



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

[Issue 09-14](#)

April 2009 - *Sine Die*

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SINE DIE AND BILL SIGNING

By the close of the 90-day session on April 13, 2009, the General Assembly had considered over 2,600 bills and 21 joint resolutions. Of that number, 799 bills and one Senate Joint Resolution (SJ 2, passed) were successful. On April 14, the Governor signed 168 of the passed bills into law at the traditional day after *sine die* signing.

At a signing, each bill is given a chapter number (abbreviated as Ch.) in the order in which the bill is signed, denoting that the bill is a part of the 2009 *Laws of Maryland*. With two bills signed earlier in the session (SB 107, Ch. 1 and SB 307, Ch. 2), the number of new laws now totals 170. Further bill signings are scheduled for 10:00 a.m. in the Governor's Reception Room, Maryland State House, on Thursday, May 7 and Thursday, May 21.

COURTS AND CIVIL PROCEEDINGS

Domestic Violence – Protective Orders – Extension and Child Custody

Legislation that enhances protections for domestic violence victims passed the legislature:

- [SB 811/HB 971](#) (both passed) extend from one to two years the maximum duration of a final protective order that is issued for abuse committed within one year after the expiration of a prior final protective order issued against the same respondent on behalf of the same victim, and the prior order was for a period of at least six months;
- [SB 601/HB 98](#) (both passed) increase the maximum extension of a temporary protective order from 30 days to six months; and
- [SB 714/HB 464](#) (both passed) authorize a District Court commissioner or judge, when awarding temporary custody of a child to the petitioner under an interim or temporary protective order, to order a law enforcement officer to use all reasonable and necessary force to return a minor child to the custodial parent after the protective order is served.

Domestic Violence – Protective Orders – Firearms

Passed legislation related to the surrender of firearms includes:

- [SB 267/HB 296](#) (both passed), which require a final protective order to order the respondent to surrender any firearm in the respondent's possession for the duration of the order; and
- [SB 268/HB 302](#) (both passed), which allow a judge, when issuing a temporary protective order, to order the surrender of a respondent's firearm for the duration of the order if the abuse by the respondent consisted of the use or a threat to use a firearm against the petitioner or serious bodily harm or a threat to cause serious bodily harm to the petitioner.

These Administration initiatives also require police to transport and store surrendered firearms in a certain manner and provide information to respondents on how to retake possession of their firearms.

Domestic Violence – Failed Legislation

Legislation that generated extensive debate, but was not successful included a proposal that would have allowed a respondent in a domestic violence protection order proceeding to request expungement of all court records relating to the proceeding if the petition requesting the protection order was denied or dismissed at the interim, temporary, or final protective order stage of the proceeding ([HB 1181](#), failed).

Another controversial but failed proposal would have allowed the State Police to consider whether an applicant for a gun permit is a person eligible for relief under a final protective order when determining if the applicant has the necessary good and substantial reason to wear, carry, or transport a handgun ([HB 359](#), failed). Additional failed measures:

- would have authorized a District Court Commissioner or a court, when issuing an interim, temporary, or final protective order, to order a respondent to stay away from, refrain from cruelty toward, or hand over a pet or service animal belonging to the person eligible for relief or a family member ([SB 736](#), failed);

- would have required a person charged with violating a protective order to undergo a lethality assessment evaluation and possible tracking by global positioning satellite as a condition of pretrial release or probation in jurisdictions that use a GPS system ([HB 1247](#), failed); and
- would have allowed a judge who issues a final protective order to order the respondent to pay the abuse victim's reasonable attorney's fees ([HB 213](#), failed).

Children and Families

[SB 613/HB 689](#) (both passed) limit the relevance of a disability of a parent, guardian, custodian, or party in certain child in need of assistance (CINA) proceedings, and in custody and visitation proceedings. The bills also prohibit a local department of social services (LDSS), guardian, or child placement agency from withholding consent to an adoption, or a court from denying an adoption petition, solely because of a disability.

The Senate failed to act on [HB 45](#) (failed) that would have prohibited tattooing, branding, or body piercing of a minor without the prior written informed consent of a parent or legal guardian in the presence of the person doing the procedure.

Marriage

The Religious Freedom and Civil Marriage Protection Act ([SB 565/HB 1055](#), 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. [SB 647/HB 913](#) (both failed) would have established by constitutional amendment that a marriage between one man and one woman is the only domestic legal union valid or recognized in Maryland.

Employment Discrimination

The Lilly Ledbetter Civil Rights Restoration Act of 2009 ([SB 368](#), Ch. 56/[HB 288](#), Ch.57) authorizes an employee to recover back pay for up to two years preceding the filing of a complaint for employment discrimination based on an unlawful employment practice that occurred outside the statute of limitations for filing, but was similar or related to an unlawful pay discrimination practice that occurred during the complaint filing period.

Judges' Compensation

[SB 307](#) (Ch. 2) freezes the salaries of judges of the Maryland Court of Appeals, Court of Special Appeals, circuit court, and District Court for a year. The bill requires the Judicial Compensation Commission (JCC)

to meet on September 1, 2009, and every four years thereafter, allowing the JCC to recommend salary increases next year for the General Assembly's consideration.

Civil Actions

Failed legislation would have increased from \$10,000 to \$20,000 the amount in controversy that must be exceeded for a person to take a civil action to a jury trial ([SB 468](#), failed) and would have amended the Constitution to allow the increase ([SB 469](#), failed). [SB 238/HB 556](#) (both failed) would have extended by 25 years the statute of limitations for civil actions by victims of child sexual abuse.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Death Penalty

An Administration proposal to repeal the death penalty was amended and passed to restrict the use of the death penalty to cases with biological or DNA evidence, a video recording linking the defendant to the murder, or a videotaped voluntary confession. The amended bill also prohibits use of the death penalty in cases where the State relies solely on eyewitness evidence ([SB 279](#), passed). [HB 1109](#) (failed) would have exempted the protocols governing the administration of the death penalty from the requirements of the Administrative Procedure Act. The bill would have ended a de facto moratorium on executions that has existed since December 2006, when the Maryland Court of Appeals ruled that the State's lethal injection regulations had not been properly adopted.

Underage Drinking and Substance Abuse

[HB 299](#) (passed) makes it illegal for a person under 21 to consume alcohol, adds restrictions on the enforcement of the prohibition, and establishes misdemeanor penalties for adults who knowingly obtain or attempt to obtain an alcoholic beverage for persons under 21, or who furnish it for their consumption.

