

# **Budget Reconciliation and Financing Act of 2021**

**House Bill 589/Senate Bill 493**

## **SUMMARY OF PROVISIONS**

## Index

<b>Provision</b>	<b>Annotated Code</b>	<b>Section</b>	<b>Bill Page</b>	<b>Report Page</b>
<u>Section 1</u>				
Shift Financial Consumer Protection Mandate to SF	Commercial Law	14-4104	4	4
Blueprint Uses	Education	5-219	4	5
Cade Formula		16-305	5	6
Sellinger Formula		17-104	10	8
Unused Legislative Scholarship Funds		18-407; 18-501	13	10
MLARP for Foster Care Mandate		18-3201	13	11
Mandate Relief – MPT		24-201; 24-204	13 14	12
Senior Prescription Drug Priority Funding	Health - General	19-2201	14	13
State Reinsurance Program	Insurance	6-102.1	15	14
Senior Prescription Drug Priority Funding		14-106	16	15
Mandate Relief – Health Exchange		31-107.2	18	16
Fisheries Research and Development Special Fund Mandate	Natural Resources	4-209	18	17
Annapolis PILOT Mandate	State Finance and Procurement	4-608	18	18
Revenue Volatility		6-104	19	19
OPEB Payment and Pension Sweeper		7-311	20	20
Rainy Day Fund Appropriation		7-311	20	21
Commerce MSAC Level Fund and Mandate Formula Change		7-325	21	22
Bond Premium Use		8-132	21	23
Cost Share with Local Jurisdictions for Erroneously Confined Payments		10-501	22	24
Marketplace Facilitator Revenue Backfill of ETF	Tax-General	2-1303	23	25
SDAT Cost Shift	Tax-Property	2-106	24	26
Transfer Tax – GO Bond Swap		13-209	26	28
Transfer Tax Repayment Update		13-209	26	29

Medicaid Deficit Assessment	Chapter 397 of the Acts of 2011, etc.		33	31
<u>Section 2</u>				
State Unemployment Insurance Reserve Transfer to General Fund	Uncodified		30	32
<u>Section 3</u>				
IRC Provider Rate 4% Increase	Education Article	8-417	30	33
<u>Section 4</u>				
State Board of Pharmacy Fund Transfer	Health Occupations	12-206	30	34
<u>Section 5</u>				
Board of Counselors Fund Balance Transfer to BHA	Health Occupations	17-206	30	35
<u>Section 6</u>				
Medical Cannabis Commission Fund Balance Transfer	Health Occupations	13-3303	30	36
<u>Section 7</u>				
Local Income Tax Reserve Account – FEMA Reimbursement	Uncodified		30	37
<u>Section 8</u>				
Exception to Budget Book Printing Requirement	Uncodified		31	38
<u>Section 9</u>				
Consumer Protection Recoveries	Uncodified		31	39
<u>Section 10</u>				
Hold Harmless Maintenance of Effort	Uncodified		31	40
<u>Section 11</u>				
Exception to Retiree Earnings Limitation	Uncodified		31	41
<u>Section 12</u>				
Transfer of DPSCS Employees from Closed Facilities	Uncodified		31	42
<u>Section 13</u>				
Effective Date			32	
Out Year Budget Impact				43

## Shift Financial Consumer Protection Mandate to SF

---

### Commercial Law, §14-4104

**Summary of Current Law:** Under current law, the Governor is required to appropriate \$700,000 in General Funds for the Office of the Attorney General for the purposes of enforcing the Maryland Consumer Protection Act of 2018.

**Summary of BRFA:** The BRFA replaces the General Fund mandate with a Special Fund mandate, with the intent of using the Consumer Protection Division (CPD) Recoveries fund balance to support these activities.

**FY 2022 Budget Action:** Contingent reduction of \$700,000 in General Funds and contingent increase of \$700,000 in Consumer Protection special funds.

#### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	-	(\$700,000)	(\$700,000)	(\$700,000)	(\$700,000)	(\$700,000)
<b>SF Expenditures</b>	-	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000

**Other Notes:** This mandate went into effect in FY 2020. General funds were eliminated as part of the July 2020 Board of Public Works action as CPD Recoveries fund balance is available to support these expenditures in FY 2021. Given the ongoing and pressing need for General Funds elsewhere, the BRFA will make this fund swap permanent. The agency can easily absorb this cost with their special fund revenues.

Per the DLS analysis, OAG reports that the CPD Recoveries fund closed with a balance of \$19.2 million in FY 2020 and is projecting a closing balance of \$17.8 million in FY 2021.

## Blueprint for Maryland's Future Fund Uses

---

### Education, Section 5-219

Summary of Current Law: The Blueprint for Maryland's Future Fund is currently restricted to uses recommended by the Commission on Innovation and Excellence in Education ("Kirwan" Commission) and Maryland prekindergarten expansion grants.

Summary of BRFA: This BRFA provision expands allowable uses of Blueprint for Maryland's Future Funds to include providing funds for early childhood and K-12 education for COVID-19 related costs, including one-time education grants provided in fiscal year 2022 to address enrollment declines related to the pandemic and to ensure that every county board receives an increase in State education aid compared to fiscal year 2021.

FY 2022 Budget Action: This expansion clarifies the allowable use of the Fund for hold harmless grants provided in the Allowance in response to declining enrollment (\$213.7 million).

a

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: The \$213.7 million for hold harmless grants is not contingent on the BRFA provision being enacted. This provision simply clarifies DBM's position that this is already an allowable use of Blueprint funds.

The General Assembly amended the Governor's RELIEF Act to authorize \$150 million in Blueprint funding to facilitate delivering in-person classroom and summer school instruction. These funds were included in Supplemental Budget No. 1.

## Aid to Community Colleges – Cade Formula

---

### Education Article, Section 16-305

**Summary of Current Law:** Current law requires the state to use a formula for the distribution of funds to community colleges which considers enrollment as well as fixed and marginal costs. In FY 2022, the amount per full time equivalent student to the community colleges is not less than an amount equal to 27% of the state’s general fund appropriation (including Higher Education Investment Funds) per full time equivalent student (FTES) to certain 4-year public institutions of higher education. In FY 2023 and each fiscal year after, the formula calculation is 29%.

Under the current formula, in FY 2022, Cade funding to community colleges grows 16.2% or \$40.4 million over FY 2021 working levels to \$290.1 million.

**Summary of BRFA:** The BRFA limits funding growth to the community colleges in FY 2022 and the out years by aligning it with revenue growth, and removes the current formula from future calculations. For FY 2022, the BRFA reduces funding by \$26.6 million to \$263.5 million, consistent with general fund revenue growth (5.51%). The distribution of funds among the community colleges is specifically provided in the BRFA (see next page for detail).

