bill. Emergency bills become effective immediately once they receive gubernatorial approval, otherwise June 1 is the earliest date for bills to take effect. Most budget, tax, and revenue bills take effect on July 1. October 1 is the normal effective date for other bills. Some bills have multiple effective dates as required in the legislation.

Governor Martin O'Malley signed three bills into law at the first bill signing on Thursday, March 25, 2010. On Tuesday, April 13, Governor Martin O'Malley held the traditional *sine die* bill signing, which resulted in an additional 170 enacted bills. Two additional bill signings are scheduled for May 4 and May 20, to begin at 10:00 a.m. in the Maryland State House.

COURTS AND CIVIL PROCEEDINGS

Peace or Protection Orders – Shielding of Records

[SB 935/HB 1149](#) (both passed) authorize a respondent in a peace order or protective order proceeding to file a written request to shield from public inspection all related court records if the petition for the order was denied or dismissed at any stage of the proceeding. The

court must schedule a hearing on the shielding request and provide notice of the hearing to the petitioner.

Maryland Legal Services Corporation Fund

[SB 248](#) (passed) increases the surcharge on civil cases filed in circuit court and District Court that is deposited into the Maryland Legal Services Corporation Fund, used to provide civil legal services to indigent clients. The bill's provisions, which terminate after three years, also require the Maryland Legal Services Corporation to submit its budget annually to the General Assembly.

Judges

[SJ 4/HJ 4](#) (both passed) establish that the judges of the Court of Appeals, Court of Special Appeals, circuit courts, and District Courts will receive no salary increase. [SB 833/HB 1385](#) (both failed) would have repealed current law that requires a circuit court judge to face a contested election within two years of gubernatorial appointment and every 15 years thereafter and would have mandated an uncontested "retention" election every 10 years after appointment by the governor, mirroring the current requirements for appellate court judges.

Immunity – Defending Against Intruder

[SB 411](#) (passed) provides that, with certain exceptions, a person is not liable for damages for a personal injury or death of an individual who enters the person's dwelling or place of business if the person reasonably believes that force or deadly force is necessary to repel an attack by the individual and the amount and nature of the force used by the person is reasonable under the circumstances. [SB 386](#) and [HB 207](#) (both failed) would have granted similar immunity from civil liability for action against an intruder who intends to commit a crime of violence or certain degrees of burglary.

Jury Trials in Civil Actions

[SB 118](#) (passed) prohibits a party in a civil action from requesting a jury trial if the amount in controversy does not exceed \$15,000, instead of the current \$10,000. The bill is contingent on the voters' adoption of a constitutional amendment, [SB 119](#) (passed). Similar

legislation failed in the Senate ([HB 436](#) and [HB 434](#) respectively, both failed).

Child Support Revision

[SB 252/HB 500](#) (both passed) revise the schedule of basic child support obligations used to calculate child support under the State's guidelines, last enacted in 1989. The bills provide a new higher maximum income of parents included in the schedule. The adoption or revision of the guidelines is not a material change of circumstance for the purpose of a modification of a child support award. The bills take effect October 1, 2010.

Child Protection - Registered Sex Offenders

[SB 559](#) and [HB 811](#) (both passed) authorize an individual to notify a local department of social services or law enforcement agency if the individual believes that a child lives with or is in the regular presence of a person, other than the child's parent or guardian, who is a registered child sexual offender and poses a substantial risk of sexual abuse to the child. Investigation of an allegation must be completed no later than 30 days after receipt of the report.

[SB 892/HB 1330](#) (both passed) require the disclosure of a report or record concerning child abuse or neglect to the Division of Parole and Probation if, as a result of a report or investigation of suspected child abuse or neglect, the local department of social services has reason to believe that an individual who lives in or has a regular presence in a child's home is a registered child sex offender.

Strategic Lawsuits Against Public Participation (SLAPP)

[SB 990/HB 1250](#) (both passed) strengthen Maryland's SLAPP suit laws by expanding SLAPP status to apply to communications by a party with a government body or the public at large regarding any issue of public concern.

Foreign Defamation Judgments

To protect Marylanders from libel tourism, [SB 13/HB 193](#) (both passed) prohibit a Maryland court from enforcing or recognizing a foreign defamation judgment unless the court first determines that defamation laws in the foreign jurisdiction provide as much protection for freedoms of speech and the press as the federal and state constitutions. A Maryland court is also prohibited from recognizing a foreign defamation judgment against the provider of an interactive computer service, as defined by federal law, unless the court determines that the judgment is in compliance with the applicable federal statute.

International Marriage Brokers

[SB 129/HB 65](#) (both passed) require an international marriage broker to disclose the marital history and criminal history record of a client to a recruited woman and provide her with basic human rights information prior to providing personal contact information to either party. The broker must obtain written consent from the recruit before disclosing her personal contact information to a client. [SB 129](#) requires a report by December 1 on the feasibility of and recommendations for the registration or licensing of international marriage brokers.

Marriage – Failed Legislation

A failed constitutional amendment would have established that a marriage between one man and one woman is the only union valid or recognized in Maryland ([SB 1097/HB 1079](#), both failed). [SB 852/HB 90](#) (both failed) would have provided that a same-sex marriage validly entered into in another state or foreign country is not valid in Maryland and that same-sex marriage is against the public policy of this State. [SB 1120/HB 1532](#) (both failed) would have prohibited a unit of State or local government from altering, on the basis of a February Attorney General opinion, any policy, procedure, rule or regulation in effect on the date of the opinion, to the extent that the alteration requires or depends on a determination of whether a marriage must be recognized by the State, until such time as specified actions occur.

[SB 582](#) and [HB 808](#) (both failed) would have repealed current law that only a marriage between a man and a woman is valid in Maryland and specified that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in the State. [HB 1279](#) (failed) would have established that a marriage between consenting adults is valid in the State, contingent on a constitutional amendment ([HB 1176](#), failed).

Domestic Violence – Failed Legislation

[SB 123](#) (failed) would have provided eligibility for an award from the Criminal Injuries Compensation Fund for the reasonable costs of up to 14 days of temporary lodging to victims of domestic violence who are eligible for an award from the Fund as the result of an injury resulting from the domestic violence incident and who sought temporary lodging.

Civil Litigation Funding Companies – Failed Legislation

[SB 831/HB 1331](#) (both failed) would have regulated civil litigation funding companies, but would not have subjected them to restrictions or provisions governing loans.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Sex Offenders

After lengthy deliberations in both chambers, the General Assembly agreed to pass legislation that:

- alters various sex offender registration and notification requirements to conform Maryland law to federal law, including a listing of juvenile sex offenders that is maintained separately from the sex offender registry and accessible only by law enforcement personnel. Civil commitment provisions were amended out of the legislation ([SB 854/HB 936](#), both passed);
- prohibits a District Court Commissioner from authorizing the pretrial release of a defendant who is a registered sex offender and provides for other restrictions on pretrial release. A RAP sheet is required to indicate, when applicable, that the subject of the report is a registered sex offender or subject to a term of lifetime supervision. Also the imposition of lifetime sexual offender supervision becomes a reportable offense to the Criminal Justice Information System Central Repository ([HB 1046](#), passed);
- increases penalties for a person 18 years of age or older convicted of second degree rape or second degree sexual offense of a victim younger than the age of 13. The mandatory minimum sentence is increased from 5 years to 15 years imprisonment and the maximum term of imprisonment is increased from 20 years to life ([SB 622/HB 254](#), both passed);
- prohibits the earning of diminution credits to reduce the term of confinement of a State or local correctional facility inmate for committing first or second degree rape or sexual offense against a child under the age of 16 ([HB 289](#), passed) or for a subsequent conviction of a third degree sexual offense against a child under the age of 16 ([HB 599](#), passed);
- establishes the conditions and requirements for lifetime sexual offender supervision ([SB 280/HB 473](#), both passed); and
- alters the composition and duties of the Sexual Offender Advisory Board ([SB 856/HB 931](#), both passed).

