

HIGHLIGHTS OF THE 2011 SESSION

**Office of Government and Community Affairs
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Overview - The 428th Session of the Maryland General Assembly convened on January 12, 2011 and adjourned “Sine Die” at midnight on Monday, April 11, 2011. This was the first session of the new four year term for the Governor and Maryland General Assembly. Of the more than 2,350 bills introduced this session, the Office of Government and Community Affairs tracked more than 700 bills that could impact the university community and supported testimony in over 100 hearings.

We are most appreciative for the expertise provided by the faculty, students, and staff who were involved in reviewing or providing testimony on legislation and for those who participated in advocacy days in Annapolis. Your efforts ensure that the legislature recognizes the great value of the university. It is an honor to represent so many talented individuals and to showcase the extraordinary educational programs, research, clinical care, and public service activities at the university.

Highlights of the 2011 Session - This document provides a short overview of the major actions of interest to the university community. By early May, we will issue the **2011 End of Session Report** which is a more comprehensive summary of legislative actions, including all pertinent reporting requirements and opportunities for appointments in study groups, commissions, etc.

Bill Signings - The Governor has 30 days after presentment of bills to sign, veto or allow legislation to become law without his signature. Bill signings for legislation that passed at the 2011 Session are held in the State House in Annapolis, with signings held on the following dates: Tuesday, April 12, 2011, Monday, April 25, 2011, Tuesday, May 10, 2011, and Thursday May 19, 2011. On the day prior to each scheduled bill signing, the Governor’s office lists the bills to be signed at: www.gov.state.md.us/.

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Special Session - Redistricting: The Governor is expected to call a special session later this year to present a redistricting plan to the state legislature. Redistricting is the process of redrawing electoral boundaries within a state. Most elected political offices in Maryland represent distinct geographical areas, called electoral districts. The state legislature, known as the General Assembly of Maryland, consists of two distinct branches: a Senate consisting of 47 senators and a House of Delegates consisting of 141 delegates. Following each decennial census of the United States (the most recent of which was in 2010) and after public hearings, the Maryland Constitution requires the Governor to prepare a plan setting forth the boundaries of the legislative districts for electing the members of the Senate and the House of Delegates. The General Assembly may, by joint resolution, adopt a redistricting plan for the election of members of the Senate and the House of Delegates. If a plan has been adopted by the General Assembly prior to the Maryland Constitutional deadline, the plan becomes law. If no plan has been adopted by the General Assembly by the deadline, the Governor's plan becomes law.

HIGHLIGHTS OF THE 2011 SESSION

PART I - STATE BUDGET - OPERATING AND CAPITAL

STATE OPERATING BUDGET

HB 70 – State Operating Budget Bill

HB 72 – Budget Reconciliation and Financing Act of 2011 (BRFA)

Overview

The global financial crisis, which started in late 2007, dragged the U.S economy into a serious recession, yielding significant declines in state revenue attainment. As the economy faltered over the past several years, mid-year reductions to state appropriations were imposed across state government. State budget reductions over the past several years have resulted in employee furloughs, temporary salary reductions, elimination of state positions and no salary increases for most state employees. The one-time federal stimulus package (American Recovery and Reinvestment Act - ARRA) enabled the preservation of most state programs for Fiscal Years (FYs) 2010 and 2011, despite a major decline in state revenues of 5.2% for FY 10. In fact, revenue attainment for FY 10 was almost 10% below the FY 08 level. For FY 11, state revenue growth was projected at only 3.6%.

At the opening of the 2011 Session of the Maryland General Assembly, the Governor and new state legislature confronted significant fiscal challenges, particularly due to the elimination of over \$1 billion in federal stimulus funding for FY 12. With a projected structural gap between revenues and spending of almost \$2 billion, the Spending Affordability Committee recommended that the FY 2012 budget be reduced by an amount sufficient to reduce the general fund structural deficit by 33.3% in order to resolve the long-term imbalance over a three year period. The state was able to retain the AAA bond rating, one of only eight states holding the highest rating.

As enacted, HB 70 - the State Operating Budget Bill - appropriates \$34.1 billion to support the operating and programmatic costs of Maryland state government for FY 12, beginning July 1, 2011. In the aggregate, the state budget grows by only 2.6% over fiscal 2011. The budget is balanced (as required by the Maryland Constitution), but relies on a series of actions, including cuts in state spending, fee increases, hospital assessments, and transfers of special funds to the general fund. Revenues supporting the \$34.0 billion state budget are generated by: \$14.7 billion in General Funds (43%) derived largely from income and sales taxes; \$6.5 billion in Special Funds (19%) derived from taxes and fees dedicated for specified purposes; \$9.3 billion in Federal Funds (29%); and \$3.7 billion in Education Funds (11%). General funds are projected to grow by only 3.3% in fiscal 2012.

In order to balance the state budget, HB 72 - the Budget Reconciliation and Financing Act (BRFA) - constrains current and future growth in mandated state spending and transfers special funds to the general fund. Actions in both HB 70 and HB 72 reduce the structural deficit by \$734 million or 37.6% (more than the 33.3% recommended by the Spending Affordability Committee). It is anticipated that the budgetary actions will result in a General Fund balance of only \$50 million and a balance in the state's Rainy Day Fund of \$681 million. Persistent out year deficits are projected at \$1.2 billion, requiring further actions to control state spending, unless there is significant growth in the economy in the near term.

Overall:

- **Higher Education:** State support remains fairly flat for FY 12 at about \$1.2 billion (same as for FY 10 and FY 11). Public senior higher education institutions are expected to hold undergraduate, resident tuition increases to 3% (the same as in FY 11, following a four year tuition freeze).
- **Medical Assistance:** Appropriations grow to \$6.9 billion, increasing by \$830 million (supported by nearly \$400 million in new hospital assessments), with no reduction in services or eligibility for services.
- **Employees Actions:** For the first time in three years, employee furloughs/salary reductions are eliminated, with current state employees to be awarded a \$750 bonus. Increases in contributions for health and pension benefits will be imposed, but defined retirement benefits are preserved and health benefits remain comprehensive and affordable. Retirees will pay more for health benefits and are mandated to shift to the Medicare Part D prescription drug program in fiscal 2020. These actions start to reduce the state's long-term unfunded liabilities of \$19 billion for pensions and \$16 billion for retiree health.

University of Maryland – State Operating Budget Provisions (HB 70 and HB 72)

University System of Maryland (USM) - Specific provisions relating to USM follow:

- **Appropriation / Reductions** - After allowances for certain adjustments (described below), approximately \$1.048 billion is appropriated for the University System of Maryland (USM) from a combination of General Funds and Higher Education Investment Funds (HEIF). Revenues from the HEIF are derived from a statutory 6% of corporate income tax revenues. In the aggregate, state support remains fairly flat, but has not kept pace with increasing current services costs or inflation.

The adjustments to the appropriation level include a legislative reduction of \$4.0 million (described below), and certain across-the-board actions, such as employee health insurance, retiree prescription costs, and retirement benefit costs. Final adjustments and allocations among the institutions will be made to reflect the actions enacted in the state budget.

