

# SENATE BILL 946

K4, P4

EMERGENCY BILL

9lr2981  
CF HB 1120

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By: Senators Griffith and Serafini, Serafini, Augustine, Bailey, Beidle, Benson, Carozza, Carter, Cassilly, Eckardt, Edwards, Elfreth, Ellis, Feldman, Ferguson, Gallion, Guzzone, Hayes, Hershey, Hester, Hough, Jennings, Kagan, Kelley, King, Kramer, Lam, Lee, McCray, Miller, Nathan-Pulliam, Patterson, Peters, Pinsky, Ready, Reilly, Rosapepe, Salling, Simonaire, Smith, Waldstreicher, Washington, West, Young, Zirkin, and Zucker

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2019

Returned to second reading: March 8, 2019

Senate action: Adopted with floor amendments

Read second time: March 11, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Prescription Drug Benefits – Retiree Benefits – Revisions**

3 FOR the purpose of authorizing certain retirees who participate in a certain prescription  
4 drug benefit plan with a spouse or dependent child to elect to have the spouse or  
5 dependent child covered under a certain State prescription drug benefit plan;  
6 authorizing certain surviving spouses and surviving dependent children to elect to  
7 enroll in a certain State prescription drug benefit plan; requiring the Department of  
8 Budget and Management, on or before a certain date, to establish the Maryland  
9 State Retiree Prescription Drug Coverage Program; authorizing the Department to  
10 establish certain out-of-pocket limits under the Maryland State Retiree  
11 Prescription Drug Coverage Program for certain retirees; authorizing the Maryland  
12 State Retiree Prescription Drug Coverage Program to include a certain health  
13 reimbursement account or other program; authorizing certain individuals to enroll  
14 in the Maryland State Retiree Prescription Drug Coverage Program during a certain  
15 open enrollment or special enrollment period; requiring the Department, on or before  
16 a certain date, to establish the Maryland State Retiree Catastrophic Prescription

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Drug Assistance Program; authorizing the Department to establish a certain  
 2 maximum reimbursement amount under the Maryland State Retiree Catastrophic  
 3 Prescription Drug Assistance Program for certain retirees; authorizing the Maryland  
 4 State Retiree Catastrophic Prescription Drug Assistance Program to reimburse  
 5 participants through a certain health reimbursement account or other program;  
 6 authorizing certain individuals to enroll in the Maryland State Retiree Catastrophic  
 7 Prescription Drug Assistance Program during a certain open enrollment or special  
 8 enrollment period; requiring the Department, on or before a certain date, to establish  
 9 the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program  
 10 to reimburse participants for certain costs through a certain health reimbursement  
 11 account or other program; authorizing the Department to establish maximum  
 12 reimbursement amounts on a certain basis under the Maryland State Retiree  
 13 Life-Sustaining Prescription Drug Assistance Program; authorizing certain  
 14 individuals to enroll in the Maryland State Retiree Life-Sustaining Prescription  
 15 Drug Assistance Program during a certain open enrollment or special enrollment  
 16 period; altering the date by which the Secretary of Budget and Management is  
 17 required to provide a certain notice to certain individuals; altering the information  
 18 required to be included in a certain notice; requiring the Department to provide  
 19 certain counseling to Medicare-eligible retirees for a certain purpose; requiring the  
 20 Department to take certain actions in providing certain counseling; providing for the  
 21 manner in which certain counseling may be provided; authorizing the Department  
 22 to make an emergency procurement for certain services under certain circumstances;  
 23 providing for the application of certain provisions of this Act; making conforming  
 24 changes; providing that, notwithstanding any other provision of law, the elimination  
 25 of certain State prescription drug benefits, the establishment of certain programs,  
 26 and the provision of a certain notice shall begin on a certain date under certain  
 27 circumstances; making this Act an emergency measure; and generally relating to  
 28 retirees from State employment and State prescription drug benefits.

29 BY repealing and reenacting, without amendments,  
 30 Article – State Personnel and Pensions  
 31 Section ~~2-508(d)~~ 2-508 and 2-509  
 32 Annotated Code of Maryland  
 33 (2015 Replacement Volume and 2018 Supplement)

34 BY repealing and reenacting, with amendments,  
 35 Article – State Personnel and Pensions  
 36 Section 2-509.1  
 37 Annotated Code of Maryland  
 38 (2015 Replacement Volume and 2018 Supplement)

39 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 40 That the Laws of Maryland read as follows:

41 **Article – State Personnel and Pensions**

42 2-508.