The act of seeking medical assistance for another person who is experiencing a medical emergency after ingesting alcohol or drugs may be used as a mitigating factor in a criminal prosecution under [HB 1273](#) (passed).

Failed legislation would have made it a misdemeanor to distribute the hallucinogen *Salvia divinorum*, currently not a federal or State controlled substance, to an individual under the age of 21 and would have prohibited an individual under 21 from possessing the

substance, with civil citations issued for possession ([HB 1261](#), failed).

Covert Investigations and SWAT Team Deployment

The Freedom of Association and Assembly Protection Act of 2009 ([SB 266/HB 311](#), both passed) prohibits police from conducting covert investigations of persons, groups or organizations engaged in First Amendment activities unless there is a prior written finding of a “reasonable, articulable suspicion” of current or planned criminal activity. The bills restrict the collection and dissemination of information on such persons or groups by police and add requirements for the maintenance of criminal intelligence files and databases.

[SB 447/HB 1267](#) (both passed) require law enforcement agencies that maintain a SWAT team to report every six months to the Governor’s Office of Crime Control and Prevention (GOCCP) the number of deployments and each deployment’s location, reason, legal authority, and result. The GOCCP must prepare an annual analysis and summary of the reports. The bills include a five year sunset provision.

Sex Offenders – Offender Registry

[SB 425](#) (passed) alters requirements for the retroactive application of the law requiring the names of certain offenders to be entered into the State’s sexual offender registry, including additional past offenders on the registry. [SB 218](#) (passed) requires a person who was adjudicated delinquent as a juvenile for acts involving a victim under the age of 15, which would constitute first or second degree rape or sexual offense if committed by an adult, to register at age 18 or older for inclusion on the State’s sex offender registry under certain circumstances.

Child Pornography

[SB 99/HB 9](#) (both passed) increase the maximum jail time for the crime of possession of child pornography and make a subsequent conviction of the crime, currently a misdemeanor, a felony. [HB 534](#) (failed) would have added to the current prohibitions on promoting, distributing, or possessing pornographic images of minors any visual representations that purport to be of children engaged in sexual acts, even if the representations are actually of adults.

Guns and ECDs

Tightening control over gun offenders, [SB 181](#) (Ch. 41)/[HB 88](#) (Ch. 42) prohibit a District Court commissioner from authorizing the pretrial release of a defendant charged with certain firearms offenses if the defendant has been previously convicted of one of those

crimes. Failed legislation would have increased the maximum jail time for a subsequent conviction of illegal possession of a regulated firearm ([HB 87](#), failed). Additional failed legislation would have decreased the number of good conduct credit days per month that an inmate who is serving a consecutive or concurrent sentence for illegal possession of a regulated firearm and was previously convicted of a crime of violence or drug crime is allowed as a deduction in advance from the inmate’s term of confinement ([SB 182](#), failed).

Regulating the sale and use of electronic control devices (ECDs), also known as tasers or stun guns, [SB 850/HB 539](#) (both passed) include provisions that require a manufacturer or seller to obtain a criminal background check and maintain a record of the original owner and provide investigating law enforcement agencies access to ECD records. Entrance-level and annual ECD training is also required for certain police and correctional officers.

Hate Crimes

Legislation passed to expand existing hate crime laws to include prohibited actions committed against a person on the basis of the person’s gender or because the person is homeless ([SB 151](#), passed) and on the basis of a person’s disability ([HB 560](#), passed). [HB 560](#) also adds the attempt to commit a crime motivated by bias as a prohibited hate crime offense. [HB 1201](#) (failed) would have made it a misdemeanor to place a noose or swastika on public or private real property without the express permission of the owner or occupant, with the intent to threaten or intimidate any person or groups of persons.

Financial Exploitation and Silver Alert

[SB 304/HB 583](#) (both passed) expand the prohibition against financial exploitation of vulnerable adults by prohibiting a person from knowingly and willfully obtaining by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual’s property.

[SB 303/HB 317](#) (both passed) require the establishment of a statewide Silver Alert Program to provide a system for rapid dissemination of information to assist in locating a missing person with a cognitive impairment, such as Alzheimer’s disease or dementia. The legislation becomes effective only if the State Police can implement the program with existing budgeted resources.

Victims of Crime

Failed legislation would have made persons convicted of any of 16 enumerated offenses ineligible for an award

from the Criminal Injuries Compensation Fund and prohibited the Criminal Injuries Compensation Board from allowing the inspection, use, or disclosure of personal information of a victim or a claimant who is a victim of a sexual offense ([SB 127](#), failed).

Juvenile Services

[SB 531](#) (failed) would have required the Department of Juvenile Services (DJS) to ensure that a committed facility in the State under contract with DJS and constructed on or after October 1, 2009, serves no more than 48 children at one time, and that by 2012, each such committed facility constructed before October 1, 2009, complies with the same restriction.

ECONOMIC AND BUSINESS ISSUES

Utility Regulation

After lengthy discussion and passage by the Senate, [SB 844](#) (failed) did not advance in the House. The legislation would have allowed the State to begin to return to a regulated electric market.

Utility Assistance

Several bills on utility cost assistance were considered this session. Emergency measures [SB 703/HB 736](#) (both passed) remove restrictions on how benefits may be provided for low-income energy bill assistance through the State's electric universal service program (EUSP). Other successful measures address the termination of electric and/or gas service to residential customers by restricting termination based on low temperature or high heat index ratings ([SB 1057/HB 453](#), both passed).

Wind Power

A number of bills concerning regulation of wind-powered generating facilities did not pass; however, one measure was referred to interim study ([HB 749](#), failed).

Labor and Employment

Unemployment insurance benefits were extended this session through several successful bills. The Governor signed measures to allow workers to receive benefits even when restricted to part-time work, if the individual works predominately on a part-time basis throughout the year for at least 20 hours a week ([SB 270/Ch. 5/HB 310/Ch. 6](#)).

Other bills increase the maximum weekly benefit for unemployment ([SB 576/HB 740](#), both passed) and expand the severance and dismissal payments that are deductible from unemployment insurance benefits ([HB 242](#), passed).