In the Conference Committee on the budget, the legislature reduced the Governor's allowance for the University System of Maryland Office (USMO) by \$4.0 million. The USMO allowance had been cut by \$8.1 million by the House, but by only \$2.0 million by the Senate; the conference committee resolved the matter by agreeing to the \$4.0 million reduction. HB 70 provides that the USMO may: (1) replace some or all of the reduction with a transfer from fund balance; (2) reduce system operations, including the Universities at Shady Grove and University System of Maryland at Hagerstown; or (3) assess system administrative costs to the institutions.

- **Tuition Freeze** - The Governor's allowance included general funds to replace revenues equivalent to a 2% increase in resident, undergraduate tuition rates. For the second year in a row, the Governor's allowance assumes resident, undergraduate tuition rates increase by only 3%. This action mirrors FY 11. Resident, undergraduate tuition was frozen during FYs 2007-2010.

- **Study to Merge UMCP and UMB** - The Budget Conference Committee rejected Senate provisions requiring the USM Board of Regents to develop a plan to merge UMCP and UMB. Instead, the Conferees adopted the following budget bill language requesting a study:

“, provided that \$1,000,000 of this appropriation may not be expended until the University System of Maryland Board of Regents submits a study examining the advantages and disadvantages of merging the University of Maryland, College Park and the University of Maryland, Baltimore. The study shall include any issues related to merging the two institutions under a single University of Maryland. If the Board of Regents concludes that merging the two institutions is feasible and appropriate, then the Board shall include an outline of how the merger will be accomplished, identify any legislative or other changes needed, and the projected timeline to accomplish the merger. The report shall be submitted to the budget committees by December 15, 2011, and the budget committees shall have 45 days to review and comment on the report. Funds restricted pending the receipt of the report may not be transferred by budget amendment or otherwise to any purpose and shall be cancelled if the report is not submitted to the budget committees.”

- **Alternative Models for Public Non-Research Institutions in Baltimore City** - A taskforce is to assess the current state of public, non-research higher education in Baltimore City, long-term efficiencies that can be created through institutional partnerships, or merging resources or institutions, and the impact those actions could have on student success rates, cost per degree, etc. and report by 12/15/11.
- **Report on Intercollegiate Athletics** - Restricted \$5 million of USM appropriations until USM submits a report by 09/01/11 on the amount of general funds expended in fiscal 2011 on intercollegiate athletics, including institutional scholarships to student athletes on the basis of athletic ability by institution.
- **Salary Actions** - HB 72 (Section 24) provides added flexibility in salary actions. Although the general provisions do not permit merit increases prior to 04/01/14, it does allow for increases necessary for the retention of faculty and, as amended by the legislature, does allow for merit increases for operationally critical staff as designated by the governing boards for higher education or by the Department of Budget and Management for other state agencies. The applicable provisions follow:

“...That, notwithstanding any other provision of law:

- (a) Except as otherwise provided in this section, State employees employed by any entity, including the University System of Maryland, Morgan State University, and St. Mary’s College of Maryland, may not receive merit increases prior to April 1, 2014.
- (b) This provision does not affect: (1) salaries for constitutional officers or members of the General Assembly; (2) increases necessary for the retention of faculty in the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland; (3) payments pursuant to a collective bargaining agreement negotiated with an accredited representative in accordance with Section 7-601 of the Transportation Article; or (4) for fiscal year 2012 only, operationally critical staff.
- (c) On or before December 1, 2011, in accordance with Section 2-1246 of the State Government Article, the University System of Maryland, Morgan State University, and St. Mary’s College of Maryland shall each submit a report to the Senate Budget and Taxation Committee and the

House Appropriations Committee that details the policies adopted by the governing boards of those institutions to designate operationally critical staff, all staff identified as critical under subsections (b) (4) of this section, and any merit increases awarded as a consequence of this designation.

(d) On or before December 1, 2011, in accordance with Section 2-1246 of the State Government Article, the Department of Budget and Management shall submit a report to the Senate Budget and Taxation Committee and the House Appropriations Committee that details the policies adopted to designate operationally critical staff, all executive branch staff identified as critical under subsections (b) (4) of this section, and any merit increases awarded as a consequence of this designation.”

- **Voluntary Separation Program (VSP)** – HB 72 specifically struck provisions regarding any Voluntary Separation Program (VSP) at an institution of higher education that would have required the abolition of positions and require the transfer of funds for abolished positions to the General Fund.

Committee narrative expresses intent that if a VSP is implemented by USM, Morgan State University, or St. Mary’s College, the plan should include an agreement from participants that they will not seek or accept employment or work in any capacity, including as an employee, contractor or employee of a contractor, with any Executive Branch agency, public institution of higher education, or any other state agency or unit for a period of 18 months following separation. Specific information must be reported to the budget committees by 06/30/11: the plan approved by the governing board, the number of applications received, the number of positions approved to participate, a list of the position identification numbers (PINs) abolished; annual salary and fringe benefit expenditures for each PIN abolished; and an estimate of the total cost of the program in terms of financial inducements offered and additional retirement costs incurred. Positions to be abolished must be reported to the Board of Public Works by 06/01/11.

- **Other Reporting Requirements** - The Joint Chairmen’s Report, to be issued later this month by the Budget Committees, is expected to require reports by USM on:
 - Faculty instructional workload (due by 12/01/11);
 - Institutional aid (due by 01/06/12);
 - Institutional aid by expected family contribution category (due by 11/15/11); and
 - Detailed budgets for the Universities at Shady Grove (USG) and the University System of Maryland at Hagerstown (USMH) due with the fiscal 2013 allowance.

USM is to work with the Maryland Higher Education Commission (MHEC) to report on:

- How local school districts and higher education segments use the Student Outcome and Achievement Report (SOAR) and how the report can be improved (due by 09/01/11);
- Developmental education and summer bridge program data (due by 10/15/11);
- A continued study of the cost of developmental education (due by 11/25/11);
- Encouraging students to complete a degree after dropping out (due by 08/30/11); and
- Methods to determine predicted performance of public four-year institutions (due by 12/15/11).

USM is to work with the Maryland Association of Community Colleges (MACC) to report on:

- Implementing incentives to encourage students to complete an associate’s degree prior to transfer (due by 07/15/11); and
- How colleges work with local school districts to determine college readiness (due by 8/01/11).

University of Maryland, Baltimore (UMB):

- **Appropriation** - The adjusted appropriation of \$183.1 million (General Fund and HEIF support) will be further revised to reflect the final budget actions (described above under USM). Although state support remains fairly flat, it has not kept pace with increasing current services costs or inflation.
- **\$285,250 Grant for the Governor’s Wellmobile Program** - Funding for the Wellmobile Program was not included in the budget, as introduced. The Senate added budget language restricting funds under the Maryland Higher Education Commission (MHEC) for the Wellmobile Program. However, the Governor provided funding in the supplemental budget, and the Conference Committee approved the funding and was able to reject the restrictive language the Senate had added.
- **Special Compensation** - Note: In the FY 11 budget, the legislature requested submission of a report on special compensation with the university’s annual budget submission, as follows:

“...that the University of Maryland, Baltimore (UMB) submit information for the latest completed prior fiscal year regarding compensation paid to employees for sabbatical leave, summer research, and bonus payments. This information should list for each applicable employee: the value of each of these types of payment, the purpose of the payment, and the base salary of the employee earning the payment. The information shall be included with the university’s annual budget submission.”