1 (a) (1) In this section the following words have the meanings indicated.

2 (2) “Creditable service” means:

3 (i) service credited toward a retirement allowance under Division II  
4 of this article;

5 (ii) service while a member of the Judges’ Retirement System under  
6 Title 27 of this article;

7 (iii) service while an employee was employed by the Domestic  
8 Relations Division of the Anne Arundel County Circuit Court, prior to transfer on or before  
9 July 1, 2002 into the State Personnel Management System, in accordance with § 2–510 of  
10 the Courts Article; or

11 (iv) service while a member of the Maryland Transit Administration  
12 Retirement Plan under § 7–206 of the Transportation Article.

13 (3) (i) “Retiree” means:

14 1. a former State employee who receives a retirement  
15 allowance under Division II of this article;

16 2. a former employee of the Medical System Corporation, as  
17 defined in § 13–301 or § 13–401 of the Education Article, who receives a retirement  
18 allowance from the Employees’ Retirement System of the State of Maryland or the  
19 Employees’ Pension System of the State of Maryland under Title 22 or Title 23 of this  
20 article; or

21 3. a former employee of the Maryland Transit  
22 Administration who receives a Maryland Transit Administration retirement allowance  
23 under § 7–206 of the Transportation Article.

24 (ii) “Retiree” does not include:

25 1. a member of the faculty or staff of a community college;

26 2. a teacher or a staff member employed by a county board of  
27 education; or

28 3. an individual who retired under an optional program  
29 under Title 30 of this article.

30 (4) “State service” means service with the State by:

1                   (i) an employee while a member of the Employees' Retirement  
2 System or the Employees' Pension System under Title 22 or Title 23 of this article;

3                   (ii) a member of the Judges' Retirement System under Title 27 of  
4 this article;

5                   (iii) a teacher while a member of the Teachers' Retirement System or  
6 Teachers' Pension System under Title 22 or Title 23 of this article;

7                   (iv) a correctional officer, while a member of the Correctional  
8 Officers' Retirement System under Title 25 of this article;

9                   (v) an employee of the Medical System Corporation, as defined in §  
10 13-301 or § 13-401 of the Education Article, while a member of the Employees' Retirement  
11 System of the State of Maryland or the Employees' Pension System of the State of Maryland  
12 under Title 22 or Title 23 of this article;

13                   (vi) a State Police officer while a member of the State Police  
14 Retirement System under Title 24 of this article;

15                   (vii) a law enforcement officer while a member of the Law  
16 Enforcement Officers' Pension System under Title 26 of this article; or

17                   (viii) an employee while a member of the Maryland Transit  
18 Administration Plan under § 7-206 of the Transportation Article.

19       (b)   (1)   This subsection applies to a retiree who:

20                   (i)   began State service on or before June 30, 2011; or

21                   (ii)   1.   began State service on or after July 1, 2011; and

22                               2.   is a retiree of the Judges' Retirement System.

23       (2)   A retiree may enroll and participate in the health insurance benefit  
24 options established under the Program if the retiree:

25                   (i)   ended State service with at least 10 years of creditable service  
26 and within 5 years before the age at which a vested retirement allowance normally would  
27 begin;

28                   (ii)   ended State service with at least 16 years of creditable service;

29                   (iii)   ended State service on or before June 30, 1984;

30                   (iv)   retired directly from State service with a State retirement  
31 allowance on or after July 1, 1984, and had at least 5 years of creditable service; or

1           (v) retired directly from State service with a State disability  
2 retirement allowance on or after July 1, 1984.

3           (3) (i) The surviving spouse or dependent child of a deceased retiree  
4 who was eligible to enroll may enroll and participate in the health insurance benefit options  
5 established under the Program as long as the spouse or child is receiving a periodic  
6 allowance under Division II of this article or the Maryland Transit Administration  
7 Retirement Plan under § 7-206 of the Transportation Article.

8           (ii) Subparagraph (i) of this paragraph does not apply to a deceased  
9 retiree's spouse or dependent child who receives an Option 1, Option 4, or Option 7 benefit  
10 under Division II of this article or a lump-sum payment of benefits under the Maryland  
11 Transit Administration Retirement Plan under § 7-206 of the Transportation Article.