On the topic of employee misclassification, the Workplace Fraud Act of 2009 ([SB 909](#), passed) establishes penalties for employers who knowingly fail to properly classify employees, and further establishes investigative procedures to follow in instances of noncompliance.

Safety concerns regarding certification of crane operators were addressed by [SB 991](#) (passed) that specifies that an individual may not operate a crane or authorize operation of a crane in the State unless the operator holds a certificate of competence.

Flags

[SB 7](#) (Ch. 7)/[HB 7](#) (Ch. 8) require that United States and State of Maryland flags displayed on State property and purchased with State money be manufactured in the United States. A measure that would have prohibited the sale of U.S. and State flags in Maryland unless they were manufactured in the U.S. failed ([SB 20](#), failed).

Slaveholder Policies

Under [SB 751](#) (Ch. 97), State-regulated insurers must submit a report on slavery era insurance policies to the Maryland Insurance Commissioner, who will then make them available to the public via the Insurance Administration website and at the University of Maryland School of Law library.

Prince George's County Soccer Stadium

No final action was taken on bills authorizing the Maryland Stadium Authority to review and make recommendations relating to the Prince George's County Soccer Stadium ([SB 1020/HB 1282](#), both failed).

EDUCATION

Universal Preschool

The Maryland's Preschool for All Business Plan legislation passed. [SB 234/HB 184](#) (both passed) require the Maryland State Department of Education (MSDE) to consult with and gather input from local superintendents and governing bodies before submitting a business plan for universal preschool. In addition, MSDE must determine an ongoing funding source.

Higher Education – Funding Model

Based on the final recommendations of the Commission to Develop the Maryland Model for Funding Higher Education, the Higher Education Funding Model for Maryland legislation ([SB 861/HB 789](#), both failed) sought to create a statewide framework for the funding of higher education, and to ensure accessibility and

affordability of education. The legislation also would have designated appropriate funding for historically black institutions so that they remain competitive.

College Textbook Affordability

Textbook affordability and competition legislation garnered approval this session with the passage of [SB 183](#) and [HB 85](#) (both passed). These bills require public institutions of higher education to develop and implement specific processes relating to textbook selection, adoption and marketing, such as posting international standards book numbers (ISBNs) on the institution's web sites within specified timeframes. In addition, bookstores must sell books in the same manner as selected and ordered by faculty, except for the purpose of selling a lower priced option to students.

National Guard Tuition Assistance

Nonresident members of the Maryland National Guard will be eligible for tuition rates that are offered to State residents at Maryland institutions of higher education due to the passage of [SB 373](#) (passed). Another measure ([HB 1465](#), passed) expands the National Guard Tuition Assistance Program so that the Military Department may also provide assistance for graduate and professional studies, rather than just undergraduate and vocational studies.

ELECTIONS AND ETHICS

Early Voting

Successful legislation responds to an amendment to the Maryland Constitution that authorizes the enactment of a process to allow early voting in a voter's county of residence. [HB 1179](#) (passed) requires each county to have at least one early voting center, with a maximum of five centers, if the number of registered voters in the county exceeds 300,000. The center sites are to be chosen by the State Board of Elections in collaboration with each local county board. The legislation also specifies the days and times allowed for early voting for the 2010 gubernatorial primary and general elections and the 2012 presidential primary and general elections.

Paper Ballots

Other successful legislation addresses the procurement by the State of voter-verifiable paper record voting machines for use beginning January 1, 2010, as mandated by 2007 law. [HB 893](#) (passed) permits the State to implement temporarily a hybrid voting system to accommodate voters with disabilities, in which each polling place has at least one voting machine that does not produce a paper record, that would be available to

provide access for voters with disabilities and also be available for use by all voters. Within two years after a voting machine becomes available that meets federal guidelines and allows voters with disabilities to cast a paper ballot, the State must purchase those machines and discontinue the use of machines that do not produce a paper record.

Failed Legislation

Unsuccessful bills that would have made changes to current law address:

- public campaign financing for candidates for the General Assembly ([SB 663](#) and [HB 1353](#), both failed);
- employment and compensation of election judges, including the requirement that would have allowed the hiring of election judges without regard to party affiliation, with the exception of the chief judges ([HB 1394](#), failed);
- election day registration and voting, which would have required amending the Maryland Constitution ([SB 514](#) and [HB 476](#), both failed); and
- lobbying by former executive branch officials for compensation in a matter that is the subject of legislative action for one year after the official leaves employment ([SB 695](#) and [HB 475](#), both failed).

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Land Use - Smart, Green, and Growing

All of the Administration's proposals that address Maryland's local government comprehensive planning procedures and goals passed. The bills directly respond to the recommendations of the Task Force on the Future for Growth and Development in Maryland:

- [SB 273/HB 294](#) (both passed) (Local Government Planning - Planning Visions) amend the State's planning visions and require local planning commissions to take these visions into consideration when developing planning documents. The bills authorize local jurisdictions to establish transfer of development rights programs within Priority Funding Areas (PFAs) and to purchase land for public facilities in PFAs, with some limits, and establish reporting requirements;
- [SB 276/HB 295](#) (both passed) (Annual Report - Smart Growth Measures and Indicators and

Implementation of Planning Visions) establish a statewide land use goal that 80% of residential growth be located within PFAs and not more than 5% of new developed areas be located in priority preservation areas and green infrastructure areas. The bills also require local governments to develop a percentage goal for incremental progress towards achieving the statewide land use goal by 2012 and every three years thereafter; and

- [SB 280/HB 297](#) (both passed) (Smart and Sustainable Growth Act of 2009), intending to overturn the Court of Appeals ruling in *David Trail et al. v. Terrapin Run, LLC et al.*, 403 Md. 523 (2008), clarify that special exceptions to a local comprehensive plan must be consistent with that plan, provide a definition of “consistent,” and require members of local government planning commissions and boards of appeal to complete an educational course.

Greenhouse Gas Emissions Reduction

With the passage of [SB 278/HB 315](#) (both passed), the State must reduce statewide greenhouse gas emissions by 25% from 2006 levels by 2020. A related bill ([SB 14](#), passed) authorizes the Maryland Environmental Service to engage in additional types of energy projects and services.