University of Maryland Medical Group (UMMG) – Cigarette Restitution Funding (CRF):

- **\$3.2 million for Cancer Research and Screenings for FY 12** - The University of Maryland Medical Group (UMMG), as specified in law for purposes of Cigarette Restitution Funds (CRF) Program, consists of the University of Maryland Medical System, University of Maryland, Baltimore, and University of Maryland School of Medicine. FY 11 was the eleventh year of funding from the CRF. Due to the severe state fiscal constraints, the FY 10, 11 and 12 funding levels were sharply reduced. In FY 10, the Board of Public Works cut the \$9.5 million appropriation to roughly \$2.9 million, diverting the funds to Medicaid. Because of cuts in excess of 75% in FY 10, the Statewide Network and Tobacco-Related Diseases Research programs were terminated and the statutory provisions repealed (at the request of UMMG). The Cancer Research grant also was cut in excess of 75% in FY 10, but other internal funding mitigated the immediate reductions. For FY 12, UMMG will receive the following:
 - **\$2,007,300 for the UM Cancer Research grant; and**
 - **\$1,223,000 for the Baltimore City Public Health Grant.**
- **Mandated Funding Beginning in FY 13** - The statute mandates \$10 million for the Cancer Research Grant beginning in FY 13.

University of Maryland Medical System (UMMS):

- **\$3,200,000 - Shock Trauma Subsidy** - Beginning in FY 10, annually the Maryland Health Care Commission disburses to the Shock Trauma Center \$3 million from the Maryland Emergency System Operations Fund (MEMSOF) as an operating subsidy for standby costs, homeland security requirements and \$200,000 is disbursed from the Maryland Institute for Emergency Medical Services Systems (MIEMSS) to help support research and educational program costs.

Note: By 01/01/12, MIEMSS is to submit a report evaluating the legality, feasibility, and ramifications of transitioning to an insurance bill system for Maryland residents and fully bill non-residents for Medevac services, thereby creating a potential revenue source for MEMSOF (contingent on Part 135 certification approval by the Federal Aviation Administration).

- **\$750,000 – Kernan Hospital Subsidy** - This state support is budgeted in the Family Health Administration (DHMH) and is to support debt service relating to the construction of the rehabilitation center, which houses the former Montebello Rehabilitation Center population.

Other Major State Operating Budget Provisions (HB 70 and HB 72)

Business and Economic Development (DBED) & Maryland Technology Development Corporation (TEDCO):

- **Maryland Venture Capital Fund (New)** - See HB 173 (described in Part II of this report).
- **Stem Cell Research Funds** - \$12.4 million appropriation (the Senate had cut \$2 million, but the Conference Committee restored it).
- **Biotechnology Investment Tax Credits** - \$8.0 million appropriation.
- **New Biotechnology Grant Assistance** - \$1.7 million appropriation.

Health & Mental Hygiene, Department of (DHMH):

- **Medicaid Appropriation** - Totals \$6.9 billion, growing by 13.8% over FY 11. Enrollment is anticipated at 900,000 for FY 12. The budget reduced physician fees by 1% (both fee-for-service and MCOs). The budget also assumes \$15 million in unidentified cost containment actions and a legislative reduction of \$5 million by limiting claims processing and eligibility determination errors and implementing other efficiencies.
- **Study to Reduce Medicaid Spending** - Restricts \$100,000 pending a report by 12/15/11 after DHMH convenes a workgroup of interested parties to: (1) examine the sustainability of special fund revenues supporting the program; (2) examine the cost drivers of Medicaid; and (3) make recommendations to reduce expenditures and expenditure growth.
- **Medicaid MCO Rates** - The calendar 2011 rate increase for Medicaid Managed Care Organizations (MCOs) was budgeted at 4.4%. Budget actions reduced the increase by 2%, effective 05/01/11.

- **Medicaid Cost-Shift to Hospital Rates/ Revenues:**
 - **Medicaid Funding Assessment** - For FY 12 requires the HSCRC to approve a combination of hospital assessments and remittances totaling \$389.83 million to support the Medicaid Program. In FY 12 the assessment and remittances may be reduced by any savings from Commission approved rates or policies. Hospitals are likely to assume about 15%, with the balance applied to hospital rates. For FY 13 and thereafter, DHMH must adopt policies to generate at least the same amount from a combination of special fund revenues and General Fund savings from reduced payments made by the Medicaid Program. It does not specify the allocation between rates or remittances, but requires that the policies preserve the Medicaid waiver (HB 72- Section 16).
 - **Medicaid Expansion Assessment (Health Care Coverage Fund)** - Imposes a permanent assessment equal to 1.25% of projected regulated net patient revenue (generating up to an estimated \$160 million in FY 12). It assumes that averted hospital uncompensated care due to the expansion of Medicaid in 2007 equals the specified percent. The assessment is uniformly assigned to each hospital (HB 72- Health General Article - Section 19-214 (d) (2)).
 - **MHIP Assessment (Maryland Health Insurance Plan)** - Generates \$126 million in FY 12 (increase of \$4 million over FY 11). This assessment already was permanent in statute. The Governor's Health Care Reform Coordinating Council intends that this assessment is retained after MHIP disbands in 2014. This assessment can be up to 1% of NPR.
 - **Graduate Medical Education** - The legislature rejected the Administration's proposal to pool graduate medical education costs across all hospitals, thereby lowering rates at teaching hospitals while increasing rates at others. Since Medicaid enrollees disproportionately utilize teaching hospitals, this would have generated \$35 million in total fund savings.
- **Medicaid Addiction Treatment Spending** - Requires a report by 09/01/11 on the amount of funds being transferred to Medicaid to provide substance abuse treatment services for enrollees in the Primary Adult Care (PAC) program and through HealthChoice.
- **Long-Term Care Reform** - Requires a report by 12/01/11 on the long-term care reform stakeholder process to develop strategies to reform the delivery of long-term care services.
- **Mental Illness and Substance Abuse** - Requires a report by 12/15/11 after DHMH convenes a workgroup of interested parties to develop a system of integrated care for individuals with serious mental illness and substance abuse issues.
- **Problem Gambling** - Restricts \$1.25 million pending a report on how funds for problem gambling services and treatment will be allocated, how a network of clinically appropriate services will be established, and the establishment of a 24-hour hotline for compulsive gamblers.
- **Community Mental Health Service Cost Containment** - Restricts \$100,000 pending: (1) by 07/01/11, a report detailing cost containment actions implemented; and (2) by 12/01/11, a report detailing impact of cost containment actions on access to care for persons with serious mental illness and on the financial condition of providers.
- **State-Run Psychiatric Hospital Capacity** - Restricts \$200,000 pending a report by 12/01/11 on the future demand for state-run psychiatric hospitals, including best-practices for operations and appropriate site locations.

- **Spring Grove Hospital** - Provides that \$50,000 may only be used to contract for a redevelopment plan for Spring Grove Hospital Center to include detail on parcels dedicated for: a new hospital, the University of Maryland, Baltimore County, recreation space for Baltimore County, and mixed use development with a report due by 09/01/11.