12           (4) (i) If a retiree receives a State disability retirement allowance or has  
13 16 or more years of creditable service, the retiree or the retiree's surviving spouse or  
14 dependent child is entitled to the same State subsidy allowed a State employee.

15           (ii) In all other cases, if a retiree has at least 5 years of creditable  
16 service, the retiree or the retiree's surviving spouse or dependent child is entitled to 1/16 of  
17 the State subsidy allowed a State employee for each year of the retiree's creditable service  
18 up to 16 years.

19           (iii) Notwithstanding subparagraph (ii) of this paragraph and  
20 subsection (a)(4)(i) of this section, if a retiree is an additional employee or agent of the State  
21 Racing Commission, for the purposes of determining a retiree's State subsidy, creditable  
22 service shall be determined with respect to service as an additional employee or agent  
23 beginning from the initial date of employment or January 1, 1986, whichever is later.

24           (c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, this  
25 subsection applies to a retiree who begins State service on or after July 1, 2011.

26           (ii) This subsection does not apply to:

27           1. a retiree of the Judges' Retirement System; or

28           2. a former Governor of Maryland who began serving as  
29 Governor on or after January 21, 2015.

30           (2) A retiree may enroll and participate in the health insurance benefit  
31 options established under the Program if the retiree:

32           (i) ends State service with at least 25 years of creditable service;

33           (ii) ends State service with at least 10 years of creditable service  
34 within 5 years before the age at which a vested retirement allowance normally would begin;

1                    (iii) retires directly from State service with a State retirement  
2 allowance and has 10 years of creditable service; or

3                    (iv) retires directly from State service with a State disability  
4 retirement allowance.

5                    (3) (i) The surviving spouse or dependent child of a deceased retiree  
6 who was eligible to enroll may enroll and participate in the health insurance benefit options  
7 established under the Program as long as the spouse or child is receiving a periodic  
8 allowance under Division II of this article or the Maryland Transit Administration  
9 Retirement Plan under § 7-206 of the Transportation Article.

10                    (ii) Subparagraph (i) of this paragraph does not apply to a deceased  
11 retiree's spouse or dependent child who receives an Option 1, Option 4, or Option 7 benefit  
12 under Division II of this article or a lump-sum payment of benefits under the Maryland  
13 Transit Administration Retirement Plan under § 7-206 of the Transportation Article.

14                    (4) (i) If a retiree receives a State disability retirement allowance or has  
15 25 or more years of creditable service, the retiree or the retiree's surviving spouse or  
16 dependent child is entitled to the same State subsidy allowed a State employee.

17                    (ii) In all other cases, if a retiree has at least 10 years of creditable  
18 service, the retiree or the retiree's surviving spouse or dependent child is entitled to 1/25 of  
19 the State subsidy allowed a State employee for each year of the retiree's creditable service  
20 up to 25 years.

21                    (iii) Notwithstanding subparagraph (ii) of this paragraph and  
22 subsection (a)(4)(i) of this section, if a retiree is an additional employee or agent of the State  
23 Racing Commission, for the purposes of determining a retiree's State subsidy, creditable  
24 service shall be determined with respect to service as an additional employee or agent  
25 beginning from the initial date of employment.

26                    (d) (1) Notwithstanding subsections (b) and (c) of this section and §§ 2-509 and  
27 2-509.1 of this subtitle, the State may establish separate health insurance benefit options  
28 for retirees that differ from those for active State employees.

29                    (2) Subject to § 2-509.1 of this subtitle, on or after July 1, 2011, the health  
30 insurance benefit option for retirees shall include a prescription drug benefit that:

31                    (i) has the same co-payments, coinsurance, and deductible that  
32 apply to the prescription drug benefit for active State employees;

33                    (ii) requires:

34                    1. retirees who qualify for the maximum State subsidy to pay  
35 25% of the premium for the prescription drug benefit; and

1                   2.       retirees who qualify for a partial State subsidy to pay 25%  
2 of the premium for the prescription drug benefit plus the proportional additional amount  
3 required under subsections (b)(4)(ii) and (c)(4)(ii) of this section; and

4                   (iii)   requires retirees to pay out-of-pocket limits equal to:

5                   1.       \$1,500 for the retiree only; and

6                   2.       \$2,000 for the retiree and the retiree's family.

7 2-509.