Human Trafficking

[SB 261/HB 283](#) (both passed) expand the crime of human trafficking. The bills subject individuals who knowingly aid, abet, or conspire in the violation of

human trafficking laws or knowingly benefit financially from ventures or activities in violation of those laws to the same penalties imposed on a person who violated the applicable statute; change from a misdemeanor to a felony the prohibition on knowingly taking or detaining another with the intent to use force, threat, coercion, or fraud to compel the other to marry or perform specific sexual acts; and prohibit forced participation in a “sexually explicit performance” and interference with another’s possession of various types of identification documents while violating or attempting to violate State human trafficking laws.

[SB 542/HB 1322](#) (both passed) require the Department of Labor, Licensing, and Regulation (DLLR) to design and place on its website a sign that states the phone number for and other information about the National Human Trafficking Resource Center hotline. A lodging establishment that is located on property where arrests leading to convictions of prostitution, solicitation of a minor, or human trafficking have occurred may be issued a civil citation that requires it to post prominently in each guest room for one year a sign identical to the DLLR sign. The maximum civil penalty for violating the posting requirement is \$1,000.

[SB 463/HB 514](#) (both failed) would have prohibited a person from knowingly recruiting, harboring, transporting, providing, or obtaining a person for labor or services and subjecting the person to involuntary servitude or debt bondage through force, fraud, or coercion. The bills also would have authorized law enforcement to seize property in connection with a violation of human trafficking law and would have established the Anti-Human Trafficking Fund.

Gangs

Out of the many measures introduced that would have addressed various aspects of enforcing legislation related to gangs, [SB 517](#) (passed) received final agreement. The legislation alters the definition of “criminal gang,” expands the list of underlying crimes that serve to prove criminal gang activity, requires a sentence for subsequent gang participation offenses or gang participation offenses that result in the death of a victim to run consecutively to any sentence for an underlying crime on which the conviction was based. It also creates the felony of organizing, supervising, financing, or managing a criminal gang. The companion bill, [HB 756](#), failed on the last evening of session.

Firearms

Unsuccessful legislation would have expanded the current misdemeanor prohibition against the use of a handgun or concealable antique firearm in the

commission of a crime of violence or a felony to apply to any “firearm,” without regard to its capability of being concealed (SB 44/HB 157 and HB 309, all failed). SB 274/HB 358 (both failed) would have expanded the prohibition against and penalty for possession of certain firearms by a person previously convicted of certain violent or drug-related crimes.

Death Penalty

Failed legislation would have extended eligibility for the death penalty to cases where the State presents fingerprint or photographic evidence (SB 404, failed) or scientific evidence (HB 994, failed) that links a defendant convicted of first degree murder to the murder.

Strip Searches

SB 125/HB 255 (both failed) would have prohibited a police officer from conducting or supervising a strip search or body cavity search on a person arrested for a misdemeanor or traffic offense that does not involve weapons, controlled dangerous substances, or a crime of violence unless the officer has a reasonable suspicion that the person is concealing a weapon or controlled dangerous substance that would be discovered in the search.

Child Neglect and Endangerment

The misdemeanor of child endangerment, with a maximum penalty of 5 years in jail and a \$5,000 fine, would have been established under HB 962 (failed). SB 757 (failed) would have created the felony of child neglect, with a maximum penalty of 10 years in jail and a \$10,000 fine.

Juvenile Facilities

Private providers that contract with the Department of Juvenile Services (DJS) to place children who need services in facilities not operated by DJS that meet State licensing criteria are limited to serving no more than 48 children in a facility at one time, with specified exceptions, under SB 330 (passed).

Salvia Divinorum and Controlled Dangerous Substances

SB 17 and HB 1145 (both passed) make it a misdemeanor to distribute Salvia divinorum to an individual under the age of 21 and prohibit an individual under 21 from possessing the substance. A report that details a recommended scheme for the regulation of sales of Salvia divinorum is due by December 1.

HB 1068 (failed) would have made it a felony for a person 18 years or older to distribute or dispense a controlled dangerous substance to a minor when the minor dies as a result of the use or ingestion of the

substance, with a mandatory minimum sentence of 20 years imprisonment that could not be suspended or paroled.

Blue Alert and Correctional Officers’ Bill of Rights

The Department of State Police must establish a Blue Alert Program to provide a system for rapid dissemination of information to assist in locating and apprehending an individual who is suspected of killing or seriously injuring a law enforcement officer under HB 1473 (passed).

SB 887 (passed) provides for rights of State correctional officers relating to employment, investigation, and discipline, establishing exclusive procedures for the investigation and discipline of a State-employed correctional officer for alleged misconduct. The companion bill, HB 1090 (failed), died on the House floor.

Office of the Public Defender

SB 97 and HB 122 (both passed) expand the Board of Trustees of the Office of the Public Defender from 3 to 13 members; alter Board appointment provisions; alter the authority of the Board to remove the Public Defender by requiring a vote of at least 7 members and allowing removal only for specific causes; and establish a 6-year term for the Public Defender.

ECONOMIC AND BUSINESS ISSUES

Unemployment Insurance Trust Fund

Compromises reached among the stakeholders ensured passage and enactment of the Administration’s Unemployment Insurance - Tax Deferment, Trust Fund Solvency, and Cost-Neutral Modernization Act, SB 107 (Ch. 2). Changes that provide savings to the trust fund offset the costs of the modernization efforts necessary to be eligible for \$126 million in federal funding. Moreover, the net fiscal gain to the trust fund is \$126 million, since the changes under the new law are cost-neutral. The law also provides accommodations to businesses through payment plan options and a reduced late penalty plan. The legislature’s Joint Committee on Unemployment Insurance Oversight must study and make recommendations concerning future actions by the end of the year.

Utility Regulation

Successful Administration legislation includes SB 277 (passed) that increases the amount of electricity that electricity suppliers are required to generate from solar sources between 2011 and 2016 and increases the amount charged to suppliers for solar energy shortfalls.

Amendments aim to significantly reduce the costs over time. Thereafter, the percentages and the shortfall payment levels revert to current law. The bill takes effect on January 1, 2011, and only applies prospectively.

Unsuccessful utility legislation addressed off-shore wind generation - [SB 282/HB 468](#) (both failed); electricity - consumer choice - [HB 1372](#) (failed), and electric companies and gas companies - customer account information - [HB 1340](#) (failed).

Junk Dealers and Scrap Metal Processors

Emergency bills, [SB 99/HB 1174](#) (both passed), modify the definition of junk and scrap metal and alter and strengthen recordkeeping requirements for these dealers and processors that operate in the State, including those operating in jurisdictions that are generally exempted from statewide licensing and recordkeeping requirements. The legislation preempts the right of a county or municipality to regulate the resale of junk or scrap metal and supersedes any existing local law that regulates the resale of these materials. Also, local jurisdictions must designate a primary law enforcement unit. The legislation is aimed at making it hard for thieves to sell stolen junk or scrap metal.