Human Resources, Department of (DHR):

- **Child Welfare Caseload Data** - Requires a report by 12/01/11 and 03/01/11 on the actual number of cases and filled positions assigned, by jurisdiction, for specified caseload types in order to ensure an adequate child welfare workforce.
- **Guardianship for Disabled Adults** - Requires a workgroup of specified parties and a report by 10/01/11 to develop a uniform statewide policy relating to the appointment of temporary limited guardianship for hospitalized disabled persons.
- **Consolidation of Local Department Administrative Functions** - Requires a report by 08/01/11 on the planned actions, impact of consolidation, and operational saving from a consolidation.

Maryland Higher Education Commission (MHEC):

- **Appropriations** - HB 70 includes the following for FY 12, which could benefit students:
 - Wellmobile - \$285,250 (added by the Governor in the Supplemental Budget, as cited above);
 - Complete College Maryland (New) - \$250,000 competitive grants for research based college completion best practices;
 - Delegates Scholarships - \$5.2 million;
 - Graduate and Professional Scholarships - \$1.17 million;
 - Janet Hoffman Loan Assistance Repayment Program - \$1.5 million (rejected cut recommended by the Department of Legislative Services);
 - Loan Assistance Repayment for Physicians - \$.5 million;
 - Nurse Support Program II - \$13.9 million;
 - Senatorial Scholarships - \$6.5 million; and
 - Workforce Shortage Student Assistance Grants - \$1.3 million.
- **Distinguished Scholar Program** - The Governor reduced funding by \$1.1 million (leaving a \$3 million appropriation for FY 12). HB 72 prohibits MHEC from awarding any new grants for the 2011-2012 academic year or thereafter and repeals the program effective July 1, 2015.
- **Program Reviews** - HB 72 authorizes MHEC to charge an application fee from an institution of postsecondary education seeking approval of academic program actions, with an exemption for programs at regional higher education centers. This is expected to generate \$300,000.

Personnel and Other Miscellaneous Actions:

Provisions in both HB 70 and HB 72 provide significant changes relating to salary actions, health care benefits, and pension benefits for state employees:

- **Employee Bonus** - HB 70 provides a one-time \$750 bonus for employees who began service before July 1, 2011, which is to be spread over 26 pay periods.
- **Furloughs and Salary Reductions** - For the first time in three years, the budget does *not* include a furlough of state employees or a temporary salary reduction.
- **Salary Actions** - See description set out under USM section, which broadly applies to all state employees.
- **Abolished Positions** - The Conference Committee agreed on provisions to require that 450 positions be abolished during FY 2012 with a reduction of \$17.3 million in General Fund salaries and fringe benefits. The positions are to be abolished on or before 01/01/12. The reduction may be reduced on a dollar-for-dollar basis to reflect the abolition of special funded positions and the funding shall be credited to the General Fund as provided in HB 72 (Section 15).
- **Fair Share Pay** - Higher education is explicitly exempt from the statute (Chapter 187 of 2009) allowing bargaining units to levy charges to non-members in eligible Executive Branch Agencies in an amount that may not exceed the monthly dues payments.
- **Administrative Leave Days** - Executive Branch employees on furloughs in fiscal 2011 will be eligible for five paid administrative leave days in FY 2012. This provision does not directly apply to higher education.
- **Prescription Drug Benefits**
 - **Program for Current Employees** - Co-pays increase as follows: Generics from \$5 to \$10; preferred brands from \$15 to \$25; and non-preferred brands from \$25 to \$40. The preference for members to utilize mail orders is eliminated (co-pays will be the same as listed above). The out-of-pocket cap is raised from \$700 to \$1,000 for individuals and to \$1,500 for family plan members. The state will continue to provide an 80% subsidy.
 - **Program for Retirees** – Creates a separate program for existing and future retirees which will mirror the plan for active employees in terms of co-pays, but with an out-of-pocket cap of \$1,500 per individual/\$2,000 per family. Retirees will pay 25% of the monthly premium (versus the 20% for active employees). The state plan is discontinued for Medicare-eligible retirees in FY 2020 (i.e. retirees will shift to Medicare-Part D in FY 2020).
 - **Eligibility for Retiree Benefits** – For current employees, no change in eligibility for the retiree benefit (i.e. full premium earned with 16 years of service). For new employees as of July 1, 2011, extends the period to qualify for the retiree benefit from 5 to 10 years and extends the period before the maximum benefit is earned from 16 to 25 years.

- **Pension Reform** - These changes do NOT apply to those in the Optional Retirement Program or in the (Old) Teachers and Employees Retirement Systems. Reference to “service” refers to “creditable service” as determined by the State Retirement Agency and “new employees” refers to those hired on or after July 1, 2011. Final guidance should be obtained directly from the State Retirement Agency.
 - **Employee Contributions/ Defined Benefits** -
In the Employee’s and Teacher’s Pension Systems (EPS/TPS), current employee contributions increase from 5% to 7% of salary to continue receiving the 1.8% multiplier for each year of service earned; new employees must contribute 7% to earn a 1.5% multiplier.

For current and new employees in the Law Enforcement Officers Pension System (LEOPS), employee contributions will be 6% in FY 12 (up from 4% applicable for current employees) and then increase to 7% in FY 13, to be eligible for the 2% multiplier for each year of service earned.
 - **Average Final Compensation** - For new employees in the EPS/TPS and LEOPS, average final compensation will be based on the 5 consecutive years with the highest average (up from the 3 year period applicable for current employees).
 - **Vesting Period** - For new employees in the EPS/TPS and LEOPS, the vesting period is 10 years (up from 5 year period applicable for current employees).
 - **Early Retirement Allowance** - For new employees in the EPS/TPS, must be at least age 60 (up from 55 for current employees) with at least 15 years of service, with the benefit reduced 0.5% for every month the employee retires before age 65 (up from age 62).
 - **Full Service Retirement** - For new employees in the EPS/TPS must be at least age 65 with 10 years of service or meet Rule of 90 (sum of age and service). Note: current employees can retire after 30 years with no age requirement or age 62 with at least 5 years of service.
 - **Cost of Living Adjustments** - For new and current employees in the EPS/TPS and LEOPS, all service credit earned after July 1, 2011 is capped at: (a) 2.5% when the State Retirement and Pension System (SRPS) achieves assumed earnings (current assumption is a 7.75% rate of return) or (b) capped at 1% if the assumed earnings are below or do not equal the assumed rate of return.
 - **DROP (Deferred Retirement Option Program)** - Any new accounts after July 1, 2011, earn interest at 4% compounded annually (in lieu of the current 6% compounded monthly).
- **Reductions - Across the Board** - Provisions in HB 70 require that all across-the-board reductions apply to the University System of Maryland (USM) and other public higher education institutions.

STATE CAPITAL BUDGET

HB 71 – Creation of a State Debt – Maryland Consolidated Capital Loan **HB 748 – Academic Facilities Bonding Authority**

Items of interest to the university community follow:

University of Maryland, Baltimore (UMB):

- **\$4,000,000 – Health Sciences Research Facility III:** Provides funds for preliminary design of a new research facility, subject to the requirement that the University of Maryland, Baltimore provide an equal and matching fund for this purpose. This appropriation accelerates state funds for this project that was included in the Governor’s Capital Improvement Plan, but not scheduled for any state funding until FY 15. The project is estimated to cost \$284.5 million. It is to be located on the site presently occupied by Hayden-Harris Hall (former Dental School facility). Approximately, two-thirds of the facility will address space needs for research, with the remaining one-third to support functions currently in the Medical School Teaching Facility to enable the phased renovation of that building.
- **\$2,675,000 – UMB Facilities Renewal (HB 748):**
 - Medical School Teaching Facility – Mechanical Infrastructure Upgrade - \$990,000;
 - Fire Alarm System Upgrades and Replacements – Campus wide - \$500,000;
 - Mechanical HVAC Upgrades Campus wide - \$750,000; and
 - Medical School Teaching Facility –Electrical Distribution System Upgrade (Phased) - \$435,000.