Beginning in FY 2023, the amount provided to each college would be the amount provided in the current fiscal year increased by the percentage of general fund revenue growth. Enrollment changes would no longer be a factor in calculating aid. This change will also impact the amount allocated for the Garrett/West Virginia reciprocity grant, which is based on state funding per FTES for Garrett College (reduction of \$5,079 in FY 2022).

**FY 2022 Budget Action:** GF contingent reduction of \$26.6 million

**Fiscal Summary of Provision Compared to Current Law:**

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	0	-\$26.6m.	-\$45.8 m.	-\$46.1 m.	-\$47.6 m.	-\$49.1 m.

Other Notes:

While State funding for the community colleges has been growing (despite budget constraints), enrollment has been declining. Overall, funding has grown by nearly \$44 million or 20% since Governor Hogan took office. Since FY 2015 State funding per student at the community colleges has grown by 57%. Total enrollment at the community colleges has declined for 9 straight years – from a record high of 148,670 in 2011 to \$108,335 in 2020, a 27% decline.

Fiscal summary assumes 1) for current law - annual growth of 4.1% in the state support for the public four year institutions, USM (minus UMGC) enrollment increase projections, and level community college enrollment and 2) for BRFA – general fund revenue projections from the December 2020 BRE estimates. See below for FY 2022 allocation by institution.

**FY 2022 Cade Formula Allocation – Current Statute vs. BRFA Provision**

<b>Institution</b>	<b>FY 2021 Working Funding</b>	<b>FY 2022 Statutory Funding</b>	<b>FY 2022 BRFA Funding</b>	<b>Contingent Reduction</b>	<b>% Change BFRA-Statutory</b>
Allegany	5,189,503	6,273,564	5,475,489	-798,075	-12.72%
Anne Arundel	29,544,083	33,836,363	31,172,213	-2,664,150	-7.87%
Baltimore County	42,451,318	48,795,281	44,790,747	-4,004,534	-8.21%
Carroll	7,685,147	8,829,669	8,108,664	-721,005	-8.17%
Cecil	5,400,963	6,185,956	5,698,602	-487,354	-7.88%
CSM	14,386,506	15,790,365	15,179,325	-611,040	-3.87%
Chesapeake	6,142,473	7,037,525	6,480,975	-556,550	-7.91%
Frederick	11,154,005	13,283,579	11,768,685	-1,514,894	-11.40%
Garrett	2,867,621	3,206,618	3,025,651	-180,967	-5.64%
Hagerstown	8,532,323	10,400,303	9,002,527	-1,397,776	-13.44%
Harford	12,092,900	13,887,341	12,759,322	-1,128,019	-8.12%
Howard	19,809,410	23,830,978	20,901,077	-2,929,901	-12.29%
Montgomery	45,255,118	52,506,449	47,749,060	-4,757,389	-9.06%
Prince George's	31,245,262	37,072,503	32,967,142	-4,105,361	-11.07%
Wor-Wic	7,963,409	9,155,721	8,402,261	-753,460	-8.23%
<b>Total</b>	<b>249,720,041</b>	<b>290,092,215</b>	<b>263,481,740</b>	<b>-26,610,475</b>	<b>-9.17%</b>

## Aid to Nonpublic Institutions – Sellinger formula

---

### Education Article, Section 17-104

**Summary of Current Law:** Current law requires the State to use a formula for the distribution of funds to nonpublic institutions of higher education. In FY 2021 and each fiscal year after, the amount of the annual apportionment for each institution is computed by multiplying the number of full-time equivalent students (FTES) enrolled at the institution during the fall semester of the prior fiscal year by 15.5% of the State’s General Fund (including Higher Education Investment Fund) per full-time equivalent student appropriation to certain 4-year public institutions of higher education. This would result in funding growth of \$29.8 million or 50% over FY 2021 working levels to \$88.1 million.

**Summary of BRFA:** The BRFA proposes level funding Sellinger aid in FY 2022 at \$59 million in total, with each campus receiving the amount received in FY 2021. The distribution of funds to the private institutions is provided in the BRFA (see next page for detail). For FY 2023 and each fiscal year after, the total state operating funds to each institution would be the amount provided in the current fiscal year increased by the percentage of general fund revenue growth less one percentage point. Enrollment changes would no longer be a factor in calculating aid.

**FY 2022 Budget Action:** GF contingent reduction of \$29.8 million

### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	-	-\$29.8 m.	-\$30.8 m.	-\$32.2 m.	-\$34.0 m.	-\$35.8 m.

**Other Notes:** State support for the independent colleges has grown substantially – by 43% -- under Governor Hogan. State support per full-time equivalent student has grown by 57% in the same timeframe. In addition, the private colleges received \$22.8 million through the Higher Education Emergency Relief Act (HEERF I) under the CARES Act (split almost evenly between institutional support and student aid) and \$2.6 million (\$200k per institution) under GEER. HEERF II provides an additional \$34.8 million for student (\$11.2 m) and institutional aid (\$23.6 m).



Fiscal summary assumes 1) for current law - annual growth of 4.1% in the state support for the public four year institutions, USM (minus UMGC) enrollment increase projections, and level private institution enrollment and 2) for BRFA – general fund revenue projections from the December 2020 BRE estimates. See below for FY 2022 allocation by institution.

### Sellinger Formula

Institution	FY 2020 Funding	FY 2021 Statutory Funding	FY 2021 BRFA Funding	Contingent Reduction	% Change BFRA-Statutory
Capitol Technology University	670,957	958,991	670,957	-288,034	-30.04%
Goucher	2,466,084	2,946,205	2,466,084	-480,121	-16.30%
Hood	1,834,286	2,947,842	1,834,286	-1,113,556	-37.78%
Johns Hopkins	29,019,524	45,780,264	29,019,524	-16,760,740	-36.61%
Loyola	6,534,728	9,490,278	6,534,728	-2,955,550	-31.14%
MICA	2,823,062	3,431,360	2,823,062	-608,298	-17.73%
McDaniel	2,771,043	4,995,322	2,771,043	-2,224,279	-44.53%
Mount St. Mary's	2,676,349	4,386,318	2,676,349	-1,709,969	-38.98%
Notre Dame of Maryland	1,842,589	2,639,840	1,842,589	-797,251	-30.20%
St. John's	843,131	1,050,147	843,131	-207,016	-19.71%
Stevenson	4,358,920	6,340,738	4,358,920	-1,981,818	-31.26%
Washington Adventist	1,171,808	1,417,801	1,171,808	-245,993	-17.35%
Washington College	2,012,424	2,424,959	2,012,424	-412,535	-17.01%
<b>Total</b>	<b>59,024,905</b>	<b>88,810,065</b>	<b>59,024,905</b>	<b>-29,785,160</b>	<b>-33.54%</b>

## Unused Legislative Scholarship Funds

---

**Education Article, Section 18-407**

**Education Article, Section 18-501**

Summary of Current Law: Each year, funding is allocated to the Maryland Higher Education Commission (MHEC) for the Senatorial and Delegate Scholarships. To the extent a scholarship award is not used by a student, the money appropriated not used by the end of the fiscal year shall be retained by MHEC for use by the awarding Senator during subsequent fiscal years. Similar statute also applies to the Delegate scholarships.