8           (a)   (1)   This subsection applies to a retiree of an optional retirement program  
9 under Title 30 of this article who began service as an employee of the State in the Executive,  
10 Legislative, or Judicial Branch of government on or before June 30, 2011.

11           (2)   (i)   Subject to subparagraph (ii) of this paragraph, an individual may  
12 enroll and participate in the health insurance benefit options established under the  
13 Program if the individual retired under an optional program under Title 30 of this article  
14 and:

15                   1.   ended service with a State institution of higher education  
16 with at least 10 years of service and was at least age 57;

17                   2.   ended service with a State institution of higher education  
18 with at least 16 years of service; or

19                   3.   retired directly from and had at least 5 years of service  
20 with a State institution of higher education with a periodic distribution of benefits on or  
21 after July 1, 1984.

22                   (ii)   1.   For purposes of this subsection only, years of service shall  
23 be calculated as follows:

24                   A.   except as provided in subsubparagraph 2 of this  
25 subparagraph, a year of service means a period of 12 months during which an employee  
26 was a participant in an optional retirement program under Title 30 of this article and the  
27 participant's employer made contributions to the participant's account in the Program; or

28                   B.   if an employee's work year is an academic year of at least  
29 9 but less than 12 months, a year of service means a period equal to the academic year  
30 during which an employee was a participant in an optional retirement program under Title  
31 30 of this article and the participant's employer made contributions to the participant's  
32 account in the Program.

1                                   2. To determine eligibility for health insurance benefits  
2 under this section, each year of service shall be multiplied by the participant's percentage  
3 of full-time employment for that year of service.

4                                   (iii) The surviving spouse or dependent child of a deceased individual  
5 who was eligible to enroll may enroll and participate in the health insurance benefit options  
6 established under the Program as long as the spouse or child is receiving a periodic  
7 distribution of benefits under an optional retirement program under Title 30 of this article.

8                                   (3) (i) An enrollee under this section who was in service with a State  
9 institution of higher education at the time of the retirement is entitled to the same State  
10 subsidy allowed a retiree under § 2-508(b)(4) of this subtitle. However, except as provided  
11 in subparagraph (ii) of this paragraph, the subsidy shall apply only to the costs of coverage  
12 for the enrollee and may not apply to any additional costs of coverage for the enrollee's  
13 spouse or children.

14                                   (ii) If the enrollee has 25 or more years of service as an employee of  
15 the State in the Executive, Legislative, or Judicial Branch of government, the enrollee or  
16 the enrollee's surviving spouse or dependent child is entitled to the same State subsidy  
17 allowed a retiree with 16 or more years of creditable service under § 2-508(b)(4)(i) of this  
18 subtitle.

19                                   (b) (1) This subsection applies to a retiree of an optional retirement program  
20 under Title 30 of this article who begins service as an employee of the State in the  
21 Executive, Legislative, or Judicial Branch of government on or after July 1, 2011.

22                                   (2) (i) Subject to subparagraph (ii) of this paragraph, an individual may  
23 enroll and participate in the health insurance benefit options established under the  
24 Program if the individual retired under an optional program under Title 30 of this article  
25 and:

26                                   1. ended service with a State institution of higher education  
27 with at least 10 years of service and was at least age 57;

28                                   2. ended service with a State institution of higher education  
29 with at least 25 years of service; or

30                                   3. retired directly from and had at least 10 years of service  
31 with a State institution of higher education with a periodic distribution of benefits on or  
32 after July 1, 2011.

33                                   (ii) 1. For purposes of this paragraph only, years of service shall  
34 be calculated as follows:

35                                   A. except as provided in subparagraph 2 of this  
36 subparagraph, a year of service means a period of 12 months during which an employee



1 was a participant in an optional retirement program under Title 30 of this article and the  
2 participant's employer made contributions to the participant's account in the Program; or

3 B. if an employee's work year is an academic year of at least  
4 9 but less than 12 months, a year of service means a period equal to the academic year  
5 during which an employee was a participant in an optional retirement program under Title  
6 30 of this article and the participant's employer made contributions to the participant's  
7 account in the Program.

8 2. To determine eligibility for health insurance benefits  
9 under this section, each year of service shall be multiplied by the participant's percentage  
10 of full-time employment for that year of service.

11 (iii) The surviving spouse or dependent child of a deceased individual  
12 who was eligible to enroll may enroll and participate in the health insurance benefit options  
13 established under the Program as long as the spouse or child is receiving a periodic  
14 distribution of benefits under an optional retirement program under Title 30 of this article.