University of Maryland Medical System (UMMS):

- **\$10.0 million - Trauma, Critical Care, and Emergency Medicine Expansion** - To provide a grant to assist in the construction and equipping of the University of Maryland Medical Center – Trauma, Critical Care, and Emergency Medical Services Expansion project. The project is a seven story patient-care building that will connect the Shock Trauma Center (STC) and the Weinberg Building. When finished, the new facility will include an expansion of the Emergency Department, a surgical suite with 10 new operating rooms, a simulation center/training lab, 12 surgical intensive care beds, and 48 trauma beds. The project is expected to cost \$160.0 million and be completed in FY 14. The state’s commitment is \$50.0 million. UMMS is to provide \$97 million and expects to receive \$13.0 million in federal funding through the Department of Defense. To date, UMMS has received \$2.4 million of the \$13.0 million total.
- **State Support for Shock Trauma Renewal Deferred in 2011 Budget** - Beginning in fiscal 2009, the state’s support of Shock Trauma’s annual equipment and capital renewal expenses was moved from the operating budget to the capital budget. Prior to fiscal 2009, funding was included in the operating budget from the Maryland Emergency Medical System Operations Fund (MEMSOF) in the amount of \$3.5 million per year. The funding for this renewal was moved to the capital budget to preserve the fiscal integrity of the MEMSOF fund, which was predicted to run a negative balance by the end of fiscal 2011. Budget bill language was included in the 2008 capital budget bill to recognize the legislature’s intent to continue funding equipment and capital renewal expenditures at the STC through fiscal 2011. The fiscal 2011 capital budget submitted by the Governor deferred the final installment of \$3.5 million to fiscal 2012. However, that funding has been deferred to FY 13 due to

sufficient funds from prior state appropriations. Future funding for this project will be coordinated with the expansion project shown above.

- **\$1,000,000 – Maryland General Hospital** – Renovate and expand the emergency department to address space and privacy limitations as well as security and other service needs. Total estimated project cost is \$6.0 million.

HIGHLIGHTS OF THE 2011 SESSION

PART II - OTHER MAJOR LEGISLATION

Part II is a brief description of major bills that were passed by the General Assembly at the 2011 Session. The **2011 End of Session Report**, to be issued in May, will provide more comprehensive information.

Bills take effect on October 1, 2011 unless otherwise indicated. Any of these bills are subject to the Governor's veto. To view a specific bill, go <http://mlis.state.md.us/#bill> and enter the bill number (i.e., HB 70). The 90 Day Report, published by legislative staff shortly after the close of the legislative session, is organized by subject matter and provides a short summary of most bills that pass. A copy of that report will be available at: <http://mlis.state.md.us/other/DLSBriefingsReportsPublications.htm>.

Administration Legislation

The executive branch, under Governor Martin O'Malley and Lieutenant Governor Anthony Brown, submitted a package of legislation addressing health care; economic innovation, energy and the environment; public safety and state government; and the workforce. In addition to the budget bills described in Part I, the following Administration sponsored bills passed during the 2011 Session:

- Health Care
 - Health Insurance – Conformity with Federal Law (HB 170 / SB 183)
 - Maryland Health Benefit Exchange Act of 2011 (HB 166 / SB 182)
 - Prescription Drug Monitoring Program (HB 1229 / SB 883)
- Economic Innovation, Energy, and the Environment
 - Business and Economic Development – Invest Maryland Program (HB 173)
 - Electricity - Net Energy Metering (HB 860 / SB 380)
 - Electric Companies – Pilot Program for Charging Electric Vehicle (HB 164 / SB 179)
 - Horse Racing – Distribution of Video Lottery Revenues (HB 1039)
 - Maryland Electric Vehicle Infrastructure Council (HB 167 / SB 176)
 - Maryland Electricity Service Quality and Reliability Act – Safety Violations (HB 391 / SB 692)
 - Natural Resources - Aquaculture (HB 1053 / SB 847)
 - Renewable Energy Portfolio Standard - Renewable Energy Credits - Solar Water Heating Systems (HB 933 / SB 717)
 - State Government – Land Acquisitions and Transfers of Property (HB 1025 / SB 849)
 - Tax Credit for Electric Vehicle Recharging Equipment (HB 163)
- Public Safety and State Government
 - Criminal Law – Child Neglect (HB 162 / SB 178)
 - Criminal Law – Restrictions Against Use and Possession of Firearms (HB 241 / SB 174)
 - Federal Military and Overseas Voter Empowerment Act Compliance (HB 671)
- Workforce
 - Collective Bargaining – Independent Home Care Providers (HB 171)
 - Unemployment Insurance – Federal Extended Benefits for Long-Term Unemployed (HB 1228 / SB 882)

HB 162 / SB 178 - Criminal Law – Child Neglect

These Administration bills establish the misdemeanor of child neglect, with a maximum penalty of five years in jail and a \$5,000 fine. Neglect is defined as the intentional failure to provide necessary assistance and resources for the physical needs or mental health of a minor that creates a substantial risk of harm to the minor's physical health or a substantial risk of mental injury to the minor, but not when the failure is due solely to a lack of financial resources or homelessness.

HB 166 / SB 182 - Maryland Health Benefit Exchange Act of 2011

These Administration bills establish the governance, structure, and funding of the Maryland Health Benefit Exchange, a public corporation and independent unit of government created to (1) reduce the number of uninsured; (2) facilitate the purchase and sale of qualified health plans in the individual market; (3) assist employers with enrollment of their employees and in accessing small business tax credits; (4) assist individuals in accessing public programs, premium tax credits, and cost-sharing reductions; and (5) supplement the individual and small group insurance markets outside of the exchange. The exchange will be governed by a nine-member Board of Trustees consisting of the Secretary of the Department of Health and Mental Hygiene (DHMH), the Maryland Insurance Administration (MIA) Commissioner, the Executive Director of the Maryland Health Care Commission (MHCC), and six members appointed by the Governor. Among the Governor's appointees are representatives who have public health research expertise and representatives with administration of public or private health care delivery systems and financing. The Board must study and report on specified functions and is prohibited from implementing those functions until the Governor and General Assembly enact additional legislation. The bills also establish a Maryland Health Benefit Exchange Fund. These bills take effect June 1, 2011.

HB 170 / SB 183 - Health Insurance – Conformity with Federal Law

These Administration bills alter State insurance law to conform to federal requirements under the "Affordable Care Act" and allow the MIA to enforce such requirements. These provisions include coverage of children up to age 26, preexisting condition exclusions, policy rescissions, wellness programs, lifetime limits, annual limits for essential benefits, waiting periods, designation of primary care providers, access to obstetrical and gynecological services, emergency services, summary of benefits and coverage explanation, minimum loss ratio requirements and premium rebates, and disclosure of information.