Nitrogen Reduction - Septic Upgrades

With final legislative approval of [SB 554](#) (passed), a septic system for a newly constructed building or one installed as a replacement system within the Chesapeake and Atlantic Coastal Bays Critical Area must use the best available technology for nitrogen removal. The bill requires the Department of Environment (MDE) to assist homeowners in paying the cost difference between that system and a conventional system with money from the Bay Restoration Fund, if sufficient funds are available, and allows for an income tax subtraction for the amount of the cost difference that exceeds the amount of assistance provided by MDE.

Private Wastewater Treatment Systems

[SB 721/HB 1105](#) (both passed) prohibit the installation of an individual sewerage system for residential use, unless an existing septic system fails and cannot be repaired or replaced by any means and the installation is approved by MDE.

Permits and Environmental Standing

The legislature considered a number of bills that provided for increased public notice in the

environmental permit process and addressed the issue of environmental standing. Those that passed include:

- [SB 47/HB 1078](#) (both passed), which require MDE to post notice of a permit application on MDE’s website and provide a method for interested persons to electronically request any additional notices related to the application;
- [HB 420](#) (passed), which extends the three-year statute of limitations in place for MDE on civil suits for violations under the Environment Article to local governments, giving a local government three years from the date that it knew or should have known of the violation;
- [SB 1065/HB 1569](#) (both passed), which repeal some provisions relating to contested case hearings and establish new provisions regarding judicial review with respect to a license to dredge or fill wetlands; and
- [HB 1058](#) (passed), which requires MDE to provide to the legislative body and elected executive of a county, as well as to the elected executive of a municipal corporation, notice of an application to utilize sewage sludge.

Program Open Space – Funds for Indoor Projects

Emergency legislation ([SB 163](#), passed), permits local governments to use Program Open Space (POS) funds for indoor recreational facilities, requires the use of green building standards if the facility is at least 7,500 square feet, and requires the incorporation, to the maximum extent practicable, of specific nonstructural site design practices.

Stormwater Management - Residential User Charge

[SB 672/HB 1457](#) (both failed) would have required counties and municipalities to establish a stormwater user fee to pay for stormwater management cost and planning, and grants to encourage stormwater abatement practices.

Oysters and Other Shellfish

Several bills that will help preserve the oyster population in State waters passed:

- [SB 271/HB 312](#) (both passed) make changes to the State’s shellfish leasing program, create Aquaculture Enterprise Zones, and establish an aquaculture development surcharge to be used for the development of training and grants for shellfish aquaculture;

- [SB 810/](#)[HB 177](#) (both passed) alter the time and condition under which a dealer shall reserve oyster shells and require the Department of Natural Resources (DNR), in consultation with the Oyster Advisory Commission and the Tidal Fisheries Advisory Commission, to set the annual fair market value DNR will pay for oyster shells and their transportation and placement under the Oyster Shell Purchase Program; and
- [SB 175/](#)[HB 103](#) (both passed), emergency measures, alter the date by which DNR is required to apply to MDE and the United States Army Corps of Engineers for permits to dredge buried oyster shells.

Pollution

[HB 1305](#) (passed) requires MDE to submit to the legislature's Joint Committee on Administrative, Executive, and Legislative Review regulations regarding both the fugitive air emissions from transportation and the permissible beneficial uses of coal combustion byproducts (CCBs) in the State by December 31, 2009. [HB 1556](#) (passed) establishes a Coal Combustion By-Products Management Fund and authorizes MDE to impose a fee on CCBs generated in the State to be used to pay the cost of State CCBs monitoring and regulation.

Energy Efficient Buildings

There were several successful measures related to energy-efficient buildings. [SB 625](#) (passed) requires the Department of Housing and Community Development to adopt the International Energy Conservation Code as part of the Maryland Building Performance Standards. [SB 212/](#)[HB 154](#) (both passed) expand the responsibilities of the Green Building Council to include providing recommendations on how to expand green building in the State.

Emerald Ash Borer

[HB 796](#) (passed) creates an Emerald Ash Borer Grant Fund to help local governments, businesses, and organizations purchase equipment to remove, dispose of, and replace infested trees that are located within emerald ash borer quarantine areas.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Several commercial law bills failed to gain legislative approval during the 2009 legislative session:

- [HB 126](#) (failed), relating to unused balances on gift certificates, would have required 70% of unused gift card or gift certificate balances to be remitted to the

State Comptroller after a specified period of inactivity, and would have specified that a gift certificate or gift card is presumed to be abandoned if it has been inactive for a period of four years after the date of purchase, or one year after the date of last activity, whichever is later;

- [HB 1048](#) (failed), relating to consumer contract provisions, would have prohibited a person from including provisions in a consumer contract that allow a person to change a material term that detrimentally affects a consumer's existing obligations, or trigger a default or similar penalty based on events unrelated to the consumer's performance of the existing contract; and
- [SB 342](#) and [HB 208](#) (both failed) would have established fur labeling requirements for clothing.

FISCAL MATTERS

Budget Actions and Federal Stimulus Funds

The General Assembly passed its fiscal package consisting of the Budget Bill ([HB 100](#), passed), the Budget Reconciliation and Financing Act (BRFA) ([HB 101](#), passed), and the Maryland Consolidated Capital Bond Loan of 2009, also known as the capital budget ([HB 102](#), passed).

As enacted, the \$32.3 billion Budget Bill increases spending by 3.5% and includes \$2.5 billion in federal stimulus funds for fiscal 2009 and fiscal 2010. The General Assembly made \$866 million in budget reductions, of which \$561 million are contingent upon language in BRFA, leaving a General Fund balance at the end of fiscal 2010 of \$96.2 million and a Rainy Day Fund balance of \$651.1 million.