15 (3) (i) An enrollee under this subsection who was in service with a State  
16 institution of higher education at the time of the retirement is entitled to the same State  
17 subsidy allowed a retiree under § 2-508(c)(4) of this subtitle. However, except as provided  
18 in subparagraph (ii) of this paragraph, the subsidy shall apply only to the costs of coverage  
19 for the enrollee and may not apply to any additional costs of coverage for the enrollee's  
20 spouse or children.

21 (ii) If the enrollee has 25 or more years of service as an employee of  
22 the State in the Executive, Legislative, or Judicial Branch of government, the enrollee or  
23 the enrollee's surviving spouse or dependent child is entitled to the same State subsidy  
24 allowed a retiree with 25 or more years of creditable service under § 2-508(c)(4)(i) of this  
25 subtitle.

26 2-509.1.

27 (a) **(1)** Except as provided in subsection (b) of this section, the State shall  
28 continue to include a prescription drug benefit plan in the health insurance benefit options  
29 established under the Program and available to retirees under §§ 2-508 and 2-509 of this  
30 subtitle notwithstanding the enactment of the federal Medicare Prescription Drug,  
31 Improvement, and Modernization Act of 2003 or any other federal law permitting states to  
32 discontinue prescription drug benefit plans to retirees of a state.

33 **(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION:**

34 **(I) A RETIREE MAY ELECT TO COVER THE RETIREE'S SPOUSE**  
35 **OR DEPENDENT CHILD UNDER THE STATE PRESCRIPTION DRUG BENEFIT PLAN**  
36 **UNDER §§ 2-508 AND 2-509 OF THIS SUBTITLE; AND**

1                   **(II) IF A SURVIVING SPOUSE OR SURVIVING DEPENDENT CHILD**  
 2 **OF A RETIREE IS ELIGIBLE TO ENROLL IN THE STATE PRESCRIPTION DRUG BENEFIT**  
 3 **PLAN UNDER § 2-508 OR § 2-509 OF THIS SUBTITLE, THE SURVIVING SPOUSE OR**  
 4 **SURVIVING DEPENDENT CHILD MAY ELECT TO ENROLL IN THE STATE**  
 5 **PRESCRIPTION DRUG BENEFIT PLAN.**

6           (b) Except as provided in subsection (c) of this section, on January 1, 2019, the  
 7 State shall discontinue prescription drug benefits for:

8                   (1) a Medicare-eligible retiree;

9                   (2) the Medicare-eligible spouse or surviving spouse of a retiree; and

10                  (3) a Medicare-eligible dependent child or surviving dependent child of a  
 11 retiree.

12           (c) (1) If a retiree is eligible to participate in the prescription drug benefit plan  
 13 under Medicare, but the retiree's spouse or dependent child is not eligible to participate in  
 14 a Medicare prescription drug benefit plan, the retiree may elect to cover the retiree's spouse  
 15 or dependent child under the State prescription drug benefit plan.

16                  (2) If the surviving spouse or surviving dependent child of a retiree is  
 17 eligible to enroll in the State prescription drug benefit plan under **§ 2-508 OR § 2-509** of  
 18 this subtitle, but is not eligible to participate in the prescription drug benefit plan under  
 19 Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State  
 20 prescription drug benefit plan.

21           **(D) (1) THIS SUBSECTION APPLIES ONLY TO A RETIREE, A RETIREE'S**  
 22 **SPOUSE OR SURVIVING SPOUSE, AND A RETIREE'S DEPENDENT CHILD OR SURVIVING**  
 23 **DEPENDENT CHILD:**

24                   **(I) WHO IS ENROLLED IN A PRESCRIPTION DRUG BENEFIT PLAN**  
 25 **UNDER MEDICARE; AND**

26                   **(II) IF THE RETIREE IS RETIRED ON OR BEFORE DECEMBER 31,**  
 27 **2018; AND**

28                   **(III) IF THE RETIREE IS ELIGIBLE UNDER § 2-508 OR § 2-509 OF**  
 29 **THIS SUBTITLE TO ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT**  
 30 **OPTIONS ESTABLISHED UNDER THE PROGRAM.**