The Healthy Retail Employee Act

[SB 789/HB 1299](#) (both passed) require certain retail establishment employers to offer nonworking shift breaks to their employees. The legislation also establishes complaint and enforcement procedures, and is limited to retail businesses in the State that employ 50 or more retail employees. Restaurants or wholesalers are not included. Shift break requirements do not apply to employees with an equal or greater benefit under a collective bargaining agreement or employment policy, employees who are exempt from overtime pay, government employees, employees who work in a corporate office or other office location, or employees who work at least 4 hours in a single location with 5 or fewer employees. The effective date is March 1, 2011.

Collective Negotiations by Family Child Care Providers

[HB 465](#) (passed) authorizes collective bargaining negotiations for providers who participate in the Maryland Child Care Subsidy Program. As amended and passed, the legislation contains provisions relating to service fees for nonmembers, establishment of a fund to protect providers against hardship or loss of livelihood resulting from late payments, and a requirement to study and report to the General Assembly about the results of the legislation. This Administration legislation codifies a 2007 Executive Order and a resulting memorandum of understanding.

Wine Legislation

The Maryland Wine Modernization Act, [SB 858](#) (passed), establishes a farmer's market permit that allows the holder to sell sealed containers of wine to consumers for consumption off the premises of the farmer's market and to offer samples of wine at the market at no charge. The legislation also expands the scope of operations and activities of a Class 4 limited winery licensee. Failed amendments would have added language to allow direct shipment of wine to Maryland residents. [SB 566/HB 716](#) (both failed), which would have permitted shipping wine directly to consumers in the State under certain circumstances did not advance beyond the committee stage.

Retail Sales

Measures introduced late in session would have prohibited the retail sale of certain undergarments and bathing suits that may have been previously worn ([SB 1127](#), failed). The crossfiled measure, [HB 1560](#) (failed), as amended deleted the bathing suit prohibition and would have made a final sale applicable only to unpackaged underwear or an unsealed package of multiple pairs of underwear at a retail establishment. [SB 505](#) (failed) would have prohibited retail pet stores from selling, displaying, or in any way transferring a dog under nine months of age. The bill would have applied prospectively, only after the October 1, 2010, effective date.

EDUCATION

Education Reform Act of 2010

Race to the Top (RTTT) is a federal \$4 billion competitive grant program authorized under the American Recovery and Reinvestment Act of 2009. Maryland's Education Reform Act of 2010 ([SB 899/HB 1263](#), both passed) strengthens Maryland's potential competitiveness for RTTT grants by encouraging highly effective teachers and principals to work in Maryland's lowest achieving schools through incentives, creating standards to better conduct teacher performance evaluations, and redefining the State's tenure policy.

Maryland Longitudinal Data System and Center

[SB 275](#) (passed) creates a Center to establish and maintain the Maryland Longitudinal Data System repository, which will contain individual-level student data from all levels of education and the State's workforce. Student data includes information about assessments, course taken, retention, and grade point average, along with other data. Workforce data includes

employment status, employer location and information, and salary or wage numbers.

Maintenance of Effort (MOE)

The General Assembly looked closely at MOE requirements this session and passed the following initiatives. [SB 476/HB 223](#) (Ch. 73/Ch. 74) waive the fiscal 2010 MOE penalty for a county that may have been unable to provide at least as much funding per pupil as it had the prior fiscal year. In addition, two legislative committees must study the appropriate calculation of the penalty for failing to meet the MOE requirement and the appropriate party against whom the penalty should be applied.

Other measures, [SB 310/HB 304](#) (both failed), would have clarified the MOE waiver request process, changed the date by which a waiver must be requested by a local jurisdiction, and required the State Superintendent of Schools to consider certain fiscal factors such as inflation rate, tax base, loss of major employer in the county, among others, when considering granting a waiver to a local government.

Safe Schools Act of 2010

[HB 1160](#) (passed), calls for increased sharing of information among courts, law enforcement agencies, and schools regarding juvenile delinquency, criminal activity, and suspected gang activity by students. The list of crimes that, when a student is arrested, law enforcement agencies must report to specified school officials includes malicious destruction of property, second degree assault, witness intimidations, retaliation against a witness, intimidating or corrupting a juror, and auto theft.

The legislation requires school officials to keep confidential any information they receive concerning students who are placed in the care of a local department of social services or the Department of Juvenile Services. The bill also prohibits the information from being made part of the student's permanent record. Each county board of education must establish a policy to address gang activity and similar destructive or illegal group behavior based on model policy that the State Board of Education must develop by January 2011.

Physical Education Facilities

To reduce the growing number of obese children in the United States, experts recommend that all children from prekindergarten through grade 12 receive daily physical education in appropriate facilities. [SB 256/HB 334](#) (both passed) mandate that the Maryland State Department of Education adopt regulations requiring all public school buildings that are newly constructed or completely

renovated and occupied on or after January 1, 2013, to include a gymnasium and support spaces for physical education instruction.

Student Information - Availability to Military Recruiters

Passed and signed by the Governor as Chapters 104 and 105, [SB 778/HB 176](#) (both passed) require any public school that administers the Armed Services Vocational Aptitude Battery (ASVAB) to chose Option 8 on the ASVAB, which prohibits the general release of any student information to military recruiters. A student or a student's parent or guardian may choose to release the student's personal information and ASVAB score to military recruiters by individually submitting the release forms to the military services. Under current law, each school determines if it will release the student scores to the military services. The ASVAB option chosen by a school only applies to the release of the test scores and the associated contact information.

The Fairness in Negotiations Act

[SB 590/HB 243](#) (both passed) establish the Public School Labor Relations Board, with membership representative of the various stakeholders, to administer and enforce labor relations laws relating to public schools for local boards of education and their employees. Currently the State Board of Education has the authority to decide public school labor relations disputes, the State Superintendent holds the authority to declare labor impasses, and local boards of education make final determinations on matters subject to negotiation.

Compulsory School Attendance

Legislation that would have phased in an increased age of compulsory school attendance over several years passed the Senate but did not move through the House ([SB 239](#), failed).

Personal Financial Literacy Requirement

Several bills addressing personal financial literacy as a graduation requirement were considered this session. [SB 264](#) (failed) passed the Senate but stalled in the House. The bill would have required the State Board of Education to develop curriculum content for a semester-long course in financial literacy, and a student must have completed the course in order to graduate from high school.

Higher Education Investment Fund – Tuition Stabilization and Funding

From fiscal 2007 through fiscal 2010, in-state tuition for undergraduates attending the University System of Maryland (USM) and Morgan State University was

frozen to maintain college affordability. In the fiscal 2011 budget, the Governor proposed and the General Assembly agreed to allow tuition rates to increase 3%. [SB 283/HB 470](#) (both passed), as amended, make permanent the 6% distribution of corporate income tax revenues to the Higher Education Investment Fund and establish within the fund a Tuition Stabilization Trust Account to stabilize costs for resident undergraduate students at USM and Morgan State University.

In years of increasing corporate income tax revenues, funds will be deposited into the Trust Account to maintain a balance of between 1% and 5% of total resident undergraduate tuition revenues. The bills establish the goal that any increase in resident undergraduate tuition and academic fees at public senior institutions of higher education should not exceed the percent increase in the three-year rolling average of the State's median family income.

