Alternative and Additional Recommendations on SB 152/HB 87

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Contributing Staff

Writers

Dylan R. Baker	Steve D. McCulloch
Mary E. Clapsaddle	Erin K. McMullen
Andrew D. Gray	Simon G. Powell
Garret T. Halbach	Jody J. Sprinkle
Richard H. Harris	Michael T. Vorgetts
Jaclyn D. Hartman	Tonya D. Zimmerman
David B. Juppe	

Reviewers

Mary E. Clapsaddle
Sara J. Baker
David B. Juppe
John W. Rohrer

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
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Annapolis, Maryland 21401

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Contents

Proposed Amendment to SB 152/HB 87 as Introduced

Joseph A. Sellinger Program for Independent Colleges and Universities

Provision in BRFA as Introduced: Reduces funding for qualifying independent colleges and universities under the Joseph A. Sellinger formula from fiscal 2013 through 2020. In fiscal 2021, the formula returns to the level specified in the current statute.

Provision as Recommended by DLS: Concur with the Budget Reconciliation and Financing Act (BRFA) of 2012 for fiscal 2013 to 2017. From fiscal 2018 onward, keep the funding per full-time equivalent student (FTES) constant at $875.53. This reduces the cost of the Sellinger Aid program and would no longer tie Sellinger Aid to the funding given to public four-year higher education institutions.

Agency: Maryland Higher Education Commission

Type of Action: Mandate relief

Fiscal Impact of DLS Recommendation vs. Current Law:

($ in Millions)

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Exp	-$1.3	-$3.5	-$7.2	-$10.8	-$16.5	-$23.2	-$30.4

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

($ in Millions)

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Exp	$0.0	$0.0	$0.0	$0.0	$0.0	-$4.8	-$16.4

Background/Recent History: The BRFA of 2010 (Chapter 484) held the Sellinger formula at the fiscal 2010 level in fiscal 2011 and 2012 before restarting the phase-up to full funding (15.5%). The BRFA of 2012 provides $38.4 million ($875.73 per FTES) in fiscal 2013 and $875.53 per FTES from fiscal 2014 to 2017. In fiscal 2018, the aid percentage increases until reaching its intended goal of 15.5% in fiscal 2021.

State Effect: Mandated general fund expenditures for the Sellinger formula decrease by approximately $1.3 million in fiscal 2013; the savings increase annually as shown. In fiscal 2019, the DLS proposal saves $30.4 million compared to $14.0 million under the BRFA as introduced. The estimates use projected enrollments at qualifying independent colleges and universities and the estimated funding levels for public four-year universities.

Subcommittee Assignments: EBA/EED Alt-7

Proposed Amendment to SB 152/HB 87 as Introduced

General Mandate Relief

Provision in BRFA as Introduced: Relieves the Governor from the requirement that mandated funding increases be included in the budgets for fiscal 2013 through 2017, with the exceptions of public education formulas, retirement contributions, and the Rainy Day Fund. Mandates addressed elsewhere in the BRFA are not affected by this provision.

Provision as Recommended by DLS: Strike the provision in its entirety. DLS is making separate recommendations in the budget bill to reduce fiscal 2013 appropriations for the affected programs.

Agency: Various agencies

Type of Action: Mandates

Fiscal Impact of DLS Recommendation vs. Current Law: None. Striking the provision would maintain current statutory mandates.

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Exp	$0.0	$93.3	$84.3	$44.5	$44.8	$45.0
SF Exp	0.0	0.7	0.7	0.7	0.7	0.7

Background/Recent History: The BRFAs of 2009 and 2010 contained similar provisions, as applied to future budgets. A provision in the BRFA of 2011, which would have provided similar relief for fiscal 2013 through 2016, was struck by the General Assembly.

State Effect: The budget as introduced contains contingent reductions in nine programs, based on the enactment of this provision. By striking this provision, absent other action by the General Assembly to reduce funding or modify the underlying statutes, the programs would be funded in accordance with existing law. Where appropriate, the estimates shown above for the out-years are adjusted for inflation or other formula requirements.

Local Effect: Of the fiscal 2013 reductions based on the provisions of Section 15, five impact State aid to local governments. Striking this provision, absent other action by the General Assembly, will mean that the programs are funded at their statutory level.

Proposed Amendment to SB 152/HB 87 as Introduced

Adult and Elderly Day Care Center Assessment

Provision in BRFA as Introduced: Imposes a 5.5% assessment on total operating revenue for all day care centers for adults and the elderly.