31                   **(2) (I) ON SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**  
 32 **ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL ESTABLISH A**  
 33 **MARYLAND STATE RETIREE PRESCRIPTION DRUG COVERAGE PROGRAM THAT**  
 34 **REQUIRES PARTICIPANTS TO PAY REIMBURSES A PARTICIPANT FOR**

1 ~~OUT-OF-POCKET LIMITS EQUAL TO COSTS THAT EXCEED THE LIMITS ESTABLISHED~~  
 2 ~~FOR NON-MEDICARE-ELIGIBLE RETIREES IN § 2-508(D)(2)(III) OF THIS SUBTITLE.~~

3 (II) THE DEPARTMENT MAY ESTABLISH AN OUT-OF-POCKET  
 4 LIMIT HIGHER THAN THE LIMITS ESTABLISHED IN SUBPARAGRAPH (I) OF THIS  
 5 PARAGRAPH FOR A RETIREE WHO QUALIFIES FOR A PARTIAL STATE SUBSIDY.

6 (3) THE MARYLAND STATE RETIREE PRESCRIPTION DRUG  
 7 COVERAGE PROGRAM ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION  
 8 MAY INCLUDE:

9 (I) A HEALTH REIMBURSEMENT ACCOUNT ESTABLISHED IN  
 10 ACCORDANCE WITH § 105(H) OF THE INTERNAL REVENUE CODE; OR

11 (II) ANOTHER PROGRAM THAT PROVIDES ASSISTANCE WITH  
 12 PRESCRIPTION DRUG COSTS.

13 (4) A RETIREE, A RETIREE'S SPOUSE OR SURVIVING SPOUSE, AND A  
 14 RETIREE'S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD MAY ENROLL IN  
 15 THE MARYLAND STATE RETIREE PRESCRIPTION DRUG COVERAGE PROGRAM  
 16 DURING THE OPEN ENROLLMENT PERIOD OR ANY SPECIAL ENROLLMENT PERIOD  
 17 FOR RETIREE HEALTH INSURANCE BENEFIT OPTIONS.

18 (E) (1) THIS SUBSECTION APPLIES ONLY TO A RETIREE, A RETIREE'S  
 19 SPOUSE OR SURVIVING SPOUSE, AND A RETIREE'S DEPENDENT CHILD OR SURVIVING  
 20 DEPENDENT CHILD:

21 (I) WHO IS ENROLLED IN A PRESCRIPTION DRUG BENEFIT PLAN  
 22 UNDER MEDICARE; AND

23 (II) IF THE RETIREE:

24 1. BEGAN STATE SERVICE ON OR BEFORE JUNE 30,  
 25 2011; ~~AND~~

26 2. RETIRED ON OR AFTER JANUARY 1, 2019; AND

27 3. IS ELIGIBLE UNDER § 2-508 OR § 2-509 OF THIS  
 28 SUBTITLE TO ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT  
 29 OPTIONS ESTABLISHED UNDER THE PROGRAM.

30 (2) (I) ~~ON~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
 31 ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL ESTABLISH A  
 32 MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION DRUG ASSISTANCE

1 PROGRAM THAT REIMBURSES A PARTICIPANT FOR OUT-OF-POCKET COSTS AFTER  
2 THE PARTICIPANT HAS ENTERED CATASTROPHIC COVERAGE UNDER A  
3 PRESCRIPTION DRUG BENEFIT PLAN UNDER MEDICARE.

4 (II) THE DEPARTMENT MAY ESTABLISH A MAXIMUM  
5 REIMBURSEMENT AMOUNT FOR A RETIREE WHO QUALIFIES FOR A PARTIAL STATE  
6 SUBSIDY.

7 (3) THE MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION  
8 DRUG ASSISTANCE PROGRAM UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY  
9 PROVIDE REIMBURSEMENTS THROUGH:

10 (I) A HEALTH REIMBURSEMENT ACCOUNT ESTABLISHED IN  
11 ACCORDANCE WITH § 105(H) OF THE INTERNAL REVENUE CODE; OR

12 (II) ANOTHER PROGRAM THAT PROVIDES ASSISTANCE WITH  
13 PRESCRIPTION DRUG COSTS.

14 (4) A RETIREE, A RETIREE'S SPOUSE OR SURVIVING SPOUSE, AND A  
15 RETIREE'S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD MAY ENROLL IN  
16 THE MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION DRUG  
17 ASSISTANCE PROGRAM DURING THE OPEN ENROLLMENT PERIOD OR ANY SPECIAL  
18 ENROLLMENT PERIOD FOR RETIREE HEALTH INSURANCE BENEFIT OPTIONS.