Among the highlights of the Budget Bill are:

- Education K-12 - \$5.5 billion for elementary and secondary education, an increase of \$131.7 million or 2.5%. With the use of federal funds, the Bridge to Excellence (Thornton) formulas are fully funded, including the full funding of the Geographic Cost to Education Index (GCEI). Local school systems also receive \$193 million in federal stimulus funds through the Budget Bill. The conference committee rejected the Senate amendment restricting \$50.6 million of education aid to public school construction. Nonpublic schools receive \$2.4 million in textbook aid;
- Higher Education - \$1.2 billion in general funds for the State's public universities and colleges, reducing the Governor's allowance by \$6.6 million, and

preserving the in-state tuition freeze for the fourth straight year. The Sellinger grant for non-public higher education institutions is reduced by \$13.9 million, with amendments in the BRFA bill to increase the mandated funding level in future years;

- Medical Assistance - \$5.8 billion, an increase of \$200 million, including \$652 million in federal stimulus matching funds. The General Assembly substituted \$53.5 million from the Health Care Coverage Fund for that amount from the General Fund;
- Program Open Space - \$18.5 million plus the general obligation authorizations in the capital budget of \$71.3 million plus \$6.2 million and \$70 million in bonds authorized by [HB 783](#) (passed), using transfer tax revenue to pay the principal and interest on the bonds;
- Department of the Environment - \$299.6 million;
- Department of Assessments and Taxation - restoration of \$20.8 million reduction, with no requirement for a local contribution towards assessment funding;
- State employees - no cost of living adjustment (COLA) or merit increases, and no deferred compensation match, contingent upon language in BRFA;
- Stem Cell Research Fund - 15.4 million in the Maryland Technology Development Corporation's budget, a reduction of \$3 million;
- Local aid - \$6.4 billion, reflecting a \$1.4 million increase over the Budget Bill as introduced. Local highway user revenues are reduced by \$161.9 million with the saved funds transferred to the General Fund in BRFA;
- Maryland State Arts Council - grants are reduced by \$3 million to \$14.6 million;
- Heritage Structure Rehabilitation Tax Credit - \$7 million, a \$7.7 million reduction;
- Maryland Biotechnology Investment Tax Credit Reserve Fund - \$6 million; and
- Intercounty Connector (ICC) - funding in the Budget Bill was eliminated with the \$63 million General Fund reduction, but the ICC receives a \$55 million general obligation bond authorization in the capital budget.

The Budget Bill, as passed, no longer requires the counties and Baltimore City to pay 50% of real and business personal property valuation for two years.

BRFA Actions

A balanced budget is contingent upon changing the allocation of revenue, reducing required expenditures, and increasing revenue. BRFA ([HB 101](#), passed) transfers \$1 billion (\$785.4 million for fiscal 2009 and \$216.3 million for fiscal 2010) from special funds to the General Fund to help balance the budget and reduces mandated appropriations by \$561 million. For fiscal 2009, among the transfers are:

- Local Income Tax Reserve Fund for Refunds - \$366.8 million for fiscal 2009;
- Helicopter Replacement Fund - \$52.7 million for fiscal 2009 with \$52.5 million authorized in the capital budget;
- Program Open Space - State land acquisition--\$71.3 million;
- Program Open Space - unencumbered balance--\$70 million; and
- Maryland Trauma Physician Services Fund - \$17 million.

For fiscal 2010 among the transfers are:

- Maryland Economic Development Assistance Fund - \$6 million;
- Local Highway User Revenues - \$161.9 million; and
- Program Open Space and Agricultural Land Preservation - \$31 million.

Among the reductions in mandated appropriations are:

- Lottery sales commissions are reduced from 5.5% to 5% for a savings of \$8.6 million;
- Nonpublic special education placements - State share is reduced to 70% from 80% for a savings of \$16.1 million; and
- Fair Campaign Financing Fund money is used for the purchase of the new Optical Scan Voting System - \$2.0 million.

Capital Budget Actions

The General Assembly passed [HB 102](#), the Maryland Consolidated Capital Bond Loan of 2009, authorizing \$1.1 billion in bonds. As passed, the bill authorizes:

- Public School Construction - \$261.4 million, including \$6.1 million for the Aging Schools Program;
- State Universities and Colleges - \$181.1 million;
- Community College Facilities Grant Program and Baltimore City Community College - \$87.5 million;
- Program Open Space - \$71.3 million plus \$6.2 million for capital development projects;
- Rural Legacy Program - \$11.8 million;
- Agriculture Land Preservation Program - \$13 million;
- Community Parks and Playgrounds - \$5 million;
- Rockville District Court - \$18 million;
- Maryland State Police–Hagerstown Barrack and Garage - \$10.1 million;
- Maryland State Police–Helicopter replacement - \$52.5 million;
- Western Maryland Regional Library - \$5 million;
- State Library Resource Center - \$1.6 million;
- Intercounty Connector - \$55 million; and
- Community Health Facilities - \$8.4 million.

Transfer Tax – Program Open Space Bonds

HB 783 (passed) authorizes the Maryland Program Open Space Acquisition Opportunity Loan of 2009 in the amount of \$70 million for Program Open Space acquisitions, with the principal and interest discharged using State transfer tax revenues. The Maryland Agricultural Land Preservation Program may receive \$5 million from the proceeds.

Tax Related Legislation

Passed legislation to be presented to the Governor includes:

- **SB 800/HB 493** (both passed), concerning the Biotechnology Investment Incentive Tax Credit;
- **HB 1171** (passed), the Alternative Energy Tax Incentive Act of 2009;
- **SB 785** (passed), exempting from the State inheritance tax the primary residence owned in joint tenancy by domestic partners and inherited by the surviving domestic partner;
- **SB 644** (passed), concerning property tax credits for waterfront property; and

- **SB 552** (passed), instituting a tax amnesty from September 1, 2009, through October 30, 2009, during which taxpayers paying delinquent taxes will have civil penalties and one-half of the interest waived.

Unsuccessful measures include:

- **SB 258/HB 309** (both failed), concerning the Maryland Heritage Structure Rehabilitation Tax Credit Program;
- **SB 729/HB 791** (both failed) and **HB 1160** (failed), alcoholic beverage tax increase bills;
- **SB 596/HB 908** (both failed), concerning film production tax credits;
- **SB 715/HB 1259** (both failed), the Building Opportunities for All Students and Teachers (BOAST) in Maryland Tax Credit, concerning tax credits for contributions to education;
- **SB 979/HB 699**, concerning tax incentives for wind energy;
- **HB 1125**, providing an income tax credit for investors in Maryland nanobiotechnology companies;
- **SB 648/HB 525** (both failed) and **SB 710/HB 1046** (both failed), requiring the counties and Baltimore City to pay a portion of the employer pension contribution for the teachers and other employees who are members of the Teachers' Retirement System or the Teachers' Pension System;
- **HB 320** (failed), providing a tax incentive for voltage regulation technology that increases energy efficiency; and
- **SB 747/HB 684** (both failed), proposed constitutional amendments, the Taxpayer Protection Act, which would have required a three-fifths majority in each house of the General Assembly for passage of a bill creating a new tax or increasing or expanding a tax.