Summary of BRFA: Funding appropriated but not used by the end of a fiscal year shall be retained by MHEC for use by the awarding Senator or Delegate for only the subsequent fiscal year. After that, any remaining unused funds shall be deposited in the Need-Based Student Financial Assistance Fund.

FY 2022 Budget Action: No fiscal impact

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: The BRFA will reduce the high balance carried over from year to year for these scholarships, and allows unused funds to go towards student awards in need-based scholarships in future years. At the end of FY 2020 the carry over amount for Senatorial Scholarships was \$5.2 million and Delegate Scholarships was \$1.9 million.

The Need-Based Student Financial Assistance Fund can be used to supplement funding for need-based aid programs administered by MHEC, this includes the Educational Excellence Awards program.

## Maryland Loan Assistance Repayment Program (LARP) for Foster Care Recipients

---

### Education Article, Section 18-3203

Summary of Current Law: Current law mandates an annual appropriation of \$100,000 for the Maryland Loan Assistance Repayment Program (LARP) for Foster Care Recipients.

Summary of BRFA: The BRFA repeals the mandated funding level and allows awards to LARP for Foster Care Recipients to be paid out of funds for the Janet L. Hoffman Loan Assistance Repayment Program

FY 2022 Budget Action: GF contingent reduction of \$100,000.

### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	-	-\$0.1m.	-\$0.1m.	-\$0.1m.	-\$0.1m.	-\$0.1m.

Other Notes: Each year since the start of the program in FY 2017, less than 7% of appropriated funding has been utilized. FY 2020 actual spending was \$6,363. Thus most of the mandated funding gets reverted every year. This nominal level of funding can easily be absorbed under the main LARP program which is funded at \$1.4 million in FY 2022.

## Maryland Public Television (MPT) General Fund Mandate

---

### Education, §24-204

**Summary of Current Law:** The current law states Maryland Public Television’s general fund budget for the upcoming fiscal year must be at least equal to its current fiscal year appropriation increased by the same percent growth as State general fund revenues. It also mandates an increase in the general fund appropriation if the actual amount of special fund revenue from the Corporation for Public Broadcasting (CPB) grant in the second preceding fiscal year was less than assumed in the budget.

**Summary of BRFA:** Beginning in FY 2022, the BRFA eliminates both components of the mandate.

**FY 2022 Budget Action:** GF contingent reduction of \$775,594 to basically level-fund MPT at the FY 2021 working level.

### Fiscal Summary of Provision Compared to Current Law:

	<b><u>FY 2021</u></b>	<b><u>FY 2022</u></b>	<b><u>FY 2023</u></b>	<b><u>FY 2024</u></b>	<b><u>FY 2025</u></b>	<b><u>FY 2026</u></b>
<b>GF Expenditures</b>	-	-\$775,594	-\$1.2M	-\$1.6M	-\$2.0M	-\$2.4M

**Other Notes:** This forecast assumes the Center for Public Broadcasting grant is always fully funded. The forecast values are based on projected general fund increases in the next five fiscal years with the level funded FY 2022 amount as the baseline.

A similar provision was included in the 2020 BRFA as introduced but was stricken by the General Assembly.

## Senior Prescription Drug Assistance Program Priority Funding

---

### Health § 19-2201 and Insurance § 14-106

Summary of Current Law: Title 6 of the Insurance Article establishes a 2 percent premium tax on insurers. CareFirst is exempt from this tax, but instead must make a different payment to the State. The funds collected from the premium tax exemption may be used to: subsidize the Senior Prescription Drug Assistance Program (SPDAP); subsidize the Kidney Disease Program; support the costs of the Community Health Resources Commission (CHRC; or subsidize the provision of mental health services to the uninsured. § 14-106 of the Insurance Article states that the CHRC subsidy must be *no less than* \$8 million annually, and the SPDAP subsidy *may not exceed* \$14 million annually. § 19-2201 of the Health Article specifies the uses of the CHRC subsidy, as well as reiterates that the CHRC amount *may not be less than* \$8 million.

Summary of BRFA: The BRFA provision will change the priority funding order from the premium tax exemption to stipulate that CHRC will receive a maximum of \$8 million instead of the current minimum of \$8 million. By doing so, and setting a ceiling rather than a floor for CHRC funding, the provision allows additional funding to flow to SPDAP.

FY 2022 Budget Action: \$4.4 million contingent reduction to the CHRC special fund appropriation and a \$4.4 million contingent increase in the special fund appropriation for SPDAP.

Fiscal Summary of Provision Compared to Current Law: N/A – net \$0 impact

Other Notes: A similar provision was included in the 2020 BRFA as introduced but was stricken by the General Assembly.

## State Reinsurance Program

---

### Insurance § 6-102.1

Summary of Current Law: Funds collected from the assessment on health insurance providers under this section are to be distributed to the Maryland Health Benefit Exchange (MHBE) to be used to support the stabilization of the individual marketplace.

Summary of BRFA: The BRFA provision allows \$100 million of the funds collected under this section to be transferred to the Maryland Medical Assistance Program (Medicaid) in each fiscal year from 2021 through 2026.

FY 2022 Budget Action: GF contingent reduction in Medicaid of \$100 million and authorization to process a \$100 million SF budget amendment.

Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	-\$100.0 m.	-\$100.0 m.	-\$100.0 m.	-\$100.0 m.	-\$100.0 m.	-\$100.0 m.
<b>SF Expenditures</b>	\$100.0 m.	\$100.0 m.	\$100.0 m.	\$100.0 m.	\$100.0 m.	\$100.0 m.

Other Notes: Based on the latest State Reinsurance Program cost estimates from MHBE, a projected fund balance of \$802.4 million could remain at the end of 2023, as federal funds are expected to cover the entire costs of the program for 2019 through 2023.

DLS is going to propose a technical amendment to the BRFA to clarify that the \$100 million in annual funding for Medicaid can come from fund balance as well as new revenues collected through CY 2023.

## **Senior Prescription Drug Assistance Program Priority Funding**

---

**Health § 19-2201 and Insurance § 14-106**

See summary on page 13.

## Maryland Health Benefit Exchange Mandate

---

### Insurance §31-107.2

Summary of Current Law: Current law requires an annual appropriation to the Maryland Health Benefit Exchange (MHBE) of at least \$35 million from funds received from the distribution of premium tax revenue.

Summary of BRFA: The BRFA provision reduces the mandated amount to \$32 million beginning in FY 2022, and each year after.

FY 2022 Budget Action: SF contingent reduction of \$3 million and \$3 million in additional GF revenue.

#### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Revenue</b>	-	\$3.0 m.	\$3.0 m.	\$3.0 m.	\$3.0 m.	\$3.0 m.
<b>SF Expenditures</b>	-	-\$3.0 m.	-\$3.0 m.	-\$3.0 m.	-\$3.0 m.	-\$3.0 m.

Other Notes: Reducing the special fund mandate for MHBE increases general fund revenue on a 1:1 basis. Between FY 2017 and FY 2020, MHBE spent on average \$4.7 million less than the \$35 million annual mandated level.

A similar provision was include in the 2020 BRFA as introduced but was amended by the General Assembly to reduce the appropriation to \$31.5 million in FY 2021 only.



## Fisheries Research and Development Special Fund Mandate

---

### Natural Resources §4-209

Summary of Current Law: Current law mandates an annual General Fund appropriation of \$1.794 million into the Fisheries Research and Development Fund in the Department of Natural Resources.

Summary of BRFA: The BRFA eliminates the mandated General Fund appropriation into the special fund for FY 2022 only.

FY 2022 Budget Action: General fund expenditures decrease by \$1,794,000 in FY 2022.

Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	-	-\$1.8m	-	-	-	-

Other Notes: Special fund expenditures are not affected, as there is sufficient fund balance in the Fisheries Research and Development Fund to support the appropriation without general fund support. The Fund closed FY 2020 with a balance of \$5.4 million.

## Annapolis Payment in Lieu of Taxes (PILOT) Mandate

---

### State Finance and Procurement §4-608

**Summary of Current Law:** Current law mandates an annual payment to the City of Annapolis of \$750,000 starting in FY 2021, and an increase starting in FY 2022 based on inflation.

**Summary of BRFA:** The BRFA reduces the mandate to \$367,000, the historical level of PILOT support from the State to the City of Annapolis. The BRFA also eliminates the outyear increases for inflation.

**FY 2022 Budget Action:** General fund expenditures decrease by \$393,500 in FY 2022.

**Fiscal Summary of Provision Compared to Current Law:**

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	-	-393,500	-404,147	-414,943	-425,890	-436,991

**Other Notes:** The current budget does not include the 1.4% inflation in FY 2022, and is budgeted at \$750,000 instead of the mandated level of \$760,500. This will be corrected with a \$10,500 supplemental budget item, which will then be contingently reduced with this BRFA provision.

The outyears assume 1.4% inflation, which matches the percent increase in the Consumer Price Index for All Urban Consumers for the Baltimore Metropolitan Statistical Area from calendar year 2019 to 2020.

Of note, the FY 2021 mandate was reduced by \$383,000 at the July 1, 2020 Board of Public Works meeting.

A similar provision was included in the 2020 BRFA as introduced but was stricken by the General Assembly.

## Revenue Volatility

---

### State Finance and Procurement §6-104

**Summary of Current Law:** Chapters 4 and 550 of 2017 established a cap on income tax nonwithholding revenues. The cap applies when the share of estimated general fund revenues attributable to income tax nonwithholding exceeds the 10-year average. If nonwithholding revenues, as a percentage of general fund revenues, are less than the 10-year average percentage, there is no effect. The cap requires reducing the estimate of nonwithholding income tax revenues so that nonwithholding income tax revenues do not exceed the 10-year average. In some years, actual income tax nonwithholding revenues will exceed the capped estimate. In those years, the Acts specify how the excess revenues are to be allocated. Chapters 4 and 550 originally set the cap at 2.0% of general fund revenues beginning in fiscal 2020. Chapter 10 of 2018 phased in the cap over three years, with no more than 0.5% of projected general fund revenues subject to the cap in fiscal 2020. Chapter 16 of 2019 reduced the cap in FY 20 from 0.5% to 0.225%. Chapter 538 of 2020 slowed the phase in of the revenue volatility adjustment from FY 2022 through FY 2026 with specified dollar amounts.

**Summary of BRFA:** Repeals the required \$80 million revenue volatility adjustment for FY 2022. Future fiscal years are left alone.

**FY 2022 Budget Action:** Increases GF revenue by \$80 million in FY 2022.

**Fiscal Summary of Provision Compared to Current Law:**

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Revenues</b>	\$0.0	\$80.0m	\$0.0	\$0.0	\$0.0	\$0.0

**Other Notes:** Under current law (as amended in the 2020 BRFA), the revenue volatility adjustment may not exceed the following percentages or dollar values:

- 0.225% for fiscal year 2020;
- \$0 for fiscal year 2021;
- \$80,000,000 for fiscal year 2022;
- \$100,000,000 for fiscal year 2023;
- \$120,000,000 for fiscal year 2024;
- \$140,000,000 for fiscal year 2025; and
- 2% for fiscal year 2026 and each fiscal year thereafter.

## OPEB Payment and Pension Sweeper

---

### State Finance and Procurement §7-311

Summary of Current Law: In FY 2022 and beyond, statute mandates that one quarter of the amount, up to \$25.0 million, by which the unappropriated General Fund surplus as of June 30th of the second preceding fiscal year exceeds \$10.0 million be appropriated to each the State Retirement and Pension System and the Postretirement Health Benefits Trust Fund.

Summary of BRFA: The BRFA eliminates the mandate for these supplemental contributions in FY 2022.

FY 2022 Budget Action: GF contingent reduction of \$50.0 million.

Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>		-\$50.0 m.				

Other Notes: The “sweeper” provision was put in place in order to accelerate restoring health to the State’s pension and OPEB positions. These contributions are supplemental to the actuarially mandated amount of funding.

As of June 30, 2020, the State’s pension system’s funded status is 72.9 percent.

As of June 30, 2020 reporting date, the actuary’s Total OPEB Liability was \$10.9 billion. The net assets held in trust for post-retirement health benefits as of June 30, 2020 were \$374.7 million.

## Rainy Day Fund Appropriation

---

### State Finance and Procurement §7-311

Summary of Current Law: Statute mandates that the amount by which the unappropriated General Fund surplus as of June 30th of the second preceding fiscal year exceeds \$10.0 million plus the mandated sweeper appropriations to OPEB and Pension be appropriated to the Revenue Stabilization Account (“Rainy Day Fund”).

Summary of BRFA: The BRFA contingently reduces the appropriation in FY 2022.

FY 2022 Budget Action: GF contingent reduction of \$422,024,965.

### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>		-\$422.0 m.				

Other Notes: The “sweeper” provision changes based on the Rainy Day Fund’s balance as a percentage of revenues. Historically, the target balance has been 5.0% of revenues. In FY 2020 and FY 2021, the Hogan Administration went a step further and submitted budgets maintaining balances of 6.5% and 6.25% of revenues respectively. This provision would maintain a 5.0% balance in FY 2022, using the \$422.0 million in savings to provide assistance to communities and businesses in need during the COVID-19 pandemic.

A similar provision was include in the 2020 BRFA.

## Commerce MSAC Level Fund and Mandate Formula Change

---

### State Finance and Procurement Code, § 7-325

Summary of Current Law: Growth in the MSAC mandate is equal to the prior fiscal year’s legislative appropriation plus the percentage growth in the State’s general fund revenues.