Provision as Recommended by DLS: Increase assessment to 6.0% as allowed under federal law.

Agency: Department of Health and Mental Hygiene

Type of Action: Special Fund Revenue

Fiscal Impact of DLS Recommendation vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Rev	$0.0	$7.5	$7.7	$7.9	$8.2	$8.4
FF Rev	0.0	3.7	3.9	4.0	4.1	4.2
GF Exp	0.0	-3.7	-3.9	-4.0	-4.1	-4.2
SF Exp	0.0	7.5	7.7	7.9	8.2	8.4
FF Exp	0.0	3.7	3.9	4.0	4.1	4.2

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Rev	$0.0	$0.6	$0.6	$0.6	$0.7	$0.7
FF Rev	0.0	0.3	0.4	0.4	0.3	0.3
GF Exp	0.0	-0.3	-0.4	-0.4	-0.3	-0.3
SF Exp	0.0	0.6	0.6	0.6	0.7	0.7
FF Exp	0.0	0.3	0.4	0.4	0.3	0.3

Background/Recent History: Under current law, there is no assessment on adult or elderly day care centers. The action proposed in this provision is similar to assessments imposed on other providers such as nursing homes and hospitals. In addition to the proposed increase in Medicaid rates as part of the mechanism to offset the cost of the assessment on adult and elderly day care centers, the fiscal 2013 budget includes a 1.5% rate increase for these centers. That increase is not tied to the assessment.

Under current federal law, the proposed 5.5% assessment rate is below the maximum 6.0% rate that can be assessed on a provider while avoiding the application of provisions that prohibit the guarantee of holding a payor of these assessments harmless for all or a portion of the assessment.

State Effect: Increases general fund savings by $0.3 million in fiscal 2013.

Proposed Amendment to SB 152/HB 87 as Introduced

Injured Workers' Insurance Fund Transfer

Provision in BRFA as Introduced: The Injured Workers' Insurance Fund (IWIF) transfers $50,000,000 of its holdings to the State's general fund as a resolution of all past and future State claims to its property or assets.

Provision as Recommended by DLS: Add language to make the BRFA transfer contingent upon the passage of SB 745 or HB 1017, which address the relationship between IWIF and the State in much greater detail.

Agency: Statewide

Type of Action: Fund balance transfer

Fiscal Impact of DLS Recommendation vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Rev	$0.0	$50.0	$0.0	$0.0	$0.0	$0.0

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: No change.

Background/Recent History: The State has provided financial assistance to IWIF since its inception. Given the size of the State's historical investment in IWIF and that of the proposed transfer, several items should be developed further including a determination of whether the transfer will be harmful to IWIF's fiscal stability; an independent assessment of the actual value of the State's contribution to IWIF's assets; and a comprehensive statutory end to the State's financial interest in IWIF.

DLS believes these items cannot be given proper treatment as amendments to the BRFA. By making the transfer contingent on SB 745 or HB 1017, which both propose to officially sever all past IWIF-State financial relationships and create an independent entity named Chesapeake Employer's Insurance Company, the details pertaining to the technical structuring of the transfer can be addressed to ensure that both the State and IWIF feel the transfer is equitable.

State Effect: General fund revenues increase by $50.0 million in fiscal 2013 due to the transfer.

Proposed Amendment to SB 152/HB 87 as Introduced

Small, Minority, and Women-owned Business Account

Provision in BRFA as Introduced: Authorizes the transfer of $1,867,000 from the Small, Minority, and Women-owned Business Account to the Education Trust Fund in fiscal 2012.

Provision as Recommended by DLS: Increase the authorized transfer to $3,950,000. This action will enable a contingent reduction to the general funds under Aid to Education.

Agency: Department of Business and Economic Development

Type of Action: Fund balance transfer

Fiscal Impact of DLS Recommendation vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Exp	$0.0	-$4.0	$0.0	$0.0	$0.0	$0.0
SF Exp	0.0	4.0	0.0	0.0	0.0	0.0

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Exp	$0.0	-$2.1	$0.0	$0.0	$0.0	$0.0
SF Exp	0.0	2.1	0.0	0.0	0.0	0.0

Background/Recent History: The Small, Minority, and Women-owned Business Account is designed to provide investment capital and loans to small, minority, and women-owned business in the State. At least 50% of available funds must be dedicated to eligible businesses in the jurisdictions and communities surrounding the State's video lottery facilities.