GAMING, RACING, AND SPORTS

Racing

The Governor signed the emergency Administration bill (**SB 1072**, Ch.3) authorizing the State to acquire by purchase or condemnation, for public use and with just compensation, private property relating to Pimlico Race Course, Laurel Park Race Course, the Bowie Race Course Training Center, and other tangible and

intangible property related to the Preakness Stakes. The Maryland Economic Development Corporation (MEDCO) is authorized to borrow money and issue bonds to finance the cost of acquiring by purchase or completing the condemnation process by the State. The new law responds to a March 2009 Chapter 11 bankruptcy filing by Magna Entertainment Corporation, which indicated its plans to sell a group of its horse racing assets, including Pimlico, Laurel, and the Bowie training facility, in a “free and clear” auction.

The Preakness Stakes, the second jewel in horse racing’s Triple Crown, is held annually on the third Saturday of May. The race, run at Pimlico every year since 1909, attracts more than 100,000 people each year and earns enough revenue to support the thoroughbred industry in Maryland for the rest of the year.

Other successful legislation relating to horse racing includes:

- The Maryland Horse Racing Act ([SB 119](#), passed), which extends the program evaluation date of the State Racing Commission from 2010 to 2013, and delays the termination date for the Commission to July 1, 2014. A delayed evaluation will allow examination of the Commission’s responsibilities in light of the recent and expected changes in Maryland’s horse racing industry as a result of financial assistance from video lottery terminal (VLT) revenues; and
- The Purse Dedication Account – Allocation of Funds ([HB 1212](#), passed), which changes how the percentage of VLT proceeds will be distributed to thoroughbred and standardbred industries in Maryland. The Account, established by legislation during the 2007 Special Session, will receive 7% of VLT proceeds. Of this 7%, 80% is allocated to the thoroughbred industry and 20% to the standardbred. The new legislation further divides the allocation so that, in each instance, 89% of the funds are deposited into purses, with the remaining 11% flowing into the bred funds.

Instant Bingo

Under [HB 193](#) (passed), certain electronic bingo machines that lost their legal status due to 2008 legislation tightening the definition of slot machines will be able to remain in operation until July 1, 2012, rather than decommissioning by July 1, 2009. Some of the amusement and admission taxes collected from these machines will fund the newly created Special Fund for Preservation of Cultural Arts in Maryland.

Fantasy Competitions

[HB 21](#) (failed) would have explicitly exempted specified “fantasy competitions” from prohibitions against betting, wagering, and gambling in State law. A fantasy contest is defined as one in which participants manage imaginary teams, and the contest’s outcome reflects the relative skill of the participant.

HEALTH CARE AND HEALTH INSURANCE

Health Insurance

A number of successful measures propose changes to current statutory requirements relating to health insurance:

- [HB 39](#) (passed) requires certain insurance carriers that offer out-of-state association contracts to make disclosures to a Maryland resident applying for coverage under an out-of-state association contract. In addition, the Maryland Insurance Commissioner may require a report from carriers that offer out-of-state association contracts.
- [SB 79](#) (passed) alters preexisting condition provisions for individual health insurance benefit plans, requires carriers that sell health insurance under an out-of-state association contract to make certain disclosures to Maryland residents, restricts the circumstances under which certain carriers are permitted to rescind a health insurance policy, and requires the Maryland Insurance Administration to study options to raise or define medical loss ratios in the individual, small group, and large group health insurance markets and report its findings by December 1, 2009. [HB 32](#) (passed) contains provisions that are identical to the pre-existing conditions of [SB 79](#).

Unsuccessful legislation includes:

- [HB 4](#) (failed), the Small Business Health Insurance Expansion Act that generally relates to an expansion of the Small Employer Health Benefit Plan Premium Subsidy Program established in the 2007 Special Session;
- [HB 1280](#) (failed), the Gender Equity Health Coverage Act that would have provided an exception to a provision of law allowing the consideration by insurers of actuarial justification with respect to sex. Insurers, nonprofit health service plans, and HMOs would have been prohibited from considering sex in determining whether to underwrite a particular risk or class of risks;

- [SB 515/HB 860](#) (both failed) that would have established the Healthy Maryland Program to replace the current Maryland Health Insurance Plan (MHIP); and
- [SB 852](#) (failed) that would have specified that a health insurer, nonprofit health service plan, HMO, or dental plan organization may not prohibit the assignment of benefits to a health care provider by an enrollee or refuse to directly reimburse a health care provider under a valid assignment of benefits.

Health Care Costs

Several bills this session included provisions addressing the cost of health care in Maryland. The measures focused on the cost of care to lower income individuals, loss ratio requirements in health benefit plans, and the oversight of State health care spending. The measures had varying levels of success in the legislature:

- [SB 776](#) and [HB 1069](#) (both passed) require the Health Services Cost Review Commission (HSCRC) to require each acute care hospital in the State to develop a financial assistance policy related to free and reduced cost care for patients who do not have health care coverage or whose health care coverage does not pay the full cost of the hospital bill. Under the terms of the legislation, free medically necessary care is provided to individuals with an income at or below 150% of the federal poverty level. Reduced cost care is provided to individuals with incomes above the 150% level, in accordance with terms set out by the HSCRC related to specific conditions experienced in each individual hospital. The HSCRC must study the issue of providing free or reduced cost care and report to the Governor and General Assembly by October 2009;
- [HB 272](#) (failed) would have altered specified loss ratio requirements for specified health benefit plans and Medicare supplement policies and would have established a specified loss ratio requirement for large group health benefit plans; and
- [SB 813/HB 951](#) (both failed), the Health Care Affordability Act of 2009, would have established a Maryland Institute for Clinical Value to develop and implement policies and strategies that direct health care spending towards evidence-based services, benefit and value services, as well as services that improve public health.

Maryland False Health Claims Act

After much discussion, this Administration legislation failed a Senate third reading floor vote. [SB 272](#) (failed)

would have prohibited specified actions constituting false claims against a State health plan or a State health program and would have provided specified penalties for making false claims against a State health plan or a State health program. The legislation also would have authorized the State to file a civil action against a person who makes a false claim against a State health plan or a State health program and would have provided procedures and remedies in a civil action.