19 (F) (1) THIS SUBSECTION APPLIES ONLY TO A RETIREE, A RETIREE'S  
20 SPOUSE OR SURVIVING SPOUSE, AND A RETIREE'S DEPENDENT CHILD OR SURVIVING  
21 DEPENDENT CHILD:

22 (I) WHO IS ENROLLED IN A PRESCRIPTION DRUG BENEFIT PLAN  
23 UNDER MEDICARE; AND

24 (II) IF THE RETIREE IS ELIGIBLE UNDER § 2-508 OR § 2-509 OF  
25 THIS SUBTITLE TO ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT  
26 OPTIONS ESTABLISHED UNDER THE PROGRAM.

27 (2) (I) ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL  
28 ESTABLISH A MARYLAND STATE RETIREE LIFE-SUSTAINING PRESCRIPTION DRUG  
29 ASSISTANCE PROGRAM THAT REIMBURSES A PARTICIPANT FOR OUT-OF-POCKET  
30 COSTS FOR A LIFE-SUSTAINING PRESCRIPTION DRUG THAT IS:

31 1. COVERED BY A PRESCRIPTION DRUG BENEFIT PLAN  
32 UNDER THE PROGRAM;

1                                   **2. NOT COVERED BY THE PRESCRIPTION DRUG BENEFIT**  
 2 **PLAN UNDER MEDICARE IN WHICH THE PARTICIPANT IS ENROLLED; AND**

3                                   **3. ON A LIST DEVELOPED BY THE DEPARTMENT.**

4                                   **(II) THE DEPARTMENT MAY ESTABLISH MAXIMUM**  
 5 **REIMBURSEMENT AMOUNTS BASED ON WHETHER A RETIREE QUALIFIES FOR THE**  
 6 **MAXIMUM STATE SUBSIDY OR FOR A PARTIAL STATE SUBSIDY.**

7                                   **(3) THE MARYLAND STATE RETIREE LIFE-SUSTAINING**  
 8 **PRESCRIPTION DRUG ASSISTANCE PROGRAM ESTABLISHED UNDER PARAGRAPH**  
 9 **(2) OF THIS SUBSECTION MAY PROVIDE REIMBURSEMENTS THROUGH:**

10                                   **(I) A HEALTH REIMBURSEMENT ACCOUNT ESTABLISHED IN**  
 11 **ACCORDANCE WITH § 105(H) OF THE INTERNAL REVENUE CODE; OR**

12                                   **(II) ANOTHER PROGRAM THAT PROVIDES ASSISTANCE WITH**  
 13 **PRESCRIPTION DRUG COSTS.**

14                                   **(4) A RETIREE, A RETIREE'S SPOUSE OR SURVIVING SPOUSE, AND A**  
 15 **RETIREE'S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD MAY ENROLL IN**  
 16 **THE MARYLAND STATE RETIREE LIFE-SUSTAINING PRESCRIPTION DRUG**  
 17 **ASSISTANCE PROGRAM DURING THE OPEN ENROLLMENT OR ANY SPECIAL**  
 18 **ENROLLMENT PERIOD FOR RETIREE HEALTH INSURANCE BENEFIT OPTIONS.**

19                                   [(d)] ~~(F)~~ **(G)** (1) Subject to paragraph [(2)] **(3)** of this subsection, not later than  
 20 July 1, [2018] **2019**, the Secretary shall provide written certified notice [to the individuals  
 21 listed in subsection (b) of this section] of the change in the State prescription drug benefit  
 22 plan under this section **TO THE INDIVIDUALS WHO WILL BE ELIGIBLE ON OR AFTER**  
 23 **JANUARY 1, 2020, TO ENROLL IN THE:**

24                                   **(I) MARYLAND STATE RETIREE PRESCRIPTION DRUG**  
 25 **COVERAGE PROGRAM; ~~OR~~**

26                                   **(II) MARYLAND STATE RETIREE CATASTROPHIC**  
 27 **PRESCRIPTION DRUG ASSISTANCE PROGRAM; OR**

28                                   **(III) MARYLAND STATE RETIREE LIFE-SUSTAINING**  
 29 **PRESCRIPTION DRUG ASSISTANCE PROGRAM.**

30                                   (2) The notice shall include information regarding:

31                                   (i) coverage options available in the Medicare prescription drug  
 32 benefit plan; [and]

1 (ii) the potential for significant penalties if an individual does not  
2 promptly choose a Medicare prescription drug benefit plan immediately on termination of  
3 the individual's participation in the State prescription drug benefit plan; AND

4 (III) THE PROGRAMS AVAILABLE UNDER SUBSECTIONS (D) ~~AND~~,  
5 (E), AND (F) OF THIS SECTION.