Summary of BRFA: The BRFA has two components. The first component is that in FY 2022, MSAC will be level funded to its FY 2021 working appropriation. The second component changes the mandate formula going forward. In FY 2023 and thereafter, growth in the MSAC mandate is equal to the prior fiscal year’s legislative appropriation plus the percentage growth in the State’s general fund revenues, minus one percentage point.

FY 2022 Budget Action: GF contingent reduction of \$2.9 million.

### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	\$0	-\$2.9M	-\$3.3M	-\$3.6M	-\$4.0M	-\$4.4M

Other Notes: The projected savings in FY 2023 – FY 2026 assume that the FY 2022 BRFA component provision will pass and serves as the base amount for future years.

## Bond Premium Use

---

### State Finance and Procurement, Section 8-132

**Summary of Current Law:** Under current Maryland law, Bond Premium funds can only be used for debt service, unless specifically authorized for projects by the legislature. Bond Premiums are cash paid to the State by the investment bank in exchange for a higher “coupon” interest rate. Investment banks offer Bond Premiums in order to buy down the true interest cost and win the bond sale, and the State ends up with more bond proceeds than the face amount of the sale.

As Bond Premiums have become more common and larger, the municipal bond industry has begun to frown on their use for operating expenses. Based on an IRS regulation on the allowable uses of tax-exempt bond proceeds. Maryland’s Bond Council has advised that we must limit the use for debt service to 3 years of interest on the current bond sale.

**Summary of BRFA:** The BRFA allows for bond premiums to be used in fiscal years 2022 and 2023 for additional capital projects, or to fund capital projects previously authorized (“resizing” the bond sale), in addition to the allowable level of debt service. Beginning in FY 2024, premiums would be allowed to be used only for debt service and resizing.

**FY 2022 Budget Action:** The proposed budget includes \$34 million of bond premium revenue for capital projects in FY 2021 deficiency appropriations and \$210 million in FY 2022 (in the capital budget bill).

**Fiscal Summary of Provision Compared to Current Law:** N/A

**Other Notes:** The BRFA will reduce general fund debt service in future years. The amount is impossible to predict reliably because of the extreme volatility of bond premium amounts.

## Cost Share with Local Jurisdictions for Erroneously Confined Payments

---

### **Md. State Finance and Procurement, 10-501**

Summary of Current Law: The annual budget or the general emergency fund shall support awards granted by the Board of Public Works to individuals who were erroneously confined.

Summary of BRFA: The local government shall be responsible for 50% of awards granted in FY 2021 and beyond.

FY 2022 Budget Action: None-cost avoidance.

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: Between FY 2020 and FY 2026, the state will pay \$22.0 million to erroneously confined individuals under awards approved by the Board of Public Works.



## Marketplace Facilitator Revenue Backfill of ETF

---

### Tax-General, Section 2-1303

**Summary of Current Law:** Current law diverts the State marketplace facilitator revenues in excess of \$100 million from the General Fund of the State to the Blueprint for Maryland’s Future Fund.

**Summary of BRFA:** For FY 2021, this BRFA provision diverts the next \$144,566,291 to supplement prior year obligations for the Education Trust Fund (ETF). This BRFA provision then diverts the next \$30,278,726 to supplement the FY 2021 anticipated shortfall for the Education Trust Fund. The remaining marketplace facilitator revenues are then transferred to the Blueprint for Maryland’s Future Fund.

**FY 2022 Budget Action:** SF contingent deficiency of \$174.8 million.

#### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>SF Expenditures</b>	\$174.8m.	-	-	-	-	-

**Other Notes:** This one-time deficiency transfers marketplace facilitator revenues to the ETF before they are transferred to the Blueprint for Maryland’s Future Fund. It does not transfer Blueprint for Maryland’s Future Funds for this purpose.

## SDAT Cost Shift for Real Property, Office of Information Technology, and Business Property Valuation

---

### Md. TAX-PROPERTY Code Ann. § 2-106

Summary of Current Law: Costs for the State Department of Assessments and Taxation (SDAT) programs Real Property, Office of Information Technology, and Business Property Valuation must be funded 50% by the State and 50% by counties and Baltimore City.

Summary of BRFA: The formula of how much the counties and Baltimore City are charged will change from 50/50 to 60/40 (Local/State) in FY 22, increasing to 90/10 (Local/State) between FY 23 to FY 25.

FY 2022 Budget Action: Contingent reduction of \$3.9 million GF and authorization to increase SF expenditures by the same amount.

#### Fiscal Summary of Provision Compared to Current Law:

	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>GF Expenditures</b>	+/- \$0	-\$3.9m.	-\$7.9m.	-\$11.8m.	-\$15.8m.	-\$15.8m.
<b>SF Expenditures</b>	+/- \$0	+\$3.9m.	+\$7.9m.	+\$11.8m.	+\$15.8m.	+\$15.8m.

Other Notes: In the 2020 legislative session, an unsuccessful BRFA provision was submitted to change the funding formula for these programs to 60/40.

In 2018, there was a similar BRFA provision to change the funding formula for these programs, and the Office of the Director, to a 90/10 split. In 2017, a BRFA provision proposed a 70/30 split for FY 18, including the Office of the Director, and then increasing to a 90/10 split in FY 19. These provisions were unsuccessful.

For FY 2022 fiscal impact by jurisdiction, see table on following page.

**SDAT Local Jurisdiction Cost-Share Change FY 2022**

County			
	50/50	40/60	Difference
Allegany	\$332,503	\$399,003	\$66,500
Anne Arundel	\$1,897,500	\$2,277,000	\$379,500
Baltimore City	\$1,986,859	\$2,384,230	\$397,371
Baltimore County	\$2,570,129	\$3,084,154	\$514,025
Calvert	\$344,326	\$413,191	\$68,865
Caroline	\$127,918	\$153,501	\$25,583
Carroll	\$570,997	\$685,196	\$114,199
Cecil	\$393,776	\$472,531	\$78,755
Charles	\$557,655	\$669,186	\$111,531
Dorchester	\$182,740	\$219,288	\$36,548
Frederick	\$804,055	\$964,866	\$160,811
Garrett	\$252,956	\$303,547	\$50,591
Harford	\$850,929	\$1,021,115	\$170,186
Howard	\$956,132	\$1,147,359	\$191,227
Kent	\$109,644	\$131,573	\$21,929
Montgomery	\$2,918,267	\$3,501,920	\$583,653
Prince George's	\$2,518,815	\$3,022,578	\$503,763
Queen Anne's	\$201,014	\$241,217	\$40,203
St. Mary's	\$405,746	\$486,894	\$81,148
Somerset	\$140,087	\$168,103	\$28,016
Talbot	\$182,740	\$219,288	\$36,548
Washington	\$506,844	\$608,213	\$101,369
Wicomico	\$389,817	\$467,781	\$77,964
Worcester	\$538,648	\$646,378	\$107,730
<b>Total</b>	<b>\$19,740,097</b>	<b>\$23,688,112</b>	<b>\$3,948,015</b>

Note: These numbers are estimates based on the FY 2020 allocation by county.