The Small, Minority, and Women-owned Business Account was created by Chapter 4 of the 2007 special session. The legislation dedicated a portion (1.5%) of gross video lottery terminal (VLT) revenues to the account and tasked the Board of Public Works (BPW) with the administration of the program. In fiscal 2012, BPW partnered with the Department of Business and Economic Development to assist with the design and management of the program. However, to date, the parameters of the program have not yet been set and no investment funds have been provided from the account to any business.

The fiscal 2011 appropriation to the account was \$1.86 million; however, due to lower than expected VLT revenues, only \$1.55 accrued to the fund. Similarly, approximately \$5.9 million was appropriated to the account in fiscal 2012; but only about \$2.4 million is expected to accrue. This action would transfer the balance accumulated in fiscal 2011 and 2012.

State Effect: General fund expenditures decrease by \$2.08 million in fiscal 2012 due to the fund balance transfer. Future years are not affected. To date, no funds have been expended from the account.

Proposed Amendment to SB 152/HB 87 as Introduced

Developmental Disabilities Trust Fund

Provision in BRFA as Introduced: This provision would create the Developmental Disabilities Trust Fund. This would be a special, nonlapsing fund that would consist of any unspent general funds appropriated in the Community Services Program within the Developmental Disabilities Administration (DDA); money appropriated in the State budget to the fund; and any other money from any other source accepted for the benefit of the fund.

Provision as Recommended by DLS: Strike BRFA provision.

Agency: Department of Health and Mental Hygiene

Type of Action: Budget policy

Fiscal Impact of DLS Recommendation vs. Current Law: None.

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: None.

Background/Recent History: During the fiscal 2011 budget closeout DDA reverted \$25.7 million in prior year spending. DHMH has advised that these funds have likely been accruing for the past several years. However, at the time of this writing, it is not known how many years DDA accumulated general funds and did not appropriately report this in closeout documents. An additional \$0.8 million in special funds was cancelled in fiscal 2011 as DDA failed to utilize monies available under the Waiting List Equity Fund.

DLS advises that the agency should not be underspending its budget by significant amounts, especially given the growing number of individuals on the waiting list. In order to prevent underspending from occurring in the future, the agency should improve budgetary oversight and closely monitor its spending to ensure that it is on track to utilize all available funds within the given fiscal year. Ultimately, adequate financial oversight would eliminate the need for a trust fund. Therefore, it is unclear why DDA should not be held to the same finance and procurement standards under which other State agencies are required to operate.

Subcommittee Assignments: HHS/HHR Alt-12

Proposed Amendment to SB 152/HB 87

Attorney Grievance Commission

Provision as Recommended by DLS: Establish the Disciplinary Fund as a special fund and require it to be held and invested by the Treasurer and accounted for by the Comptroller; require that the Judiciary include in the budget all spending for the Attorney Grievance Commission as a separate program within the Administrative Office of the Courts in its annual budget submission to the legislature; and establish a maximum fee that is credited to the Client Protection Fund and the Disciplinary Fund.

Agency: Judiciary

Type of Action: Budget control

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Rev	$0.0	$3.9	$4.1	$4.3	$4.5	$4.8
SF Exp	$0.0	-$3.9	-$4.1	-$4.3	-$4.5	-$4.8

Background/Recent History: The Judiciary established the Disciplinary Fund in 1975 by Maryland Rule 16-714 to support the activities of the Attorney Grievance Commission (AGC), which investigates and prosecutes attorneys whose conduct violates the Maryland Lawyers Rules of Professional Conduct as well as those engaged in the unauthorized practice of law. Revenues for the fund are generated by assessments imposed on practicing attorneys in Maryland. Currently, the Judiciary levies two annual assessment fees totaling $145 per attorney. Funds are distributed as follows:

- $20 assessment to the Client Protection Fund (codified in Section 10-311 of the Business Occupations and Professions Article), which is used to reimburse losses caused by defalcations of lawyers; and

- $125 assessment to the Disciplinary Fund, which is used to pay for the operating expenses of AGC.

State Effect: Special fund revenues and expenses increase by $3.9 million in fiscal 2013 with assumed 5% increases in the following years. The expenses would be supported with special fund revenues from the Disciplinary Fund.

Proposed Amendment to SB 152/HB 87

Establish Ambulance Transport Fee

Provision as Recommended by DLS: Establish a fee for patients transported to the hospital by the BWI Fire and Rescue Department. Nineteen of 24 Maryland jurisdictions currently charge fees for transporting patients to the hospital. Fees vary based on jurisdiction and level of service provided in the ambulance. This provision establishes a fee but allows the amount to be established in regulations. This provision also enables the Maryland Aviation Administration to procure third party billing and to establish a financial hardship waiver policy for those unable to pay.