Mandated Coverage

Several bills were introduced this session that related to mandated coverage for various medical conditions. Some of these measures were successful, while others failed to gain approval:

- [SB 341/HB 579](#) (both passed) require insurers, nonprofit health service plans, and HMOs to provide coverage for prosthetic devices, components of prosthetic devices, and repair of prosthetic devices. The effective date is October 1, 2009; and
- [SB 394/HB 273](#) (both failed) would have allowed health insurance coverage for autism spectrum disorders. However, a new commission will make recommendations on needed services ([SB 963/HB 503](#), both passed).

Health Occupations

Bills to establish new, regulated health professions in the State as well as improve the quality of existing professions gained legislative approval:

- [SB 247/HB 173](#) (both passed), the Maryland Athletic Trainers Act, requires the State Board of Physicians to license and regulate the practice of athletic training in the State. The bill establishes the Athletic Trainer Advisory Committee, as a subunit of the State Board of Physicians and creates a licensing procedure, including appropriate fees associated with licensing; and
- [SB 627/HB 714](#) (both passed) establish loan assistance repayment for practicing physicians. The measure alters the existing Hoffman Loan Assistance Repayment Program by removing primary care physicians and establishing a new loan program with expanded eligibility and repayment requirements for physicians.

Stem Cells

Crossfiled measures that sought to revise the State's Stem Cell Research Act failed. [SB 948/HB 1159](#) (both failed) would have altered the name of the Stem Cell Research Commission to be the Stem Cell and

Biotechnologies Commission and would have required the Commission to establish procedures and guidelines regarding research supporting a qualified technology. The measures also would have altered the name of the Stem Cell Research Fund to be the Maryland Stem Cell and Biotechnologies Research Fund and would have altered the purpose of and uses of money in the Fund.

Nutrition and Public Health

A number of bills related to public health and nutrition were unsuccessful. [HB 567](#) (failed), would have prohibited a food service facility from using food containing trans fat, with certain exceptions. [SB 142/HB 601](#) (both failed), would have required chain restaurants to post specified nutrition information for standard menu items.

Other unsuccessful bills included:

- [SB 881](#) and [HB 1186](#) (both failed) that would have established the Maryland Health System to provide health care services to all residents of the State under a single system that is not dependent on employment;
- [HB 1015](#) (failed) and [HB 1080](#) (failed) that would have provided for the sale of raw milk in the State under certain circumstances; and
- [HB 1339](#) (failed) that would have established a task force on medical marijuana.

However, a bill related to electronic health records (EHR) did gain passage. [HB 706](#) (passed) requires the MHCC to adopt regulations by specified dates regarding adoption and certification of EHR and reimbursement of providers by “State-regulated payors” for costs associated with adopting EHR.

Health Care Facility Closures

Several measures related to closures failed to gain legislative approval:

- [SB 71](#) (failed) would have altered certificate of need requirements related to the closure or partial closure of a health care facility; and
- [HB 1043](#) (failed) would have prohibited the Secretary of Health and Mental Hygiene from closing any facility that is located in Baltimore City, is owned or operated by the Department of Health and Mental Hygiene, and was in operation on January 1, 2009. Related legislation, [HB 1044](#) (failed) dealt with the proposed closure of the Walter P. Carter Center.

decaDBE and BPA

[HB 14](#) (failed) would have prohibited, with certain exceptions, the manufacturing, processing, selling, or distributing of a new product or a flame-retardant part of a new product that contains more than one-tenth of 1% of decabrominated diphenyl ether (decaDBE), beginning January 1, 2010. [HB 15](#) (failed) would have prohibited the sale, manufacture, or distribution of children’s toys or child care articles that contain bisphenol-A (BPA) on or after January 1, 2011.

REAL PROPERTY, ESTATES, AND TRUSTS

[HB 149](#) (Ch. 132) allows for the creation and enforcement of a trust to provide for the care of an animal alive during the lifetime of the person creating the trust. The common-law rule against perpetuities recognized in the State (and modified by statute) does not apply to a trust created for that purpose.

[SB 842/HB 772](#) (both passed) address the plight of residential tenants in the State who currently lack the right to remain in a home sold at foreclosure, as a lease entered into between the original owner and a tenant generally does not survive the foreclosure sale. The emergency bills require notices of foreclosure to be sent to all occupants of a residential property within specified time frames.

[SB 150](#) (failed) and a similar measure, [HB 852](#) (failed), both dealing with the Maryland Uniform Power of Attorney Act, did not pass.

[SB 929/HB 1006](#) (both failed) would have exempted community land trusts from existing prohibitions on the creation of new ground leases and subleases. Any ground lease of which a community land trust is the lessor may not require the payment of a periodic ground rent.

After lengthy debate, the Senate killed [SB 5](#) (failed) on third reading. The bill would have increased from three to five years the lease extension period that must be offered to a person who is at least 62 years old or disabled before a landlord of a rental unit covered by federal rental housing assistance may transfer the rental unit or take another protected action specified in statute.

STATE GOVERNMENT

Collective Bargaining - Fair Share Act

Successful legislation changes current law to make it permissible for State collective bargaining negotiations, with the exception of those related to higher education,

to include the right of an employee organization to receive service fees ([SB 264](#), passed). However, an employee whose religious beliefs are opposed to joining or financially supporting a collective bargaining organization is not required to pay the fee, but is required to pay an amount of money, not to exceed the service fee, to any charitable organization exempt from taxation under Section 501 (c) (3) of the IRS Code.

State Personnel Policies

Another successful measure implements several recommendations of the *At-will Employment in Maryland* report, compiled in accordance with a 2007 law. [HB 735](#) (passed) is aimed at providing additional merit system protections to State employees while allowing State agencies to maintain recruitment flexibility. The measure also changes a current legislative committee's name to the Joint Committee on Fair Practices and State Personnel Oversight, and expands its responsibilities.

Accountability in Government

Also achieving final passage, [SB 556/HB 1192](#) (both passed) require State entities that provide \$50,000 or more in State aid to grantees to collect and post on a public searchable website information about the grantees. A grantee is a for-profit or nonprofit entity or association that receives State aid during a fiscal year and is not a unit of State or local government.

State Commemorative Day

Because [SB 248](#) (Ch. 46)/[HB 84](#) (Ch. 47) were passed as emergency measures, the bills became effective immediately on signing by the Governor on April 14. The new law designates the second Saturday in May as Negro Baseball League Day in honor of the African American players who formed their own teams because they were unable to play professionally due to racism and Jim Crow laws.