6 (G) (1) THE DEPARTMENT SHALL PROVIDE ONE-ON-ONE COUNSELING  
7 TO MEDICARE-ELIGIBLE RETIREES TO ASSIST THE RETIREE IN SELECTING A  
8 MEDICARE PART D PRESCRIPTION DRUG PLAN BASED ON THE RETIREE'S SPECIFIC  
9 MEDICAL AND MEDICATION NEEDS.

10 (2) IN PROVIDING THE COUNSELING UNDER PARAGRAPH (1) OF THIS  
11 SUBSECTION, THE DEPARTMENT SHALL:

12 (I) CONTRACT TO PROVIDE THE SERVICES; AND

13 (II) PROVIDE THE COUNSELING:

14 1. FOR A PERIOD BEGINNING AT LEAST 3 MONTHS  
15 BEFORE THE MEDICARE OPEN ENROLLMENT PERIOD THROUGH THE END OF THE  
16 OPEN ENROLLMENT PERIOD; AND

17 2. IN THE 12-MONTH PERIOD AFTER A RETIREE  
18 BECOMES ELIGIBLE FOR MEDICARE.

19 (3) THE COUNSELING PROVIDED UNDER PARAGRAPH (1) OF THIS  
20 SUBSECTION MAY BE PROVIDED OVER THE PHONE OR IN PERSON.

21 (H) SUBJECT TO THE REQUIREMENTS OF § 13-108 OF THE STATE FINANCE  
22 AND PROCUREMENT ARTICLE, THE DEPARTMENT MAY MAKE AN EMERGENCY  
23 PROCUREMENT FOR:

24 (1) STAFF REQUIRED TO CARRY OUT THE PROVISIONS OF THIS  
25 SECTION; AND

26 (2) A THIRD PARTY TO ADMINISTER HEALTH REIMBURSEMENT  
27 ACCOUNTS ESTABLISHED UNDER THIS SECTION.

28 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other  
29 provision of law, if the final resolution of the injunction issued in the U.S. District Court  
30 for the District of Maryland in Fitch v. State of Maryland et al, Case No. 1:18  
31 CV-0287-PM (D. Md.) occurs on a date that is:

1           (1) less than 9 months before the first day of the next State health benefits  
2 open enrollment period, the following shall begin on the first day of the second State health  
3 benefits plan year immediately following the resolution:

4           (i) the elimination of the State prescription drug benefits for  
5 Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and  
6 Medicare-eligible dependent children or surviving dependent children of retirees under §  
7 2-509.1(b) of the State Personnel and Pensions Article;

8           (ii) the establishment of the Maryland State Retiree Prescription  
9 Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug  
10 Assistance Program, and the State Retiree Life-Sustaining Prescription Drug Assistance  
11 Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article,  
12 respectively, as enacted by Section 1 of this Act; and

13           (iii) the provision of written certified notice to individuals under §  
14 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act;  
15 or

16           (2) 9 months or more before the first day of the next State health benefits  
17 open enrollment period, the following shall begin on the first day of the State health  
18 benefits plan year immediately following the resolution following the next open enrollment  
19 period:

20           (i) the elimination of the State prescription drug benefits for  
21 Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and  
22 Medicare-eligible dependent children or surviving dependent children of retirees under §  
23 2-509.1(b) of the State Personnel and Pensions Article;

24           (ii) the establishment of the Maryland State Retiree Prescription  
25 Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug  
26 Assistance Program, and the State Retiree Life-Sustaining Prescription Drug Assistance  
27 Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article,  
28 respectively, as enacted by Section 1 of this Act; and

29           (iii) the provision of written certified notice to individuals under §  
30 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.

31           SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
32 measure, is necessary for the immediate preservation of the public health or safety, has  
33 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
34 each of the two Houses of the General Assembly, and shall take effect from the date it is  
35 enacted.