Agency: Maryland Department of Transportation – Maryland Aviation Administration

Type of Action: Special Fund Revenue

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Rev	$0.0	$0.5	$0.5	$0.5	$0.5	$0.5

Background/Recent History: In response to committee narrative in the 2011 *Joint Chairmen's Report*, the Maryland Aviation Administration submitted a report in November 2011 concluding that establishing an ambulance transport fee for the BWI Fire and Rescue Department is feasible and may help to offset some of the costs of the department. The budget for the BWI Fire and Rescue Department is approximately $10.0 million with approximately 90% of expenses related to personnel. The fiscal 2013 budget also includes $1.9 million in vehicle replacements for the fire department, including an aircraft rescue fire fighting vehicle, a fire truck, and an ambulance.

State Effect: Net annual revenues to the Transportation Trust Fund are estimated at $500,000 based on current call volumes, number of transports, and hypothetical fees ranging from $350 to $600 depending on type of transport. Third party billing expenses are typically based on a percentage of revenues collected and, therefore, will slightly decrease revenues. The effect of financial hardship waivers on revenues is not known until the terms of the financial hardship policy are established.

Subcommittee Assignments: PSTE /T&E DLS-9

Proposed Amendment to SB 152/HB 87

Cost-sharing Mechanism for Fire and Rescue Services

Provision as Recommended by DLS: Establish a cost-sharing mechanism with Anne Arundel County to provide county reimbursement for the high level of fire and rescue services provided in the county by the BWI Fire and Rescue Department. Three options are available to achieve this cost-sharing mechanism:

- exempt State-owned parking spots from the parking tax levied by Anne Arundel County. The county could continue to collect the tax on privately owned lots surrounding the airport and elsewhere in the county. This allows the Transportation Trust Fund (TTF) to retain revenues that are currently paid to Anne Arundel County;

- direct 30% of Anne Arundel County's hotel tax to the TTF. Statute already provides for revenue distributions of the county's hotel tax to the Arts Council of Anne Arundel County and the Annapolis and Anne Arundel County Conference and Visitors Bureau; or

- direct 15% of Anne Arundel County's local impact grant from the proceeds of video lottery terminals to the TTF. The Anne Arundel County facility will open in June 2012 and likely result in additional mutual aid calls from the BWI Fire and Rescue Department.

Agency: Maryland Department of Transportation – Maryland Aviation Administration

Type of Action: Special Fund Revenue

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Rev	$0.0	$4.0	$4.0	$4.0	$4.0	$4.0

Background/Recent History: In calendar 2011, the BWI Fire and Rescue Department responded to 3,793 calls for service and 1,208 of these calls, or 31.8%, were for services provided through a mutual aid agreement in Anne Arundel County. In that same year, only 88 calls for mutual aid were required on airport grounds from other jurisdictions. The level of mutual aid provided to Anne Arundel County is expected to increase over the next several years due to several cost-cutting initiatives for the county's fire department that have already been announced. In addition, the opening of the Maryland Live! Casino in Anne Arundel County, located only 6 miles from the airport and expected to bring more than 5 million visitors a year, is also likely to increase calls for service.

In response to committee narrative in the 2011 *Joint Chairmen's Report* requiring a review of the current level of mutual aid provided to Anne Arundel County and negotiations with the county to develop a cost-sharing method, the Maryland Aviation Administration submitted a report in November 2011. The report concluded that while mutual aid is provided to Anne Arundel County on a routine basis, the mutual aid arrangement is beneficial for both parties and should a catastrophic event ever happen at Baltimore/Washington International Thurgood Marshall Airport, the assistance of Anne Arundel County would be imperative. The report further stated that current mutual aid levels will be maintained and no formal cost-sharing with the county will be implemented.

The budget for the BWI Fire and Rescue Department is approximately $10.0 million with approximately 90% of expenses related to personnel. The fiscal 2013 budget also includes $1.9 million in vehicle replacements for the fire department, including an aircraft rescue fire fighting vehicle, a fire truck, and an ambulance. The recommended cost-sharing options all provide approximately $4 million in revenues to the TTF. This amount reflects 40% of the fire department's budget in recognition of the roughly 40% of mutual aid calls that typically occur in Anne Arundel County.

State Effect: This provision increases revenues to the TTF by approximately $4 million per year to help offset the cost of mutual aid calls to Anne Arundel County and provide a cost recovery mechanism for the BWI Fire and Rescue Department.