Emergency Medical Services and Medevac Program

Recommendations from a 2009 session House of Delegates work group on the State's emergency medical services system supported the continuation of the public system under the direction of the Maryland State Police. The work group recommended accelerating the purchase of new helicopters, increasing certification standards in accordance with the phasing-in of additional co-pilots and paramedics on flights, and establishing a new joint legislative oversight committee. However, none of the bills introduced and considered this session on these issues and related topics were successful. Some of the proposals would have reorganized or privatized the services, while others would have established

committees to provide oversight and further study ([SB 649/HB 1151](#), [SB 650/HB 1356](#), [SB 764/HB 1146](#), [SB 1041](#), [SB 289/HB 265](#), and [SB 1063](#), all failed).

TRANSPORTATION

Driver's Licenses, Lawful Presence, and REAL ID Compliance

After extensive debate, numerous proposed amendments, and highly disparate House and Senate versions of REAL ID legislation, a conference committee successfully created a version of [HB 387](#) (passed) acceptable to both chambers. The legislation is designed to bring Maryland into compliance with the federal REAL ID Act of 2005 and specifically the requirement that applicants for licenses and identification cards verify lawful presence in the U.S. Maryland is one of only five states that do not require proof of lawful status in order to get a driver's license.

[HB 387](#) (passed) defines lawful status and creates a temporary two-tiered system for driver's licenses, identification cards, and moped operator permits when individuals who cannot prove lawful status, but are already in possession of a Maryland license, card, or permit, may be issued these documents specifically marked as not federally compliant. These documents expire on July 1, 2015. Applicants who do not have proof of lawful status and do not currently possess a license, card, or permit covered by the bill may not acquire Maryland identification under the new legislation. The bill, originally an emergency measure, takes effect on June 1, 2009.

Drunk and Drugged Driving

Administration legislation based on recommendations from the Task Force to Combat Driving Under the Influence of Drugs and Alcohol passed:

- [SB 259/HB 301](#) (both passed) expand, from five to ten years, the period in which a prior conviction for specified alcohol or drug-related driving offenses disqualifies a person from eligibility to be placed on probation before judgment (PBJ). If a defendant is ordered into treatment as a condition of probation, the bills also expand, from five to ten years, the period in which a court is prohibited from striking or staying the entry of judgment and placing the defendant on probation if, in that time, the defendant has been convicted or was placed on PBJ after being charged with an alcohol or drug-related driving offense;

- **SB 262 (passed)** authorizes the Motor Vehicle Administration (MVA) to impose a one-year driver's license suspension on a person who is convicted of *any* alcohol or drug-related driving offense more than once within a five-year period. If requested by the person, the MVA may issue a restricted license for the period of a suspension to a person who participates in the Ignition Interlock System Program. Mandatory suspension is required under certain circumstances; and
- **SB 263/HB 305** (both passed) make the conviction for a violation of an alcohol restriction on a driver's license that is imposed by the MVA a misdemeanor. The bills subject a person who violates this restriction to a maximum penalty of up to two months imprisonment and a fine of \$500. The bills also establish that the violation of any restriction imposed on a driver's license or the violation of any rule or regulation under the Maryland Vehicle Law may subject the violator to up to two months imprisonment and/or a fine of up to \$500, or if greater, the same penalties authorized by the law or regulation that was violated.

Legislation related to the State's Ignition Interlock System Program (**SB 735/HB 1217**, both failed) would have required, rather than authorized, the MVA to establish an Ignition Interlock System Program. Also, the MVA would have been required to establish a protocol for the Program by regulations to require certain minimum standards for all service providers.

Texting While Driving

For many years the General Assembly considered, but never passed, legislation to ban the use of cell phones while driving. This session, successful legislation, while not addressing cell phone usage, does address the related issue of texting while driving and is named in honor of former Delegate John Arnick, who was an early advocate for banning cell phone use while driving. Specifically, **SB 98** and **HB 72** (both passed) are identical bills that prohibit drivers from writing or sending text messages in a car that is in motion or in the travel portion of a roadway. Exceptions are provided for making 911 calls and using Global Positioning System (GPS) devices.

Teen Driver Safety

Safety concerns for young drivers were also discussed extensively this session, resulting in passed legislation:

- **SB 265/HB 303** (both passed) increase the ages at which a driver may receive a provisional license (16 years and six months) and an original driver's

license (18 years), extend the amount of time before a driver may take a test for a provisional or original license under certain circumstances, require the MVA to cancel the license of a young driver if the cosigner requests it, and require the MVA to fingerprint and conduct criminal background checks on potential driving instructors. Other provisions authorize the MVA to conduct a young driver safety program and to impose an education and employment only restriction on, suspend, or revoke a young driver's license for certain offenses; and

- **SB 219** (passed) requires the clerk of the Juvenile Court to report to the MVA an adjudication of a child as delinquent, or a finding that a child has performed a delinquent act for a violation relating to leaving the scene of an accident or fleeing and eluding a police officer. In addition, the MVA must retain certain reports and suspend a child's license on notification by the clerk of court of such a violation. The bill requires the MVA to suspend a young driver's license if the holder accumulates a certain number of points in a certain time period, authorizes an individual to request a hearing on suspensions or revocations in some circumstances, establishes that young drivers holding provisional licenses who commit certain Maryland vehicle law violations are guilty of high-risk driving, and requires the MVA to suspend young drivers licenses if they are convicted of high-risk driving.

Speed Cameras

A measure authorizing the statewide use of speed monitoring cameras to catch speeders in and around work and school zones is waiting to be signed into law. **SB 277** (passed), an Administration bill, extends authorization for use of speed monitoring systems in school zones statewide. Local law enforcement agencies or their agents or contractors may issue citations or warnings to vehicle owners for speeding at least 12 miles per hour above the posted speed limit.

In addition, the bill authorizes use of work zone speed control systems. State and local law enforcement agencies or their contractors are authorized to issue citations or warnings for speeding at least 12 miles per hour above the posted speed limit in highway work zones that are set up on expressways or controlled access highways where the speed limit is 45 miles per hour or greater. The maximum fine for a citation is \$40. The bill also imposes restrictions on the use of revenue generated by speed camera citations.

Revised 4/20/09