## Transfer Tax - Fund Swap with General Obligation Bonds

---

### Tax- Property §13–209

**Summary of Current Law:** Current law outlines an allocation formula for how transfer tax revenue is distributed to various capital and operating programs, including Program Open Space (POS), Rural Legacy and the Maryland Agricultural Land Preservation Fund (MALPF).

**Summary of BRFA:** The BRFA authorizes a transfer of transfer tax special fund revenues to the General Fund if there is matching GO bond authorization in the same program(s) as the statutory transfer tax allocation formula.

**FY 2022 Budget Action:** \$100,567,000 of transfer tax revenue is transferred to the General Fund and replaced with GO bonds authorized in the Capital Improvement Plan.

**Fiscal Summary of Provision Compared to Current Law:**

	<b><u>FY 2021</u></b>	<b><u>FY 2022</u></b>	<b><u>FY 2023</u></b>	<b><u>FY 2024</u></b>	<b><u>FY 2025</u></b>	<b><u>FY 2026</u></b>
<b>GF Revenue</b>	0	+ \$100.567m	0	0	0	0
<b>SF Expenditures</b>	0	- \$100.567m	0	0	0	0
<b>GO Bond Expenditures</b>	0	+ \$100.567m	0	0	0	0

**Other Notes:**

### Breakdown of GO Bond Funding Swaps by Capital Program

<b>Program</b>	<b>Special Funds</b>	<b>Replace w/GO Bonds</b>	<b>Total</b>
POS State	\$13,964,714	\$34,000,000	\$47,964,714
POS Local	\$48,701,423	\$0	\$48,701,423
Rural Legacy	\$2,000,537	\$17,000,000	\$19,000,537
Capital Development (Critical Maintenance, Nat'l Resource Development Fund, etc.)	\$2,175,000	\$18,567,000	\$20,742,000
MALPF	\$6,017,785	\$31,000,000	\$37,017,785
<b>Total</b>	<b>\$72,859,459</b>	<b>\$100,567,000</b>	<b>\$173,426,459</b>

## Transfer Tax Repayment Schedule Update

---

### Tax- Property §13–209

Summary of Current Law: Current law outlines four different schedules for repayment of past transfers of transfer tax revenue to the General Fund from FY 2018 to FY 2031:

- \$12.5 million from FY 2018 to FY 2022
- \$37.5 million from FY 2021 to FY 2024
- \$40.0 million from FY 2019 to FY 2027
- \$152.2 million from FY 2022 to FY 2031

Summary of BRFA: The BRFA adjusts three of the four schedules to eliminate the repayment currently scheduled for FY 2022:

- \$37.5 million from FY 2021 to FY 2025
- \$40.0 million from FY 2019 to FY 2028
- \$152.2 million from FY 2023 to FY 2032

FY 2022 Budget Action: \$43,860,950 GF scheduled for repayment is eliminated from the FY 2022 budget. A corresponding SF expenditure that would have been transferred from the Dedicated Purpose Account and distributed to various capital and operating programs is also eliminated.

Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	0	-\$43.9m	0	\$5.7m	\$6.8m	0
<b>SF Expenditures</b>	0	-\$43.9m	0	\$5.7m	\$6.8m	0

Other Notes: See table on next page for additional detail.

### Full Repayment with BRFA Provision (**BOLD** altered by BRFA)

**Note:** The FY 2022 5-Year Capital Improvement Plan includes a faster repayment schedule than outlined in the BRFA. \$25.4 million of the \$152 million repayment track is budgeted in FY 2023 in the CIP, instead of \$12.7 million as the BRFA would infer (if 4 years of repayment are evenly distributed).

	<b>MARBIDCO (\$12.5 m of the \$90 m)</b>	<b>General/Program Open Space/Rural Legacy (\$37.5 m of the \$90 m)</b>	<b>Critical Maintenance/NRDF (\$40 m of the \$90 m)</b>	<b>General/Program Open Space/Rural Legacy (\$152 m)</b>	<b>Total</b>
FY 2018	2,500,000			-	2,500,000
FY 2019	2,500,000	-	6,000,000	-	8,500,000
FY 2020	2,500,000	-	-	-	2,500,000
FY 2021	2,500,000	5,690,501	-	-	8,190,501
Subtotal Paid So Far Through The FY 2021 Budget	10,000,000	5,690,501	6,000,000	-	21,690,501

FY 2022	2,500,000				2,500,000
FY 2023		12,500,000	6,000,000	12,680,475	31,180,475
FY 2024		<b>12,500,000</b>	6,000,000	12,680,475	31,180,475
FY 2025		<b>6,809,499</b>	6,000,000	12,680,475	25,489,974
FY 2026			6,000,000	12,680,475	18,680,475
FY 2027			<b>6,000,000</b>	12,680,475	18,680,475
FY 2028			<b>4,000,000</b>	12,680,475	16,680,475
FY 2029				12,680,475	12,680,475
FY 2030				12,680,475	12,680,475
FY 2031				25,360,950	25,360,950
FY 2032				<b>25,360,950</b>	25,360,950
<b>Total</b>	<b>12,500,000</b>	<b>37,500,000</b>	<b>40,000,000</b>	<b>152,165,700</b>	<b>242,165,700</b>

## Medicaid Deficit Assessment

---

**Chapter 397 of the Acts of 2011, as amended by Chapter 425 of the Acts of 2013, Chapter 464 of the Acts of 2014, Chapter 489 of the Acts of 2015, and Chapter 23 of the Acts of 2017, Chapter 10 of the Acts of 2018, Chapter 16 of the Acts of 2019, and Chapter 538 of the Acts of 2020**

Summary of Current Law: Current law sets the annual Medicaid Assessment Deficit level at \$294,825,000 (per the 2020 BRFA).

Summary of BRFA: The BRFA provision allows the Department of Health to collect \$329,825,000 from hospitals in FY 2021 and beyond to offset Medicaid costs.

FY 2022 Budget Action: GF contingent reduction in Medicaid of \$35 million, authorization to process \$35 million SF budget amendment.

Fiscal Summary of Provision Compared to Current Law:

	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>GF Expenditures</b>		-\$35.0m.				
<b>SF Expenditures</b>	\$35.0 m.	\$35.0 m.				
<b>GO Bond Expenditures</b>						

Other Notes: Funds from the Medicaid Deficit Assessment can replace GF in the Medicaid budget on a 1:1 basis.

While this 2021 BRFA provision also alters FY 2021, the general fund reduction was already accounted for during the July 1, 2020 BPW reduction process.