Subcommittee Assignments: PSTE /T&E DLS-10

Proposed Amendment to SB 152/HB 87

Rural Access Incentive Payments

Provision as Recommended by DLS: Require any Managed Care Organization (MCO) with a statewide Medicaid enrollment of greater than 10% of total statewide Medicaid enrollment to be open for enrollment in every jurisdiction or pay a remittance to the Medicaid program of $3.0 million to be used to fund Rural Access Incentive payments.

Agency: Department of Health and Mental Hygiene

Type of Action: Special Fund Revenue

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Exp	$0.0	-$6.0	-$6.0	-$6.0	-$6.0	-$6.0
SF Rev	0.0	6.0	6.0	6.0	6.0	6.0
SF Exp	0.0	6.0	6.0	6.0	6.0	6.0

Note: Assumes current MCO open enrollment patterns continue into the future.

Background/Recent History: The fiscal 2013 budget includes $12.0 million in funding to split between any MCO that is open for enrollment statewide, $6.0 million in general funds and $6.0 million in federal funds. This funding, Rural Access Incentive payments, is designed to encourage MCO regional participation and thus promote consumer choice. Currently, 2 of the State's MCOs are open to enrollment in every jurisdiction. Of the 7 current MCOs, 4 account for 92.3% of statewide enrollment, with market share ranging from 18 to 26%. Under this proposal, any MCO with a market share of over 10% not open for enrollment statewide would be required to make a $3.0 million remittance to fund Rural Access Incentive payments. Thus, for example, if the two current MCOs with more than 10% market share did not open for enrollment statewide, $6.0 million in remittances would be paid to Medicaid and distributed to the 2 MCOs open statewide. If additional MCOs were to open for enrollment statewide, the amount of funding for incentives would be reduced but consumers statewide would have greater choice of MCOs.

State Effect: General fund savings of $6.0 million.

Proposed Amendment to SB 152/HB 87

Traffic Conviction Surcharges – Volunteer Company Assistance Fund

Provision as Recommended by DLS: Amends the Courts and Judicial Proceedings Article of State law to accurately reflect the arrangement for disposition of the $7.50 surcharge on certain traffic convictions. The provision specifies that surcharge revenue must be credited to the Volunteer Company Assistance Fund (VCAF) until that fund receives a total of $20 million in revenue from this source. The provision strikes the references to specific amounts of citation surcharge revenue to be deposited into the VCAF in fiscal 2012 and 2013.

The provision further specifies that once the VCAF receives a total of $20 million from this source, citation surcharge revenue must be credited to the Maryland Emergency Medical Services Operations Fund (MEMSOF). The provision also specifies that the Maryland State Firemen's Association (MSFA) may receive $200,000 annually in citation surcharge revenue beginning in fiscal 2013. Finally, the Maryland Judiciary must annually report to the budget committees on the amount of citation surcharge revenue credited to the VCAF until the VCAF balance reaches $20 million.

Agencies: Military Department; Maryland State Firemen's Association; Maryland Higher Education Commission; and Maryland Institute for Emergency Medical Systems Services

Type of Action: Special Fund Revenue

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Rev (VCAF)	-$4.5	$1.6	$3.7	$1.1	$0.0	$0.0
SF Rev (MEMSOF)	0.0	0.0	-3.7	-1.1	0.0	0.0

Background: The Budget Reconciliation and Financing Act of 2011 (Chapter 397) required an amount annually set forth in the State budget from the $7.50 surcharge on certain traffic convictions to be distributed to the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program. The amount of revenue collected from the surcharge after the distribution to the Riley program is credited to the MEMSOF. The fiscal and policy note for Chapter 397 indicated that there would be $8.2 million annually in citation surcharge revenue after providing funds to the Riley program. Chapter 397 specified that before any distributions to the MEMSOF, the VCAF must receive $8.2 million in fiscal 2012 and $2.1 million in fiscal 2013 so that the balance of the VCAF would reach $20.0 million by the end of fiscal 2013.

The Department of Legislative Services (DLS) advises that the estimate included in Chapter 397 overstated the amount of citation surcharge revenue expected each year. As a result, the VCAF will not receive $8.2 million in fiscal 2012 as mandated by Chapter 397. DLS now assumes that roughly 561,000 citations issued annually will be assessed the $7.50 citation surcharge, which results in about $4.2 million in revenue. Under current law, the Riley program receives roughly $341,000 annually in surcharge revenue. The provision also specifies that MSFA must receive $200,000 in surcharge revenue. After accounting for these funds, DLS estimates that there will be approximately $3.7 million in remaining citation surcharge revenue to be credited to the VCAF and – after the VCAF balance reaches $20.0 million – the MEMSOF.