The bills also correct a portion of Maryland's Mental Health Parity Law to meet the requirements of the federal Mental Health Parity and Addiction Equity Act of 2008. To comply with federal law, the bills clarify the definition of small employer and require MHCC to include mental health and substance abuse benefits required under the mental health parity law in the small group market for those employers that, through inclusion of part-time employees or growth in the total number of employees over time, meet the large employer definition. These bills take effect July 1, 2011, and apply to all group and individual health benefit plans that begin on or after July 1, 2011.

HB 173 - Business and Economic Development – Invest Maryland Program

This Administration bill creates a State-supported venture capital program and also increases funding for the Enterprise Fund and Maryland Small Business Development Financing Authority (MSBDFA) within the Department of Business and Economic Development (DBED). The bill authorizes DBED to award a

total of \$100.0 million in tax credits under the program. The programs will receive an estimated \$70.0 million in total funding from fiscal 2012 through 2014, which is provided through the creation of a tax credit against the insurance premium tax for insurance companies that make qualified contributions to the program. Two-thirds of the fund would be invested on the state's behalf by private venture capitalists, with a focus on larger, growth-stage firms. The remaining one-third of the money will be controlled by DBED, which would focus its investments on entrepreneurial and early-stage companies and qualified businesses located in rural areas of the state. The bill establishes a nine-member advisory board within DBED. Among the membership of the board, at least four members must have experience working with companies that have raised investment capital for seed-state and venture-state companies, with at least one individual with experience in higher education research and development and technology transfer projects. The bill takes effect July 1, 2011.

HB 241 / SB 174 - Criminal Law – Restrictions Against Use and Possession of Firearms

These Administration bills establish a statutory maximum penalty of 15 years for possession of a regulated firearm by a person previously convicted of certain crimes of violence or drug-related crimes. A violator is guilty of a felony and subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. The bills also expand the current definition of firearm to include an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded.

HB 286 - Hospitals and Freestanding Ambulatory Care Facilities - Practitioner Performance Evaluation

This bill requires a hospital or freestanding ambulatory care facility to establish, as a condition of licensure, a practitioner performance evaluation process that objectively evaluates the performance of each member of the medical staff at the hospital or facility.

With regard to a hospital, the practitioner evaluation process must include a review of care provided to patients at the hospital. The review of care must be (1) undertaken for cases chosen at random and for cases with unexpected adverse outcomes; (2) based on objective review standards; and (3) conducted by either members of the medical staff or external reviewers who have been trained to perform such an evaluation, are of the same specialty as the individual under review, and are not otherwise associated with the case. The review of care must also include a review of the appropriateness of the plan of care for the patient. A hospital must take the practitioner performance evaluation results into account in the reappointment process. If a hospital fails to comply with these requirements, the Secretary of DHMH may impose a fine of up to \$500 per day per violation for each day a violation continues.

With regard to the licensure of a freestanding ambulatory care facility, the Secretary of DHMH must, by regulation, establish procedures for practitioner performance evaluation (instead of procedures for peer review, as currently required). These regulations have to include a review of care, which must be (1) undertaken for cases chosen at random and for cases with unexpected adverse outcomes; (2) based on objective review standards; and (3) conducted by at least two members of the medical staff who have been trained to perform such an evaluation and are of the same specialty as the individual under review. If the individual under review is a solo practitioner, the review of care must be conducted by an external reviewer. The review of care must also include a review of the appropriateness of the plan of care for the patient. A freestanding ambulatory care facility has to take the practitioner performance evaluation results into account in the reappointment process.

HB 354 / SB 578 - State Board of Dental Examiners - Dentists and Dental Hygienists - Licenses, Temporary Volunteer Licenses, and Temporary Dental Clinic Permits

These bills create a temporary volunteer dentist license, a temporary volunteer dental hygienist license, and a temporary dental clinic permit to be awarded by the State Board of Dental Examiners. The bills prohibit licensees from paying an application fee or from requiring continuing education as a condition for the issuance of a license. Temporary volunteer dentists are prohibited from administering, maintaining, or monitoring general anesthesia or sedation. A temporary volunteer dentist or a temporary dental clinic must provide patients with a summary of the services provided and instructions for recommended follow-up.

Temporary volunteer dental hygienists are prohibited from administering local anesthesia or administering, maintaining, or monitoring nitrous oxide oxygen. A temporary volunteer dental hygienist licensee must practice under the general supervision of a dentist who is on-site. Temporary volunteer dental hygienist licensees may, but are not required to, perform an assessment of dental needs and provide dental hygiene services prior to an examination by a supervising dentist.

The bills also specify the amount of clinical practice required for a reciprocal license if a dentist or dental hygienist has not passed a regional board examination. These bills take effect July 1, 2011.

HB 450 / SB 514 - Maryland Community Health Resources Commission – Health Care Reform – Implementation

These bills authorize the Maryland Community Health Resources Commission (MCHRC) to assist community health resources in preparing to implement federal health care reform. More specifically, this effort should assess the administrative infrastructure and information technology capacity of community health resources, identify partnering opportunities among providers, and barriers in contracting with third-party payors. MCHRC must also develop a business plan for the State to provide ongoing assistance to community health resource providers in sustaining and enhancing their service delivery. The definition of “community health resource” is altered to encompass outpatient behavioral health programs rather than outpatient mental health clinics. MCHRC must make recommendations for a plan to assist community health resource providers by January 1, 2012. These bills take effect July 1, 2011.

HB 456 / SB 120 - Procurement - Minority Business Participation

These bills extend the termination date of the State’s minority business enterprise (MBE) program for one year, until July 1, 2012, and make substantive and technical changes to the program. Under current law, the State’s MBE program establishes a goal that at least 25% of the total dollar value of each agency’s procurement contracts be awarded to MBEs, including 7% to African American-owned businesses and 10% to woman-owned businesses. There are no penalties for agencies that fail to reach these targets. The bills maintain the current overall goal of 25% but eliminate the statutory subgoals for women and African American-owned businesses. Instead it authorizes the Governor’s Office on Minority Affairs (GOMA), in consultation with the Maryland Department of Transportation (MDOT) and the Office of the Attorney General, to establish guidelines for each unit to consider while determining whether to set subgoals. The bills also clarify that a procurement unit should consider the practical severability of contracts and codifies in statute the practice of granting waivers from MBE participation goals. These bills take effect July 1, 2011.

HB 523 - Courts - Fee for the Special Admission of an Out-of-State Attorney - Janet L. Hoffman Loan Assistance Repayment Program

This bill requires the State Court Administrator to assess a \$100 fee for the special admission of an out-of-state attorney and to pay \$75 of the fee to the Janet L. Hoffman Loan Assistance Repayment Program (LARP). Any revenues paid to LARP from the \$100 fee must be allocated to assist eligible law school graduates whose applications for loan repayment assistance under LARP were denied by the Maryland Higher Education Commission (MHEC) due to insufficient funds.

HB 587 - Biotechnology Investment Tax Credit - Qualified Maryland Biotechnology Company

This bill provides that, in fiscal 2012 and 2013, a biotechnology company that has been in active business for up to 15 years can qualify as a biotechnology company and be eligible to receive investments for which tax credits can be awarded. An investor who invests at least \$25,000 in a qualified Maryland biotechnology company can claim a credit equal to 50% of the investment, not to exceed \$250,000. The Governor's budget includes \$8.0 million in funding for the tax credit. This bill takes effect June 1, 2011, and applies to initial tax credit certificates beginning in fiscal 2012.