## Section 2 – State Unemployment Insurance Reserve Account - Transfer to the General Fund

---

### Uncodified Section

Summary of Current Law: Not Applicable

Summary of BRFA: Authorizes transfer of \$30 million of the funds in the reserve account established by the State to pay unemployment compensation for State employees to the General Fund.

FY 2022 Revenue Action: General Fund revenues will increase by \$30 million at end of FY 2021.

Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Revenue</b>	\$30.0m.					

Other Notes: As of 11/17/20, the balance in the reserve account totaled \$47.6 million.



### Section 3 - IRC Provider Rate 4% Increase

---

#### Education, Section 8-417

Summary of Current Law: Requires that provider rates for residential and nonresidential child care programs be set by the Interagency Rate Committee (IRC) comprised of DHS, DJS, DBM, MDH, and MSDE based on the budgets of each provider as determined by a complex algorithm.

Summary of BRFA: Limits IRC provider rate increases to no more than 4 percent over the rates on December 31, 2020.

FY 2022 Budget Action: None-cost avoidance.

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: The FY 2022 budget includes \$6 million to fund a maximum 4% rate increase for these providers. The amount needed would be higher without the BRFA provision.

The BRFA of 2020 as enacted capped the IRC rate increase at 2%.

## Section 4 - Board of Pharmacy Fund Balance Transfer to OCSA

---

### Health Occupations Article, § 12-206

**Summary of Current Law:** The State Board of Pharmacy Fund is established under § 12-206 of the Health Occupations Article. The Fund can only be used on the costs of fulfilling the statutory and regulatory duties of the Board, and excess fund balance may not be transferred to the general fund.

**Summary of BRFA:** Authorizes the Governor to transfer \$500,000 of the Board’s fund balance to the Office of Controlled Substances Administration (OCSA) within the Maryland Department of Health to offset general fund costs.

**FY 2022 Budget Action:** GF contingent reduction of \$500,000 to OCSA, along with the authority to process a budget amendment to increase OCSA SF authority by the same amount.

### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	\$0	-\$0.5m	\$0	\$0	\$0	\$0
<b>SF Expenditures</b>	\$0	+\$0.5m	\$0	\$0	\$0	\$0

**Other Notes:** The State Board of Pharmacy had a fund balance of \$2.9 million at the close of FY 2020, 65% of FY 2020 projected expenditures. Recommended level of fund balance is 20-30% of expenditures.

## Section 5 - Board of Counselors Fund Balance Transfer to BHA

---

### Health Occupations Article, § 17-206

**Summary of Current Law:** The State Board of Professional Counselors and Therapists Fund is established under § 17-206 of the Health Occupations Article. The Fund can only be used on the costs of fulfilling the statutory and regulatory duties of the Board, and excess fund balance may not be transferred to the general fund.

**Summary of BRFA:** Authorizes the Governor to transfer \$2,000,000 of the Board’s fund balance to the Behavioral Health Administration to offset general fund costs.

**FY 2022 Budget Action:** GF contingent reduction of \$2,000,000 to BHA, along with the authority to process a budget amendment to increase BHA SF authority by the same amount.

### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	\$0	-\$2.0m	\$0	\$0	\$0	\$0
<b>SF Expenditures</b>	\$0	+\$2.0m	\$0	\$0	\$0	\$0

**Other Notes:** The State Board of Professional Counselors and Therapists had a fund balance of \$2.6 million at the close of FY 2020, 213% of FY 2020 projected expenditures. Recommended level of fund balance is 20-30% of expenditures

## Section 6 - Medical Cannabis Commission Fund Balance Transfer

---

### Health Occupations Article, § 13-3303

**Summary of Current Law:** The Natalie M. LaPrade Medical Cannabis Commission Fund is established under § 13-3303 of the Health Occupations Article. The Fund can only be used on the costs of fulfilling the statutory and regulatory duties of the Commission, and excess fund balance may not be transferred to the general fund.

**Summary of BRFA:** The BRFA will allow the Governor to transfer \$6,000,000 of the Commission’s fund balance to the Behavioral Health Administration to offset general fund costs.

**FY 2022 Budget Action:** GF contingent reduction of \$6,000,000 to BHA, along with the authority to process a budget amendment to increase BHA SF authority by the same amount.

#### Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Expenditures</b>	\$0	-\$6.0m	\$0	\$0	\$0	\$0
<b>SF Expenditures</b>	\$0	+\$6.0m	\$0	\$0	\$0	\$0

**Other Notes:** The Medical Cannabis Commission had a fund balance of \$9.3 million at the close of FY 2020, 110% of FY 2020 projected expenditures. Recommended level of fund balance is 20-30% of expenditures

## Section 7 – Local Income Tax Reserve Account – FEMA Reimbursement

---

### Tax-General § 02-606

Summary of Current Law: The State collects income taxes from local jurisdictions and makes payments to the counties and Baltimore City from the Local Income Tax Reserve Account.

Summary of BRFA: Authorizes use of the Local Income Tax Reserve to cash flow money to the State to support COVID-related costs that are eligible for reimbursement through the Federal Emergency Management Agency’s (FEMA) Public Assistance program. The Administration would be authorized to process an amendment from the Local Income Tax Reserve to cover the costs of eligible Public Assistance projects (like Personal Protective Equipment and vaccination costs).

FY 2022 Budget Action: TBD

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: Rather than using scarce General Funds to cover eligible federal spending that will eventually be covered by federal funds, the BRFA proposes to cash flow expenditures with the Local Income Tax Reserve which will allow the State to maximize General Funds AND all eligible federal resources to assist in dealing with the COVID pandemic. Under the BRFA, the federal FEMA reimbursement is required to be deposited into the Local Income Tax Reserve to make sure that the account is made whole. Any claim that is denied by FEMA be made up by the General Fund in the next subsequent session.

The Local Income Tax Reserve typically has a cash balance in excess of \$1.0 billion and the lowest fund balance in FY 2020 was \$629 million.

## Section 8 – Exception to Budget Book Printing Requirement

---

### §7-116 of the State Finance and Procurement Article

Summary of Current Law: §7-116 of the State Finance and Procurement Article requires that copies of budget books be provided to each member of the Maryland General Assembly (MGA) as well as 80 copies to the Department of Legislative Services (DLS).

Summary of BRFA: Authorizes the printing of a reduced number of FY 2022 budget books for distribution to the MGA and DLS in light of precautionary measures necessitated by the COVID-19 pandemic.

FY 2022 Budget Action: No related budget action.

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: DLS was provided with 50 sets of budget books for allocation among legislators and their staff. This provision applies to FY 2022 only.

## Section 9 - Consumer Protection Recoveries - Balance Transfer

---

### Uncodified

Summary of Current Law: Currently, consumer protection recoveries go to a holding account within the Office of the Attorney General. This account is not held by the Treasurer.

Summary of BRFA: The BRFA transfers \$10,000,000 from the Consumer Protection Recoveries to the General Fund.