Maryland Higher Education Commission – Review of Program Proposals

[SB 1084](#) (failed) would have required the Maryland Higher Education Commission (MHEC) to review objections to proposals for new academic programs or substantial modifications to existing programs through a deliberative fact-finding process. The bill would have repealed the provision of law that makes MHEC's decision on a proposed program final and not subject to further administrative appeal or judicial review.

ELECTIONS AND ETHICS

Voting - Registration and Petitions

[SB 292/HB 217](#) (both passed), as amended, allow an individual who is at least age 16 to register to vote, provided the individual meets other voter registration requirements. The bills also specify that an individual under 18 years of age may vote in a primary election in which candidates are nominated for a general election that will occur when the individual is at least 18 years old.

Other provisions change the time frames that allow a registered voter to change the voter's party affiliation (or nonaffiliation) and determine the number of signatures of registered voters needed to seek nomination by petition.

Voting - Guardianship for Mental Disability

[SB 28/HB 816](#) (both passed), as amended, maintain the disqualification in current law prohibiting individuals under guardianship for mental disability to have the right to vote, but only if a court has specifically found by clear

and convincing evidence that the individual cannot communicate the wish to vote, with or without accommodations. The passed legislation is named for the Honorable Lorraine M. Sheehan (1937-2009), who was a member of the House of Delegates, Prince George's County, from 1974 to 1983, and served as Maryland's Secretary of State from 1983 to 1987.

Voter's Rights Protection Act of 2010

The General Assembly did not agree on [SB 114](#) (failed), which would have authorized the Attorney General or any registered voter to institute an action in circuit court for injunctive relief when a person, political committee, campaign finance entity, or other organization or entity has engaged, or there are reasonable grounds to believe the person or entity is about to engage, in prohibited actions related to voter registration and voting.

Citizens Who Have Not Lived in the United States

The House passed but the Senate did not agree to [HB 444](#) (failed), which would have established that a citizen of the United States born abroad who had never lived in the United States, but who had a parent who is a resident of the State, is considered a resident of the State for purposes of qualifying to register to vote in a federal election, provided the individual had not established a domicile outside the State.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Oysters and Aquaculture

To remove impediments to oyster farming in the State, [SB 3/HB 89](#) (both passed) exempt aquaculture activities, including oyster farming, from fees for applications to Maryland Department of the Environment (MDE) for wetlands and waterway permits or to the Board of Public Works for a wetlands license. The Aquaculture Advisory Council must report by October 1, 2013, on the status of commercial aquaculture in the State and the fiscal impact of the fee exemptions.

The ban on using certain devices known as "devil catchers" or "devil divers" or similar devices on any oyster dredge boat to steer the dredge to the bottom is repealed with the passage of [HB 218](#) (passed), while bills to lift restrictions on oyster harvesting and increase poaching penalties failed.

Nitrogen Removal

[HB 62](#) (passed) requires MDE, in calendar years 2010 through 2012 only, to pay, using money from the Bay Restoration Fund, 100% of the cost difference between a conventional on-site sewage disposal (septic) system and

one that utilizes best available technology for nitrogen removal for a homeowner required to replace a failing system in the Chesapeake and Atlantic Coastal Bays Critical Area in accordance with Chapter 280 of 2009.

Road Salt

SB 775/HB 903 (both passed) require the State Highway Administration, in consultation with MDE, to develop a road salt management best practices guidance document for use by local jurisdictions and the State to minimize the adverse environmental impacts of road salt runoff.

Stormwater Management

Several bills were considered that would have delayed or restricted the implementation of stormwater management regulations adopted by MDE for new development projects set to take effect May 4, 2010. Compromise regulations allowing some projects to fall under existing regulations were approved and all bills addressing this issue failed or were withdrawn.

Failed Legislation

- Low phosphorous fertilizer - **HB 50** (failed) would have reduced the amount of phosphorus content that could be included in lawn fertilizer in the State;
- No-discharge zone - **SB 513/HB 1257** (both failed) would have required the Department of Natural Resources (DNR) to study and make recommendations on the creation of a no-discharge zone in all waters of the State; and
- Arsenic - **SB 859/HB 953** (both failed) would have banned commercial poultry feed that contains roxarsone or any other additive that contains arsenic.

Recycling

HB 982 (passed) requires MDE, in consultation with local governments, waste haulers, material resource facilities, and other affected parties, to conduct a study to evaluate solid waste management processes that reduce the solid waste stream through recycling and source reduction and submit an interim report by December 15, 2010, and a final report by December 15, 2011.

SB 693/HB 1164 (both passed) increase the percentage of paper purchased by the Department of General Services that must be recycled from 40% to 90%; require a review of procurement practices and a study of the use of compost as fertilizer on State land, and establish a goal to increase use of compost as fertilizer; and create a Maryland Green Purchasing Committee to develop green purchasing guidelines.

Bills that would have restricted or banned stores from providing disposable carryout bags, including **SB 462/HB 351** (both failed) and **HB 1418** (failed) failed.

Chesapeake Conservation Corps

SB 311/HB 943 (both passed) establish the Chesapeake Conservation Corps Program administered by the Chesapeake Bay Trust to provide young adults with meaningful service opportunities to promote, preserve, protect, and conserve the environment.

Coal Combustion Byproducts

HB 1508 (passed) prohibits MDE from issuing a permit for a refuse disposal system that would accept coal combustion by-products (CCB's) or for new non-coal mine reclamation projects using CCB's if they would be located in the Chesapeake and Atlantic Coastal Bays Critical Area.

SB 653/HB 1467 (both failed) would have clarified that the use and disposal of CCBs involving contact with the ground must, except for use in coal mine reclamation, comply with best engineering practices and all use must comply with applicable CCB regulations.

Hunting and Fishing

Bills related to State hunting and fishing licensing and enforcement laws include:

- **SB 987** (passed) that establishes the responsibility of the DNR Police Force in enforcing State conservation laws and provides for a commemorative lifetime hunting license in the State, among other provisions;
- **HB 1345** (passed), based on recommendations of the Task Force on Fishery Management and in consideration of the newly created National Saltwater Angler Registry, that expands the area where a recreational fishing license is required;
- **SB 847** (passed) that allows members of the U.S. armed forces who have a service-connected disability to hunt without a license; and
- **SB 362/HB 636** (both failed) that would have increased penalties for violations of State hunting laws.

Smart, Green, and Growing

SB 278/HB 474 (both passed), Administration bills, repeal the Task Force on the Future for Growth and Development in Maryland and establish the Maryland Sustainable Growth Commission.

Puritan Tiger Beetle

SB 1020/HB 295 (Ch. 116/Ch. 117), authorize DNR to allow for capturing the endangered puritan tiger beetle that is threatening the homes and land on cliffs along the Chesapeake Bay. **SB 975** (failed) would have created a task force to study erosion in areas of puritan tiger beetle habitat and make recommendations on the most feasible and effective methods to prevent erosion in these areas.

Boating Safety and Noise

SB 92 (Ch. 35) requires a child under the age of 13 (increased from 7) to wear a personal flotation device when on a vessel under 21 feet in length, and increases boating safety requirements for individuals younger than age 16. **SB 70** (failed) would have reduced the maximum allowable noise level for vessels on State waters with engines manufactured on or after January 1, 1993, based on model legislation supported by the U.S. Coast Guard.