HB 665 / SB 557 - Commission on Maryland Cybersecurity Innovation and Excellence

These bills establish the Commission on Maryland Cybersecurity Innovation and Excellence. The commission must, among other things (1) review current federal and State laws, standards, and policies; (2) provide recommendations regarding strategic plans to promote cybersecurity innovation; and (3) recommend methods of promoting innovation through public-private partnerships, the education system, research and development, and selection of a State agency suitable to implement a pilot program. Among the membership of the commission are four representatives from higher education appointed by the Governor. The University of Maryland University College must provide staff support for the commission. The commission must report interim findings by January 1, 2012, and final findings and recommendations by September 1, 2014. These bills take effect July 1, 2011, and terminate December 31, 2014.

HB 736 / SB 722 - Electronic Health Records - Incentives for Health Care Providers – Regulations

These bills specify that incentives to health care providers to promote the adoption and meaningful use of electronic health records (EHRs), as required under regulations adopted by MHCC, must be paid in cash, unless an incentive of equivalent value is agreed upon by the State-regulated payor and the health care provider. The bills require MHCC in consultation with DHMH and other stakeholders to study whether incentives for adoption of EHRs should be expanded beyond primary care providers and report their findings by January 2013. These bills take effect July 1, 2011.

HB 766 / SB 644 - State Government - Transparency and Open Government

These bills establish a Joint Committee on Transparency and Open Government within the General Assembly to provide continuing legislative oversight regarding transparency and open government, and to recommend initiatives that increase citizen access to government resources, publications, and actions. The taskforce is charged with numerous tasks, including, (1) identifying areas in which the State can improve its technology and websites to increase transparency and citizen engagement; (2) making

recommendations regarding State transparency goals and policies; (3) consulting with State entities that foster transparency; (4) reviewing State laws, programs, services, and policies and making recommendations to align them with State transparency policies and goals; and (5) recommending methods of increasing public awareness of government resources, publications, and websites. The bills also provide that public bodies need not prepare written minutes of an open session if live and archived video or audio streaming of the open session is available. The joint committee must report annually by December 1 on its work and recommendations. These bills take effect June 1, 2011.

HB 778 / SB 743 - Family Planning Works Act

These bills expand eligibility for family planning services in the Medicaid program, beginning January 1, 2012, and subject to the limitations of the budget, to all women whose family incomes are at or below 200% of federal poverty guidelines (FPG). The Governor's budget includes \$4,000,000 to implement this legislation.

HB 784 / SB 723 - Medical Records - Health Information Exchanges

These bills require MHCC to adopt regulations for the privacy and security of protected health information obtained or released through a health information exchange by specified parties. The regulations, which must be developed in consultation with health care providers, payors, State health agencies, consumer advocates, and employers, must include protections for the secondary use of protected health information, and limitations on the sale of data. The regulations will not apply to protected health information exchanged (1) between a hospital and credentialed members of the hospital's medical staff; (2) among credentialed members of a hospital's medical staff; or (3) between a hospital and certain ancillary clinical service providers.

Chapter 689 of 2009 required MHCC and the Health Services Cost Review Commission (HSCRC) to designate a health information exchange by October 1, 2009. The commission selected the Chesapeake Regional Information System for our Patients (a nonprofit organization) to build the health information exchange. In its December 2010 report to the Governor, MHCC identified certain legislative changes necessary to facilitate the statewide health information exchange. Specifically, the report recommended that State law be changed to (1) establish liability protections for the health information exchange and participating providers; and (2) authorize MHCC to establish policies governing health information exchanges to ensure the privacy and security interests of individuals whose health information is held by or flows through an exchange.

HB 841 / SB 664 - Health Occupations - Dental Hygienists - Nitrous Oxide

These bills authorize dental hygienists to monitor a patient to whom nitrous oxide is administered. The State Board of Dental Examiners is authorized to adopt reasonable requirements for the education, training, evaluation, and examination of dental hygienists who wish to monitor nitrous oxide and the monitoring of patients receiving nitrous oxide by a dental hygienist. In addition, the bills require a dental hygienist to be under the supervision of a dentist who is physically present on the premises. These bills sunset on September 30, 2014.

HB 983 / SB 584 - Public Health - Cord Blood Transplant Program

These bills establish a Cord Blood Transplant Program and Cord Blood Transplant Center Support Fund in DHMH to provide funding, subject to the limitations of the State budget, to qualified medical institutions to establish or maintain a cord blood transplant program. “Qualified medical institution” means a Maryland medical institution accredited by the Joint Commission on Accreditation of Health Care Organizations with an established hematologic malignancies (cancers that affect blood, bone marrow, and lymph nodes) research program. DHMH must adopt regulations to administer the fund.

HB 986 / SB 845 Pharmacists – Administration of Vaccinations – Children

These bills authorize licensed pharmacists to administer an influenza vaccination to an individual if the individual is at least nine years old and the vaccination is administered in accordance with regulations adopted by the State Board of Pharmacy, in consultation with the DHMH, rather than jointly with the State Board of Nursing and the State Board of Physicians. A pharmacist must report any influenza vaccination administered to an individual age 9 to 18 to the Maryland Immunization Registry.

HB 1213 / SB 994 – Sales and Use Tax – Alcoholic Beverages – Supplementary Appropriation

These bills, although not identical, are supplementary appropriation bills, which increase the state sales and use tax rate on alcoholic beverages from 6% to 9% effective July 1, 2011 and direct appropriations in FY 2012 for specified purposes. HB 1213 provides a supplementary appropriation of \$47.5 million to fund public school construction projects. SB 994 provides a supplementary appropriation of \$15 million to fund a Waiting List initiative for the Developmental Disabilities Administration. These bills take effect July 1, 2011.

HB 1229 / SB 883 - Prescription Drug Monitoring Program

These Administrations bills establish the Prescription Drug Monitoring Program (PDMP) in DHMH for Schedules II through V drugs. The mission of the program is to (1) assist prescribers, dispensers, and public health professionals in the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion; and (2) promote a balanced use of prescription drug monitoring data. Prescription monitoring data may not be used as the basis for imposing clinical practice standards.

For each monitored prescription drug dispensed, a dispenser must electronically submit data to PDMP in accordance with regulations adopted by DHMH. Prescription monitoring data are confidential and privileged, and are not subject to discovery, subpoena, or other means of legal compulsion in civil litigation. Prescription monitoring data are not public records and may not be disclosed to any person except as specifically authorized under the bill.

The Secretary of DHMH, in consultation with an Advisory Board on Prescription Drug Monitoring established in the bill, must adopt regulations to carry out the bill’s provisions. Among the membership of the advisory board are four physicians, one nurse practitioner, and three pharmacists. In addition, the bills require the Secretary and the board to consult with other stakeholders and professionals to obtain input and guidance about implementation of the program. Within 180 days of the board’s first meeting, an interim report relating to the design and implementation of the program, including regulations, legislation, and sources of funding, must be submitted. The board must also report annually to the Governor and the

General Assembly on specified issues. Implementation of the program is subject to the availability of funds.