State Effect: Special fund revenues to the VCAF decrease by $4.5 million in fiscal 2012 and then increase as shown above. Due to the delay for the VCAF to reach its mandated balance and lower than expected collections, special fund revenues to the MEMSOF decrease.

Proposed Amendment to SB 152/HB 87

Soil Conservation District Field Personnel Funding

Provision as Recommended by DLS: Fund soil conservation district field personnel regular positions in the Maryland Department of Agriculture's budget from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. This will provide for approximately $4.4 million in general fund savings in fiscal 2013 and a dedicated revenue stream for these positions.

Agency: Maryland Department of Agriculture

Type of Action: Use of Special Fund Revenue

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Exp	$0.0	-$4.4	-$4.6	-$4.9	-$5.1	-$5.3

Background/Recent History: The Agricultural Stewardship Act of 2006 mandated that the Governor include in the annual budget bill an amount sufficient to employ not less than 110 field personnel in the soil conservation districts and that the appropriation for fiscal 2011 and beyond be $10 million. In the fiscal 2013 allowance, there is funding for 79 positions.

The Chesapeake and Atlantic Coastal Bays 2010 Trust is financed with a portion of revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. The fund provides for nonpoint source nutrient and sediment pollution control projects. Since its inception, an allocation from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund has been provided for non-State soil conservation district field personnel.

State Effect: General fund expenditures decrease by $4.4 million in fiscal 2013 in order to reflect the funding of 79 current State soil conservation district field personnel at $55,000 per position with revenue allocated to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. Future year general fund savings are inflated by 5% to reflect increases in personnel costs. To the degree that additional State positions are added in order to comply with the 110 field personnel mandate, additional general fund expenditures would be avoided.

Subcommittee Assignments: PSTE/T&E DLS-11

Proposed Amendment to SB 152/HB 87

Senior Prescription Drug Assistance Program

Provision as Recommended by DLS: Add a $4.5 million fund balance transfer from the Senior Prescription Drug Assistance Program (SPDAP) to the Medicaid program. There is a parallel recommendation on the operating budget to reduce Medicaid general funds by $4.5 million.

Agency: Maryland Health Insurance Plan

Type of Action: Fund balance transfer

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Exp	$0.0	-$4.5	$0.0	$0.0	$0.0	$0.0
SF Exp	0.0	4.5	0.0	0.0	0.0	0.0

Background/Recent History: SPDAP is funded with a portion of the value of CareFirst's premium tax exemption. To the extent that annual revenues exceed expenditures, money accrues into an agency fund balance. In fiscal 2010 and 2011, revenues exceeded expenditures by $4.0 million and $4.4 million, respectively. The program's fund balance was valued to be $9.6 million at the close of fiscal 2011.

The BRFA of 2011 programmed a $3.0 million transfer from the SPDAP fund balance to the Kidney Disease Program (KDP) in fiscal 2013. The BRFA of 2012 proposes to increase that amount by $2.0 million for a total of $5.0 million to be transferred in fiscal 2013. Transfers from the SPDAP fund balance to the KDP also occurred in fiscal 2010 and 2011.

The fund balance is not needed to cover expected prescription subsidy payments in fiscal 2013, and the program does not have capital adequacy requirements mandating a certain amount of cash on hand. After accounting for this and an additional $2.0 million transfer proposed by the Governor, an estimated $0.4 million will remain in the SPDAP fund balance.

State Effect: This action transfers $4.5 million from the SPDAP fund balance to the Medicaid program and allows for a general fund reduction of the same amount.

Proposed Amendment to SB 152/HB 87

Use of Problem Gambling Fund

Provision as Recommended by DLS: Require a reversion of $950,000 of the Alcohol and Drug Abuse Administration's (ADAA) fiscal 2012 special fund appropriation derived from the Problem Gambling Fund back to that fund and authorize the transfer of the funding to the Education Trust Fund. A separate recommended fiscal 2013 budget action will reduce general fund support in the Aid to Education budget by $950,000.