**FINANCIAL INSTITUTIONS AND
COMMERCIAL LAW**

Credit Services Businesses - Limitation on Fees

HB 79 (passed) amends the Maryland Credit Services Businesses Act (MCSBA) to limit the fees that may be collected in connection with an extension of credit. Specifically, the bill prohibits a credit services business from charging or receiving a fee in connection with an extension of credit that, when combined with an interest charge, would exceed the interest rate permitted by law. Existing penalties that apply to violations of MCSBA also apply to this offense.

Debt Settlement Services - Study

SB 701/HB 392 (both passed), as amended, set up a study to determine how the debt settlement services industry would best be regulated in the State, including the option of establishing a licensure requirement, and the fiscal impact of regulating the industry if licensure were required. The original legislation would have prohibited certain debt settlement services in the State.

Automated Teller Machines (ATMs) - Video Cameras

HB 180 (failed), to require certain operators of ATMs to install and maintain a video camera in each ATM that views and records all user transactional activity occurring at the ATM, failed to gain final passage.

FISCAL MATTERS

Fiscal Package

The General Assembly passed the State's fiscal package consisting of the \$32 billion Budget Bill, **SB 140**, the Budget Reconciliation and Financing Act (BRFA), **SB 141**, and the Maryland Consolidated Capital Bond Loan of 2010, **SB 142**.

Operating Budget

As enacted, the Budget Bill, **SB 140** (passed) decreases spending by \$298.7 million from the prior year and includes General Assembly reductions of \$919.4 million of which \$449.4 million is contingent on the BRFA, leaving a General Fund balance of \$195.5 million. Among the major aspects of the Budget Bill are:

- Education aid reaches \$5.7 billion, a 3.8% increase of \$209.1 million. Only school transportation is not fully funded, with a \$4.3 million decrease;
- Higher education receives \$1.2 billion in State funds, enabling the State colleges and universities to hold tuition increases to 3%. Community colleges receive \$256.1 million, a \$23.1 million reduction from the Governor's allowance of \$279.2 million. The Sellinger Formula for Aid to private colleges and universities receives \$38.4 million, a \$13.5 million reduction;
- Medical assistance (Medicaid) receives \$5.8 billion, a \$220 million increase with no reduction in services or eligibility. The nursing home quality assurance fee increase from 2% to 4% in the BRFA will provide funds to increase nursing home reimbursements;
- Stem cell research funding is maintained at \$12.4 million with the rejection of the Senate reduction, but \$2 million of this amount may only be transferred to the Maryland Biotechnology Investment Tax Credit Reserve Fund;
- The Maryland Biotechnology Investment Tax Credit Reserve Fund is allowed \$6 million, excluding the \$2 million mentioned above;
- State employees receive no cost-of-living adjustment and no merit pay increases, but will have furlough days at the same level as fiscal 2010, for a savings of \$108.1 million. 568 positions are eliminated;
- Chesapeake and Atlantic Coastal Bays 2010 Trust Fund receives \$20 million;
- State aid for police protection grants is maintained at \$45.4 million, reflecting a reduction of \$19 million;

- Highway User Revenues are reduced by \$244.5 million; and
- The Job Creation and Recovery Tax Credit, [SB 106](#) (Ch. 1), which provides a \$5,000 tax credit for each unemployed person hired, is allocated \$20 million.

Budget Reconciliation and Financing Act (the BRFA)

A balanced budget is contingent upon changing the allocation of revenue, reducing required expenditures, and increasing revenue. [SB 141](#) (passed), the BRFA, authorizes the transfer of more than a \$1 billion from special funds to the General Fund (\$647.5 million in fiscal 2010 and \$394.9 million in fiscal 2011) and reduces mandated appropriations by \$418.6 million. Among the provisions of the BRFA are ones:

- reducing the community college aid formula, for savings of \$23.1 million in fiscal 2011, \$48.3 million in fiscal 2012, and \$60.8 million in fiscal 2013;
- reducing the Sellinger Formula to private colleges and universities, for savings of \$13.5 million in fiscal 2011, \$17.9 million in fiscal 2012, and \$17.4 million in fiscal 2013;
- transferring Highway User Revenues to the General Fund, for a General Fund revenue gain of \$261.5 million in fiscal 2011, \$338.4 million in fiscal 2012, and \$339.4 million in fiscal 2013, and modifying the allocation of funds among local governments; and
- increasing the nursing home quality assessment from 2% to 4%, with 65% of the increase dedicated to nursing home reimbursement enhancement.

Among the transfers to the General Fund are:

- Bay Restoration Fund--\$155 million in fiscal 2010 and \$45 million in fiscal 2011;
- University System of Maryland--\$133.3 million in fiscal 2010 and \$11.7 million in fiscal 2011; and
- Program Open Space--\$134.8 million in fiscal 2010 and \$54 million in fiscal 2011.

The bill also authorizes the transfer of \$350 million from the Local Reserve Account to the Education Trust Fund in fiscal 2010 with a requirement that the Local Reserve Fund be repaid during fiscal years 2014 through 2020.

Among the provisions deleted from the BRFA is the requirement to make the counties pay a portion of the pension costs of local education employees, including those of local school systems, libraries, and community colleges, starting July 1, 2011, the beginning of fiscal 2012. Instead, a provision was added establishing the

Public Employees' and Retirees' Benefit Sustainability Commission to study and make recommendations on all aspects of state-funded post-retirement benefits and pensions provided to State and public education employees, with findings by December 15, 2010 and a final report by June 30, 2011. Other provisions that were deleted from the BRFA were the elimination of legislative scholarships and elimination of the Maryland coal tax credit.

Capital Budget

The General Assembly passed the \$1.1 billion Maryland Consolidated Capital Bond Loan of 2010 ([SB 142](#), passed). The Governor has a line item veto over specific projects listed in [SB 142](#). The capital bond program includes:

- Public school construction--\$250 million plus an additional \$5.1 million for the Aging Schools Program in the capital budget bill and an additional \$4.5 million in [SB 202](#), the Aging Schools--Qualified Zone Academy Bonds Loan of 2010, for a total of \$259.7 million for school construction and renovation;
- State universities and colleges--\$235.7 million for State universities and colleges plus an additional \$78.7 for community colleges. Some of the State university and college bond authorizations and a portion of the community college capital grant authorization were made in Chapter 485 (HB 102), the Maryland Consolidated Capital Bond Loan of 2009, as amended by [SB 142](#);
- The Community Health Facilities Grant Program--\$7.4 million in general obligation bonds;
- Program Open Space--\$77.8 million, including \$65.2 million in bond authorizations, with the Rural Legacy Program receiving an additional \$17 million and Community Parks and Playgrounds an additional \$2.5 million. The capital budget includes \$31.9 million for agricultural land preservation, including \$17 million in general obligation bonds;
- The Department of the Environment--\$452.1 million for water quality improvement grants and loans in general obligation bonds, general funds, special funds, federal funds, and revenue bonds in both the capital bond bill ([SB 142](#)) and the Budget Bill ([SB 140](#)), with the Enhanced Nutrient Removal Program receiving \$275 million for wastewater treatment plants, the Maryland Water Quality Revolving Loan Fund receiving \$110 million, the Septic System Upgrade Program receiving \$9 million, and the

Biological Nutrient Removal Program receiving \$33.3 million;

- Youth Detention Facility at the Baltimore City Detention Center--\$17.5 million;
- The Intercounty Connector--\$89.3 million in general obligation bonds; and
- Senate and House Legislative Initiatives--\$7.5 million for each chamber. As enacted, the Capital Budget deletes the Senate language stating that legislative initiatives not be funded for fiscal 2012 and fiscal 2013, with the funds instead being allocated for public school construction.