FY 2022 Budget Action: Contingent \$10.0 million transfer from Consumer Protection Recoveries to the General Fund.

Fiscal Summary of Provision Compared to Current Law:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
<b>GF Revenues</b>	\$0	\$10.0m	\$0	\$0	\$0	\$0

Other Notes: The Attorney General has maintained a high fund balance in their Consumer Protection holding account. At the end of FY 2020, the ending balance was \$19.1 million. Given the need for additional General Fund revenues, in the wake of the pandemic, a one-time transfer of \$10 million will be made to the General Fund.

## Section 10 - Hold Harmless Maintenance of Effort

---

### Uncodified

Summary of Current Law: N/A

Summary of BRFA: Introduces a maintenance of effort provision for a declining enrollment hold harmless grant newly created for FY 2022 to respond to the coronavirus public health crisis. This maintenance of effort provision requires that each county's appropriation of funds for K-12 education exceed the FY 2021 level in order to receive the one-time grants in FY 2022.

FY 2022 Budget Action: This BRFA provision creates maintenance of effort requirement for a new grant program, but does not have a fiscal impact on the budget.

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: This provision is based on the fundamental language of existing maintenance of effort provisions within the K-12 education formula funding provided by MSDE.



## Section 11 – Exception to Retiree Earnings Limitation

---

### Uncodified Section

Summary of Current Law: §22-406 and §23-407 of the State Personnel and Pensions Article establish an earnings limitation for certain reemployed State retirees. For those retirees, if their earnings in a calendar year exceed their earnings limit, their monthly retirement payment will be reduced one dollar for each dollar earned in excess of the limit.

Summary of BRFA: The 2021 BRFA provides an exception to the earnings limitation for certain specified retirees reemployed in the Department of Health and the Department of Labor to assist with functions directly related to the State's response to the COVID-19 pandemic. This exception applies retroactively to January 1, 2020 and is in effect through December 31, 2021.

FY 2022 Budget Action: No related budget action.

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: This provision applies to four rehired retirees (one at MDH who assists with federal grant management and three at Labor who assist with the unemployment insurance program) who were called back to assist their former agencies and provide critically needed, specialized services. As a result of their willingness to assist with the State's COVID-19 response, these retirees will exceed their earnings limits in CY 2020 and likely in CY 2021. A similar provision was included in the BRFA of 2011 to address a retiree rehired by the State Retirement Agency to assist with the implementation of pension reform.

## Section 12 – Transfer of DPSCS Employees from Closed Facilities

---

### Uncodified Section

Summary of Current Law: §2-114 of the Correctional Services Article stipulates that an employee of the Department of Public Safety and Correctional Services, other than a warden, assistant warden, or security chief, may not be transferred or reassigned involuntarily to a work site that is more than 50 miles from the work site to which the employee was previously assigned.

Summary of BRFA: The 2021 BRFA authorizes the transfer of employees of DPSCS facilities that will be closed effective June 30, 2021 to other comparable positions within the Department, notwithstanding any other provision of law, including the 50 mile limit requirement. The intent is to allow placement of affected employees into existing vacancies, regardless of geographic location, in order to avoid layoffs.

FY 2022 Budget Action: No related budget action.

Fiscal Summary of Provision Compared to Current Law: N/A

Other Notes: As part of the Department’s plan to implement the 5% cost containment reduction included in their FY 2022 budget target, DPSCS’s FY 2022 budget request assumed the closure of the remaining standalone prerelease facilities – Southern Maryland Pre-Release Unit and Eastern Maryland Pre-Release Unit. These closures are made possible due to the declining population across the correctional system.

At the time of the budget, the Department estimated this action would lead to \$8.3 million in savings. About \$5.2 million of savings would come from a reduction in overtime, as relocated staff would fill other vacancies. However, these savings are offset by the costs of filling the positions. Closing these facilities will require the transfer of about 139 inmates (per December 2020 ADP) into other placements.

DPSCS is working with the unions to minimize the impact on employees.

**Out Year Budget Impact - 2021 BRFA**

\$ in Millions

**Annual GF Savings**

	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Fund Swap Financial Consumer Protection Mandate to SF	0.0	0.7	0.7	0.7	0.7	0.7
Limit growth in Community College formula to 5.5%	0.0	26.6	45.8	46.1	47.6	49.1
Level fund the Sellinger formula	0.0	29.8	30.8	32.2	34.0	35.8
MLARP for Foster Care Recipients - Mandate Relief	0.0	0.1	0.1	0.1	0.1	0.1
MPT - Mandate Relief	0.0	0.8	1.2	1.6	2	2.4
Transfer Reinsurance Funds to Medicaid	100.0	100.0	100.0	100.0	100.0	100.0
Fisheries Research and Development - Mandate Relief	0.0	1.8	0.0	0.0	0.0	0.0
Reduce Annapolis PILOT payment	0.0	0.4	0.4	0.4	0.4	0.4
OPEB Payment and Pension Sweeper	0.0	50.0	0.0	0.0	0.0	0.0
Rainy Day Fund Reduction to 5%	0.0	422.0	0.0	0.0	0.0	0.0
MSAC - Mandate Relief	0.0	2.9	3.3	3.6	4.0	4.4
Modify SDAT Local Cost Share	0.0	3.9	7.9	11.8	15.8	15.8
Transfer Tax Repayment	0.0	43.9	0.0	-5.7	-6.8	0.0
Medicaid Deficit Assessment	0.0	35.0	35.0	35.0	35.0	35.0
Board of Pharmacy Fund Balance Transfer to OCSA	0.0	0.5	0.0	0.0	0.0	0.0
Board of Counselors Fund Balance Transfer to BHA	0.0	2.0	0.0	0.0	0.0	0.0
Medical Cannabis Commission Fund Balance Transfer to GF	0.0	6.0	0.0	0.0	0.0	0.0
<b>TOTAL Annual Savings</b>	<b>100.0</b>	<b>726.4</b>	<b>225.2</b>	<b>225.8</b>	<b>232.8</b>	<b>243.7</b>
<b>TOTAL Out-Year Savings</b>		<b>1,753.9</b>				

**Annual GF Revenue Increase**

Maryland Health Benefit Exchange - Mandate Relief	0.0	3.0	3.0	3.0	3.0	3.0
Revenue Volatility	0.0	80.0	0.0	0.0	0.0	0.0
Transfer Tax GO Bond Fund Swap	0.0	100.6	0.0	0.0	0.0	0.0
UI Fund Balance Transfer to GF	30.0	0.0	0.0	0.0	0.0	0.0
Consumer Protection Fund Balance Transfer	0.0	10.0	0.0	0.0	0.0	0.0
<b>TOTAL Annual Revenue Impact</b>	<b>30.0</b>	<b>193.6</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>	<b>3.0</b>
<b>TOTAL Out-Year Revenue Impact</b>		<b>235.6</b>				