Agency: Department of Health and Mental Hygiene

Type of Action: Transfer for a Specified Purpose

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Exp	$0.0	-$1.0	$0.0	$0.0	$0.0	$0.0
SF Exp	-1.0	1.0	0.0	0.0	0.0	0.0

Background/Recent History: Fiscal 2012 funding is available because ADAA has chosen to spend Problem Gambling Funds through a Center of Excellence that is currently being selected through a Request for Proposals. The center will not be operational until June 2012. Although ADAA has indicated that it would like to spend available fiscal 2012 funds on a variety of problem-gambling related activities, DLS recommends that it spend funds in a planned way through the proposed Center of Excellence.

State Effect: Creates a one-time $950,000 savings in general funds in fiscal 2013.

Proposed Amendment to SB 152/HB 87

Strategic Energy Investment Fund
Administrative Account Fund Balance Transfer

Provision as Recommended by DLS: Transfer $4.0 million of the fund balance of the administrative expense account of the Strategic Energy Investment Fund (SEIF), established in Section 9-20B-05 of the State Government Article, to the Department of Human Resources (DHR) Office of Home Energy Programs (OHEP) to provide additional energy assistance in fiscal 2013. The administrative expense account is used for Maryland Energy Administration (MEA) administrative expenditures.

Agency: MEA

Type of Action: Use of Special Fund Revenue

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Exp	$0.0	$4.0	$0.0	$0.0	$0.0	$0.0

Background/Recent History: Chapters 127 and 128 of 2008 established the SEIF primarily to hold revenue received from the Regional Greenhouse Gas Initiative (RGGI) carbon dioxide emission allowance auctions. The legislation also established how proceeds are to be allocated and separate accounts for those proceeds, including allocations for energy assistance and administrative expenses. The allocations were subsequently revised in the Budget Reconciliation and Financing Act (BRFA) of 2009 and BRFA of 2011. Under Section 17 of the BRFA of 2011, energy assistance receives up to 50% of the RGGI auction revenue and the administrative expense account receives up to 10% (but no more than $4.0 million) for revenue received in fiscal 2012 through 2014.

The administrative expense account of SEIF had an unencumbered fund balance of $3.68 million at the close of fiscal 2011. Nearly the entire amount of revenue required to meet the fiscal 2012 working appropriation ($1.5 million of the $1.7 million appropriation) for MEA administration has been received from auctions held through December 2011. Any revenues received in the March and June 2012 auctions, beyond the $0.2 million required to meet the appropriation, will increase the administrative account fund balance. The fiscal 2013 allowance for MEA administration is $3.0 million, including $13,536 from the administrative expense account fund balance.

OHEP's fiscal 2013 allowance is $145.6 million, including $87.7 million of federal Low-Income Home Energy Assistance Program (LIHEAP) funds and $19.9 million of the SEIF. The total amount of the LIHEAP budgeted in DHR is $88.3 million, approximately $18.5 million more than was allocated to Maryland from the LIHEAP in federal fiscal 2012. The LIHEAP is subject to sequestration as a result of the failure of the Super Committee to reach an agreement. Given the possibility of sequestration and the likelihood of continued constrained federal spending, it is unlikely that Maryland will receive an allocation equal to the amount for the LIHEAP included in the allowance. Although DHR has adjusted benefits to stay within its funding level and milder winter weather has eased the strain on the program in fiscal 2012, it is unclear whether the fiscal 2013 allowance will provide a sufficient level of appropriation to support OHEP expenditures if winter weather is cooler or federal fund receipts are lower than fiscal 2012, creating potential pressure on the general fund.

State Effect: In fiscal 2013, special fund expenditures increase by $4.0 million in OHEP for energy assistance. The transferred funds were not expected to be used by MEA in fiscal 2013; however, MEA will have $4.0 million less for administrative expenditures to be used at some point in the future.

Proposed Amendment to SB 152/HB 87

Modify Disparity Grant

Provision as Recommended by DLS: Contingent on shifting a portion of teacher and librarian retirement costs to the local jurisdictions, this action would:

1. increase the disparity grant cap on an ongoing basis by $22.7 million, which is the amount of the supplemental grant provided by the Governor for fiscal 2013 only;

2. include jurisdictions that are eligible for disparity grants which have been excluded by the fiscal 2010 cap;

3. repeal the Miscellaneous Grant to Baltimore City effective in fiscal 2014, instead incorporating the $3.1 million mandated amount in the new disparity grant cap for the city; and

4. put in a floor so that no jurisdiction receives less than 50% of the uncapped grant.

Agency: Payments to Civil Divisions of the State: Disparity Grants

Type of Action: Additional mandated spending for Disparity Grant offset by limited mandate relief.

Fiscal Impact vs. Current Law: This action would increase the cap on disparity grants by up to $22.7 million annually, offset by the repeal of the mandated $3.1 million annual grant to Baltimore City.