SB 142 also includes \$249.1 million in authorizations for the 2011 session, to be the Maryland Consolidated Capital Bond Loan Preauthorization Act of 2011, and \$72.5 million in authorizations for the 2012 session, to be the Maryland Consolidated Capital Bond Loan Preauthorization Act of 2012.

The Job Creation and Recovery Tax Credit

The General Assembly passed and the Governor signed into law the Job Creation and Recovery Tax Credit, **SB 106** (Ch. 1). The new law was an emergency Administration bill that creates a State income tax credit for employers who hire qualified individuals between March 25, 2010, and December 31, 2010. The value of the credit is equal to \$5,000 per eligible employee hired, not to exceed \$250,000 per taxpayer. The Department of Labor, Licensing, and Regulation (DLLR) is authorized to award \$20 million in credits on a first-come, first-served basis. The Senate concurred in House amendments that change the coverage period for persons hired from January 1 to the effective date of the emergency bill, which is the date of signing on March 25, 2010.

The Sustainable Communities Act of 2010

HB 475 (passed), the Sustainable Communities Act of 2010, reestablishes the Heritage Structure Rehabilitation Tax Credit Program as the Sustainable Communities Tax Credit Program, alters eligibility requirements for the program, expands tax credit eligibility to provide a 10% credit for qualified rehabilitated structures in Main Street communities beginning in fiscal 2011 and sustainable communities beginning in fiscal 2012, and extends the credit sunset through fiscal 2014. The Administration bill also makes several changes to other State programs, including the Community Legacy and Designated Neighborhood Programs, so as to streamline and better integrate these revitalization programs and enhance the State's ability to obtain federal financial assistance. The bill coordinates the review of the State's revitalization

programs through the Smart Growth Subcabinet and requires the Subcabinet to weigh in on BRAC and transit-oriented development zone designations.

Tax Credits for Electric Vehicles

HB 469 (passed), an Administration bill, repeals the obsolete excise tax credit for hybrid vehicles that expired in 2004. In its place, a 3-year tax credit is created for the purchase of qualified plug-in electric vehicles equal to 100 % of the State vehicle excise tax imposed, but the credit may not exceed \$2,000. Vehicles originally registered in another state are not eligible for the tax credit.

Maryland Clean Energy Incentive Act of 2010

HB 464 (passed), an Administration bill, extends a credit against the State income tax for electricity produced by facilities that use qualified energy resources from 2010 to 2015, and extends to 2016 the date by which facilities must start producing qualified energy to claim the credit. The bill also prohibits the issuance of credits for small projects. The program is capped at \$25 million in total credits awarded. Through October 2009, \$5.1 million had been awarded.

Failed Legislation

The following bills were not successful:

- **SB 1/HB 1** (both failed) that would have expanded the existing military retirement income subtraction modification;
- **SB 385/HB 946** (both failed), the Building Opportunities for all Students and Teachers (BOAST) in Maryland Tax Credit, that would have created an income tax credit for donations to public schools or nonprofit organizations offering scholarships;
- **SB 638/HB 755** (both failed), the Earned Income Credit Information Act, that would have required the Comptroller, on or before January 1 of each tax year, to publish the maximum income eligibility at which an individual is eligible for the State earned income credit;
- **SB 717/HB 832** (both failed), the Lorraine Sheehan Health and Community Services Act of 2010, that would have increased the taxes on alcoholic beverages, using the increased revenue to provide additional funding to support services for the developmentally disabled, addiction treatment and prevention, mental health care, and Medicaid services; and

- [SB 354](#) (failed) and [HB 584](#) (failed), that would have required affiliated corporations to compute Maryland corporate taxes using combined reporting.

GAMING, RACING, AND SPORTS

Video Lottery Terminals (VLTs)

[SB 882](#) (passed) makes technical changes regarding the implementation of VLTs in the State. The changes are designed to conform the Maryland VLT laws to gaming laws in other states. The bill also changes provisions of law regarding a VLT facility in Allegany County by allowing VLTs to be temporarily located in the Rocky Gap Lodge until a permanent facility is constructed. Also, distribution of proceeds to a VLT facility licensee in Allegany County will be increased for five years, but only if the VLT license holder purchases the Rocky Gap Lodge and Resort. If the Rocky Gap Lodge and Resort is purchased from the State, the bill would then repeal the provision of law authorizing a race track in Allegany County. Its companion bill, [HB 1077](#), failed.

Card and Table Games

A bill to establish card games in one facility in Prince George's County, [SB 1035](#) (failed), received much attention from the Senate but stalled in a House committee. The bill would have placed a referendum before voters in the 2010 general election authorizing the State to issue a license to a card gaming facility located in a specified area in Prince George's County (Rosecroft Raceway in Fort Washington).

Other bills that considered table games in the State include:

- [SB 522](#) (failed) that would have required the Video Lottery Commission to study the financial impact of table games (including card games, dice games, roulette, and other forms of gaming) in State video lottery facilities and to recommend options that could be pursued in order to remain competitive with surrounding states that offer table games; and
- [SB 795/HB 608](#) (both failed) that proposed a constitutional amendment to allow the holder of a video lottery operation license to offer table games to the public, including poker, blackjack, craps and roulette.

practice independently from physicians. The bills define "practice as a nurse practitioner" as independently performing the duties of a registered nurse; conducting comprehensive physical assessments; establishing a medical diagnosis for common chronic, stable, or short-term health problems; ordering, performing, and interpreting laboratory tests; prescribing drugs; performing diagnostic, therapeutic, or corrective measures; making referrals; and providing emergency care. The bills clarify the certification process and authorize the State Board of Nursing to require continuing education or competency requirements, among other provisions.

Maryland False Health Claims Act of 2010

Both chambers gave final approval to [SB 279](#) (Ch. 4), the Maryland False Health Claims Act of 2010. As amended, this Administration bill:

- prohibits a person from making a false or fraudulent claim for payment or approval by the State or the Department of Health and Mental Hygiene (DHMH) under a State health plan or program;
- authorizes the State to file a civil action against a person who makes a false health claim;
- establishes civil penalties for making a false health claim;
- permits a private citizen to file a civil action on behalf of the State against a person who has made a false health claim;
- requires the court to award a certain percentage of the proceeds of the action to the private citizen initiating the action; and
- prohibits retaliatory actions by a person against an employee, contractor, or grantee for disclosing a false claim or engaging in other specified false claims-related activities.

Medical Marijuana

A bill to authorize the legal use of marijuana in the State for medical purposes under specified circumstances failed to pass. [SB 627](#) (failed) passed the Senate with amendments earlier this session, but made no more progress. The amended bill would have made marijuana a schedule II controlled dangerous substance; required DHMH to issue a request for proposals to select authorized growers of marijuana for medical use; prohibited an authorized grower from holding any other permit issued under a certain provision of law or being a physician who prepares a certain written certification; and required DHMH to set up permitting and registry procedures, among other provisions.