SB 167 - Public Institutions of Higher Education - Tuition Rates - Exemptions

This bill exempts certain individuals who attended and graduated from Maryland high schools or received the equivalent of a high school diploma from paying out-of-state tuition at state community colleges. Students must also meet certain income tax documentation requirements and, if applicable, selective service registration requirements. Those who are not permanent residents must apply to become a permanent resident within 30 days after becoming eligible to do so.

An individual who satisfies the requirements for the community college out-of-state tuition exemption and who also was awarded an associate's degree or achieved 60 credits at a state community college is eligible to pay the in-state tuition rate at a state public senior higher education institution. Students who are granted this eligibility will still be considered out-of-state students so as not to be counted in the number of Maryland undergraduate students enrolled at a public senior higher education institution.

The bill also extends the time period from one to four years after discharge in which an honorably discharged veteran must submit specified documentation to qualify for an exemption from paying out-of-state tuition at a community college or public four-year institution. The governing board of each public institution of higher education must adopt policies to implement the bill. This bill takes effect July 1, 2011.

SB 308 - Medical Marijuana - Affirmative Defenses - Maryland Medical Marijuana Model Program Workgroup

This bill establishes medical necessity as an affirmative defense in a prosecution for the use and possession of marijuana. In addition, the bill requires the Secretary of DHMH to convene a workgroup to develop a model program for facilitating patient access to marijuana for medical purposes. Among the workgroup members are three physicians with specialized experience in addiction, pain, oncology, neurology, or clinical research; one nurse with experience in hospice care nominated by a state research institution or trade association; one pharmacist nominated by a State research institution or trade association; and one scientist with experience in the science of marijuana nominated by a state research institution. DHMH must report on the workgroup's findings – including draft legislation that establishes a program to provide access to marijuana in the state for medical purposes by December 1, 2011. The bill takes effect June 1, 2011, and provisions of the bill pertaining to the workgroup terminate May 31, 2012.

SB 695 - Higher Education - Regulation of Public, Private Nonprofit, and For-Profit Institutions of Higher Education

This bill addresses the regulation of for-profit higher education institutions. The bill clarifies the scope of the Maryland Consumer Protection Act to include the unfair or deceptive offer for sale of course credit or other educational services; creates a Guaranty Fund to reimburse students at for-profit institutions of higher education who are entitled to a refund of tuition and fees due to the for-profit institution's breach of agreement or contract with the student or the State; and prohibits the payment of a commission, bonus, or other incentive payment based on success in securing enrollment. The bill also adds a representative of a for-profit institution of higher education to the Governor's P-20 Leadership Council of Maryland.

The program approval process by which the Maryland Higher Education Commission (MHEC) recommends or does not recommend a program for implementation applies to both private nonprofit and for-profit institutions. If a private nonprofit or for-profit institution implements a program despite not being recommended by MHEC, the institution must notify both prospective and enrolled students that the program has not been recommended for implementation.

Financial assistance awarded by the Office of Student Financial Assistance (OSFA) within MHEC may be used at any in-state institution of higher education whose primary campus is in Maryland and whose degree-granting authority is conferred by Maryland, regardless of whether the institution is public, private, nonprofit, or for-profit. This bill takes effect June 1, 2011, except for provisions relating to for-profit institutions' contributions to the Guaranty Fund, which take effect July 1, 2011, and terminate June 30, 2013, and certain provisions relating to financial assistance, which take effect July 1, 2011, and terminate June 30, 2016.

SB 740 - State Government – Access to Public Records – Electronic Documents

This bill requires a custodian of a public record to provide a copy of a public record in a searchable and analyzable electronic format under specified circumstances. The bill may not be construed to require a custodian of a public record to reconstruct a public record in an electronic format if the custodian no longer has the public record available in an electronic format; allow a custodian to make a public record available only in an electronic format; require a custodian to create, compile, or program a new public record; or require a custodian to release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained. A custodian of a public record is authorized to remove metadata from an electronic document before providing it to an applicant, and a custodian may charge an applicant a reasonable fee for making or supervising the making of an electronic copy. This bill sunsets September 30, 2013.

HIGHLIGHTS OF THE 2011 SESSION

PART III – MAJOR BILLS WHICH DID NOT PASS AT THE 2011 SESSION

HB 14 / SB 298	Health Insurance – Medically Underserved Areas and Populations – Reimbursement for Covered Services Rendered by Telemedicine
HB 16 / SB 406	Task Force to Study the Use of Telemedicine in Medically Underserved Populations and Areas
HB 97	Behavioral Health - Integration of Mental Health and Addiction Treatment Services
HB 137	Child Abuse and Neglect - Child Welfare - Alternative Response
HB 165 / SB 175	Maryland Health Quality and Cost Council
HB 180	Coverage of Donor Breast Milk - Infant Survival Act
HB 307 / SB 20	Health Occupations - Facilities for Dental Radiology
HB 340 / SB 887	Health Care Malpractice - Certificate and Report of Qualified Expert – Objection
HB 440	Janet L. Hoffman Loan Assistance Repayment Program - Exemption from Taxation
HB 441	Maryland Food and Nutrition Policy Council - Department of Agriculture
HB 716 / SB 829	Health - Maryland Combating Childhood Obesity Grant Program
HB 737 / SB 415	Vehicle Laws - Prohibition Against Smoking in Vehicle Containing Young Child
HB 742	Maryland Stem Cell Research Fund - Annual Report – Requirements
HB 759 / SB 637	Healthy Kids, Healthy Maryland - Toxic Chemical Identification and Reduction
HB 764 / SB 401	Higher Education - Use of State Employees Instead of Service Contracts
HB 782 / SB 808	Health Occupations - Imaging and Radiation Therapy Services – Accreditation
HB 818	Manufacturers of Prescribed Products - Payments to Health Care Professionals – Prohibition
HB 870 / SB 731	Maryland Stem Cell Research Fund - Annual Report and Symposium

HB 901	Departments of Health and Mental Hygiene and the Environment - Fluoride Levels in Drinking Water – Study
HB 920 / SB 448	State Personnel - Applicants for Employment - Criminal History Records Checks
HB 924	Commission on State-Administered Medical Malpractice Liability Insurance
HB 965	Physician Assistants - Use of C-Arm Devices
HB 1054 / SB 861	Maryland Offshore Wind Energy Act
HB 1129	Maryland Contributory Negligence Act
HB 1227 / SB 881	Economic Development Opportunities Program Account - Wind Turbine Manufacturing Facility
HB 1268 / SB 884	Prescription Drugs - Dispensing Permits
HJ 6 / SJ 6	Safe Harbor Legislation and Regulations Needed to Form Accountable Care Organizations
SB 5	Physicians - Medical Professional Liability Insurance Coverage – Notification and Posting Requirements
SB 116	Civil Marriage Protection Act
SB 559	Environment - Radiology Safety – Regulations
SB 574	Department of Health and Mental Hygiene - Workgroup on Cancer Clusters and Environmental Causes of Cancer
SB 744	Health Insurance - Coverage for Telemedicine Services
SB 855	Local Correctional Facilities - Inmates - Payment for Treatment of Preexisting Condition
SB 886	State Board of Dental Examiners - Dentists - Advertisements – Materials Containing Mercury
SB 889	State Board of Dental Examiners - Dentists - Informed Consent - Removal of Materials Containing Mercury