HEALTH CARE AND HEALTH INSURANCE

Nurse Practitioners - Authority to Practice

[SB 484/HB 319](#) (Ch. 77/Ch. 78) alter the scope of practice for nurse practitioners by allowing them to

Free Standing Medical Facilities - Rates

SB 593/HB 699 (both passed) require the State Health Services Cost Review Commission (HSCRC) to set rates for hospital services provided at freestanding medical facilities that are issued a certificate of need (CON) by the Maryland Health Care Commission (MHCC) after July 1, 2015; a freestanding medical facility licensed prior to July 1, 2007; and freestanding medical facility pilot projects. The bills require all payors subject to the jurisdiction of HSCRC, including insurers, nonprofit health service plans, health maintenance organizations (HMOs), managed care organizations, and the Medical Assistance Program (Medicaid), to pay the HSCRC rates for emergency services at a freestanding medical facility issued a CON after July 1, 2015, and freestanding medical facility pilot projects.

Health Insurance - Clinically Integrated Organizations

SB 723/HB 1093 (both passed) authorize insurers, nonprofit health service plans, and HMOs (carriers) to enter into a contract with a “clinically integrated organization” to pay for the coordination of covered services to qualifying individuals and specified incentives to promote the efficient, medically appropriate delivery of covered medical services to qualifying individuals. An organization that enters into an agreement with a carrier for incentive payments must, after discussing parameters and analytical methods with the MHCC, submit an evaluation of its program to MHCC within three years of the agreement’s effective date. MHCC must then summarize the evaluation, including any recommendations for legislative action, and submit the summary to the appropriate Senate and House standing committees. Finally, the bills require carriers to share medical information about covered individuals with a clinically integrated organization and its members under certain circumstances. The bills’ provisions are set to take effect July 1, 2010.

Health Insurance - Annual Preventive Care

SB 313/HB 878 (both passed) specify that insurers, nonprofit health service plans, and HMOs (carriers) must provide coverage for covered annual preventive care once at any time during the plan year established in the enrollee’s policy or contract. Annual preventive care means an annual preventive visit, screening, or examination that is a covered benefit, including annual child wellness visits; routine gynecological visits; screening tests or examinations for colorectal cancer, chlamydia, human papillomavirus, prostate cancer, or breast cancer; and an annual vision visit that includes a vision examination. The vision examination was not previously a covered service prior to the passage of the

bills. The bills may not be construed to require coverage for a service not otherwise covered by law.

Health Insurance - Assignment of Benefits/ Reimbursement of Nonpreferred Providers

SB 314 (passed), stemming from failed 2009 legislation and recommendations of a legislative committee, prohibits, with certain exceptions, preferred provider organization (PPO) policies provided by health insurers from refusing to honor an assignment of benefits to a health care provider. The bill also imposes specific billing, disclosure, and payment rate requirements for specified physicians in cases where they are considered out-of-network by a PPO. Penalties apply in some cases.

Maryland Health Insurance Plan (MHIP) - Administration of High Risk Pool Program

Another successful measure, **HB 1564** (Ch. 173), authorizes the Board of Directors for MHIP to administer a national temporary high-risk pool program for the State and enter into any necessary administration agreements if the U.S. Secretary of Health and Human Services establishes such a program to be administered by states.

Failed Health Insurance Legislation

Several measures related to various aspects of health insurance failed:

- **HB 182** (failed) would have altered the health insurance mandate regarding coverage of mammograms by requiring insurers, nonprofit health service plans, and HMOs to cover breast cancer screening according to American Cancer Society guidelines that existed on January 1, 2010;
- **SB 181** (failed) would have increased the age limit for an individual to be considered a child dependent under policies issued by insurers, nonprofit health service plans, and HMOs from younger than age 25 to younger than age 30;
- **SB 665/HB 1026** (both failed) would have prohibited a carrier, in a dental provider contract, from requiring a dental provider to provide services at a fee set by the carrier if the services will not be covered by the carrier; and
- **HB 416** (failed) would have included a program that requires membership and routine exercise at a health club or fitness center in the definition of a “bona fide wellness program,” as it applied to incentives in health insurance coverage provisions.

Child Care Articles Containing Bisphenol-A

Bills that prohibit the use of the chemical bisphenol-A (BPA), [SB 213/HB 33](#) (Ch. 46/Ch. 47), prohibit a person from manufacturing, distributing, or knowingly selling child care articles that contain BPA on or after January 10, 2012. As defined in the legislation, a “child care article” means an empty bottle or cup to be filled with food or liquid that is designated or intended by the manufacturer to be used by a child younger than age 4.

Environmental Health

The legislature considered several measures aimed at prohibiting the use of decaBDE, a brominated flame retardant, in certain products. [SB 556](#) (passed) phases out the manufacture, lease, sale and distribution of products containing decaBDE. [SB 353/HB 35](#) (both failed), seeking to prohibit decaBDE, but not including a phase out process, were unsuccessful. The legislature also considered bills concerning reducing the lead risk in housing ([SB 504/HB 1153](#), both failed).

HUMAN RESOURCES

[SB 318/HB 830](#) (both passed) establish a checkoff box on the State individual income tax return form for contributions to the Waiting List Equity Fund that is used to fund community-based services for individuals with developmental disabilities.

[HB 343](#) (failed) would have prohibited State agencies and local governments from providing undocumented immigrants with federal, State, or local public benefits, with specified exceptions and unless the benefits were required under federal law.

REAL PROPERTY, ESTATES, AND TRUSTS

Foreclosure and Homestead Exemption

[HB 472](#) (passed) enhances the protections for homeowners facing foreclosure that were enacted in 2008. This Administration bill seeks to prevent homeowners from losing their home when a loan modification or loss mitigation option may be available to them. Generally, the bill strengthens the disclosures that must be given to a homeowner before a foreclosure action is filed; mandates that a loss mitigation analysis be completed no later than 30 days before a foreclosure sale; and when the residential property is owner-occupied, allows a homeowner to request foreclosure mediation before a foreclosure sale is scheduled.

[SB 782/HB 456](#) (both passed) authorize an individual debtor domiciled in the State to exempt, in addition to \$5,000 of personal property, up to \$20,200 of owner-

occupied residential real property in a bankruptcy proceeding. The “homestead” exemption (1) may be claimed only if the individual and any specified family members of the individual have not received the exemption on a particular property in the prior eight years; and (2) may not be claimed by both a husband and wife in the same bankruptcy proceeding.

Mobile Home Parks

[SB 235/HB 103](#) (both passed) require a mobile home park owner in Maryland to include a relocation plan for dislocated residents with an application to change the land use of the park. If a mobile home park has more than 38 sites, the plan to close a mobile home park must include a budget that reflects the amount of relocation assistance allocated by the mobile home park owner to be given to each park household.

Power of Attorney

[HB 659](#) (passed), Loretta’s Law, establishes the Maryland General and Limited Power of Attorney Act and repeals existing statutory provisions relating to powers of attorney. The bill specifies the persons that may petition a court to construe a power of attorney, or review the agent’s conduct, and grant appropriate relief. The bill provides a statutory form power of attorney and an optional form for use by an agent to certify facts concerning a power of attorney.

STATE GOVERNMENT

New State Designations

Hispanic Heritage Month, [SB 415/HB 34](#) (both passed), recognizes the contributions that Hispanic Americans have made to the State by designating the period from September 15 to October 15 each year as Hispanic Heritage Month.

[SB 715/HB 910](#) (both passed) designate the first Sunday in June each year as the day to honor the fire, rescue, and emergency services workers of the State who have made the ultimate sacrifice in the performance of their duties.

Constitutional Convention Referendum

As required by the Maryland Constitution, the question of whether a convention for the purpose of altering the Maryland Constitution or framing a new constitution will be submitted to voters at the November 2010 general election, as provided by [SB 26](#) (Ch. 9).

Salaries for Government Officials

The General Assembly rejected all increases for the following government officials for the next four-year term of office, thus maintaining compensation levels set

in 2006: Governor and Lieutenant Governor ([HJ 3](#), passed); Attorney General, Comptroller, Secretary of State, and Treasurer ([SB 143/HB 184](#)); and members of the General Assembly ([SJ 5](#), passed).

No Representation Without Population Act

[SB 400/HB 496](#) (Ch. 66/Ch.67) require that population counts used to create legislative districts for the U.S. Congress, General Assembly, and county and municipal governing bodies exclude incarcerated individuals who were not State residents prior to their incarceration in either State or federal correctional facilities. It also requires that incarcerated individuals be counted as residents of their last known address before their incarceration in a State or federal facility, if they were State residents prior to their incarceration.

Justification for Fee Increases

[SB 454/HB 459](#) (both passed) require units of State government to submit justification information to the legislature's Joint Committee on Administrative, Executive, and Legislative Review when proposing increases in the license fees to practice a business activity, business or health occupation, or business or health profession licensed by the State.

TRANSPORTATION

Traffic Citations – Option to Request a Trial

[SB 560/HB 829](#) (both passed) change the way a driver must respond to a traffic citation and may save time for officers waiting in court for defendants who do not show up. Under the new law, drivers who receive tickets will no longer receive an automatic court date. Instead, those who want a trial will check off a box on the citation form and send it in within 30 days to request a court date. If the person who receives the citation does not want a trial, the other two options are to pay the fine or request a hearing. The citation must include a warning that a person who does not take one of the three actions within 30 days of receiving the citation could have his or her license suspended.

Distracted Driving - Cell Phones, Video Equipment, and Texting

[SB 321](#) (passed), named in honor of the late Delegate John Arnick, prohibits any driver from using a handheld phone while the vehicle is in motion, except to initiate or end a call or turn the phone on or off. Hands-free phones are permitted. The law allows exceptions to use handheld phones for emergencies, such as a driver calling 9-1-1, and exempts law enforcement and emergency workers while they are on duty. Numerous

floor amendments were offered, but only two were adopted: one allows law enforcement and emergency personnel to use handheld phones for text messaging; the other reduces the fines from \$100 to \$40 for a first offense and from \$250 to \$100 for a second offense. The law is enforceable only as a secondary offense.

A related bill, [SB 322](#) (passed) prohibits a person from driving a vehicle on a highway if the vehicle has a television-type receiver or video-display equipment that is turned on with the image visible to the driver. The bill permits the use of video displays in navigation equipment like GPS systems and operational or safety equipment like back-up cameras. Vehicles used for law enforcement, public safety, or by a public service company are exempt from the restrictions.

[HB 192](#) (failed) died in a conference committee at *sine die*. Current law prohibits writing or sending a text message while driving but does not address reading text messages. [HB 192](#) would have extended the prohibition to reading text messages.

Motor Vehicle Liability Insurance - Required Security

[HB 825](#) (passed) increases the minimum liability security required for bodily injury or death of one person from \$20,000 to \$30,000 and for bodily injury or death of more than one person from \$40,000 to \$60,000. The law applies to all vehicle liability insurance issued, delivered, or renewed in the State.

Car Dealership Employee Incentives

Also signed into law is [SB 18](#) (Ch.3) that repeals a prohibition enacted in 2009 against car manufacturers giving cash incentives or an item valued at more than \$200 directly to an employee. The new law allows the manufacturer to give the incentive cash or gift either directly to the employee or to the dealer for distribution to the employee.

Titling Off-Highway Recreational Vehicles

[SB 466](#) (passed) requires owners of new and used off-road recreational vehicles purchased after October 1, 2010, to apply for a certificate of title in Maryland. If the purchase does not involve Maryland sales and use tax, such as purchases made in Delaware, owners must pay Maryland excise tax. The bill applies to all-terrain vehicles, dirt bikes, and snowmobiles, but not to farm vehicles or vehicles used for residential landscaping.

Rules of the Road

[SB 51](#) (passed) requires drivers to give 3 feet of clearance when overtaking bicycles, motor scooters, and two-wheeled pedestrian devices known as electronic personal assistive mobility devices (EPAMDs). Drivers

will also have to yield to a cyclist or EPAMD driver before crossing a bike lane or shoulder. A Senate amendment requires that the vehicle be ridden steadily on the right-hand side of the road, conforming to regulations addressing bike lanes and paved shoulders, and a House amendment provides an exception if the highway is not wide enough to allow 3 feet of clearance when lawfully passing the bicycle, EPAMD, or motor scooter.

Drivers now have specific directions on how to approach an emergency vehicle engaged in an emergency call, under the [SB 324/HB 499](#) (both passed). Unless directed otherwise by a police officer or traffic signal, drivers must change to a lane not immediately adjacent to the emergency vehicle if possible, or slow to a speed that is safe for the conditions.

[SB 344](#) (passed) governs the sale and use of limited speed vehicles. A dealer may not sell a vehicle capable of traveling more than 25 but less than 55 miles per hour, unless the dealer places a permanent emblem on the vehicle and informs the driver in writing about the highway restrictions. The vehicle may only be driven on a highway on which the maximum speed is 5 miles per hour higher than the vehicle's maximum speed.

Fatal Vehicular Accident

[SB 189](#) (passed), as amended, authorizes a victim's representative to be present at an administrative hearing concerning a fatal vehicular accident, and to present an oral or written statement. It authorizes the Motor Vehicle Administration (MVA) to suspend for up to 6 months the license of a driver convicted of a moving violation that contributed to the accident resulting in the death. The driver may appeal the suspension.

Electric Vehicles

[HB 674](#) (passed) allows plug-in electric vehicles with a permit from the MVA to use the high occupancy vehicle (HOV) lane regardless of the number of passengers on board. The MVA, on the recommendation of the State Highway Administration, may limit the number of permits issued to ensure that HOV lane operation is not degraded. The MVA and the State Highway Administration must report jointly to the General Assembly annually on January 1, addressing the effect of the permitted use of plug-in electric vehicles on the operation of HOV lanes.

Transportation Funding and Capital Projects

With numerous sponsors, approved legislation creates a Blue Ribbon Commission on Maryland Transportation Funding and requires an interim report by January 1, 2011, and a final report by November 1, 2011 ([SB](#)

[229/HB 710](#), both passed). Other legislation passed to alter the Maryland Department of Transportation's process for selecting the capital projects to be included in the annual Consolidated Transportation Program to improve coordination between transportation and environmental consideration ([HB 1155](#), passed).

Ignition Interlock

Several closely-watched bills concerning interlock devices to prevent drunken driving failed to pass. [SB 564](#), [HB 743](#), [HB 515](#), and [HB 630](#) (all failed) would have required participation in an interlock system program for a person convicted of drunk driving. Current law authorizes a judge to order ignition locks, but does not require them. A driver who has an ignition lock blows into the device and if it detects a certain blood alcohol content, the device prevents the car from starting.

Protective Headgear

Failed bills would have required helmets for riders on certain vehicles. [HB 140](#) (failed) would have required a minor driver or passenger on a bicycle, moped, or motor scooter to wear a helmet. [HB 1030](#) (failed) would have required everyone who drives or rides on a motor scooter to wear a helmet.