($ in Millions)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Exp	$0.0	$19.6	$19.6	$19.6	$19.6	$19.6

Background/Recent History: State funding targeted to the disparity in local income tax capacity is found in Article 24, Section 9-1101. The disparity grant program provides noncategorical State aid to low-wealth jurisdictions for county government purposes. The program reflects the State's policy to improve fiscal equity among jurisdictions by making less affluent jurisdictions less dependent on their own tax base to fund services. Disparity grants address the difference in the abilities of counties to raise revenues from the local income tax, which is one of the larger revenue sources for most counties.

Counties with per capita income tax revenues less than 75.0% of the statewide average receive grants, unless a county has an income tax rate below 2.4% or did not receive grant funding in fiscal 2010 making it subject to the cap restriction adopted at the 2009 session. Aid received by a county equals the lesser of the dollar amount necessary to raise the county's per capita income tax revenues to 75.0% of the statewide average or the amount received from the State in fiscal 2010.

State Effect: Net additional general fund spending of up to $19.6 million annually depending on the overall disparity in per capita income tax rates. Counties are eligible to receive grants if they are below 75% of the statewide average for income tax receipts. Disparity grant spending could be up to $22.7 million higher annually. The repeal of the Miscellaneous Grant saves $3.1 million per year. This additional spending is contingent on shifting a portion of teacher and librarian retirement costs to the local jurisdictions. A floor requirement would ensure each jurisdiction a minimum of 50% of its uncapped grant.

Local Effect: Disparity grant jurisdictions would all receive additional aid on an ongoing basis, contingent on a share of teacher and librarian retirement costs being assumed by the local jurisdictions. Additional aid would be provided to Baltimore City, and Allegany, Caroline, Dorchester, Garrett, Prince George's, Somerset, and Wicomico counties. In addition, Cecil, Kent, and Washington counties, which are currently eligible for disparity grants but are excluded by the fiscal 2010 cap, would receive grants in fiscal 2013 and beyond. The total of funds that would be received under this proposal in fiscal 2013 by jurisdiction is shown below. A floor requirement would ensure each jurisdiction a minimum of 50% of its uncapped grant.

Jurisdiction	Base Grant	Supplemental Grant	Miscellaneous Grant	Total Grant
Allegany	$7,298,505	$1,632,106		$8,930,611
Baltimore City	77,542,494	3,897,596	$3,075,000	84,515,090
Caroline	2,131,782	685,108		2,816,890
Cecil	0	360,454		360,454
Dorchester	2,022,690	308,913		2,331,603
Garrett	2,131,271	406,400		2,537,671
Kent	0	9,189		9,189
Prince George's	21,694,767	7,628,702		29,323,469
Somerset	4,908,167	381,999		5,290,166
Washington	0	2,705,357		2,705,357
Wicomico	2,197,041	1,567,837		3,764,878
Total	**$119,926,717**	**$19,583,662**	**$3,075,000**	**$142,585,379**

Proposed Amendment to SB 152/HB 87

Mortgage Settlement Funding

Provision as Recommended by DLS: Require any funding from the recently agreed to national mortgage settlement be expended only through appropriations in the State budget bill and that for fiscal 2014 and beyond any appropriation be made into the Dedicated Purpose Account.

Agency: Office of the Attorney General

Type of Action: Budget control

Background/Recent History: A recent national mortgage settlement includes various provisions, including a $62.5 million State payment. A portion of these funds can be designated as a civil penalty and paid to the general fund (DLS understands that this will amount to 10% or $6.25 million) with the remainder available for other purposes. Some states have indicated that these additional funds will be used for such things as housing counseling, legal assistance, and foreclosure prevention activities. However, other states have preliminarily indicated very different uses, including filling budget holes and education initiatives. At the time of writing, DLS had not seen a copy of the actual settlement and what the parameters are for the use of the State payment.

Subcommittee Assignments: PSTE/PSA DLS-3

Proposed Amendment to SB 152/HB 87

Local Public Health Grants – Fiscal 2014 Hold Harmless

Provision as Recommended by DLS: The proposed action adds an uncodified section indicating that calculations for fiscal 2014 local health aid grants be based on fiscal 2013 funding levels not including general fund reductions made in language recommended in the budget bill for fiscal 2013 (SB 150/HB 85).

Agency: Department of Health and Mental Hygiene

Type of Action: Hold harmless in formula calculation.

Fiscal Impact vs. Current Law: None

Background: Language is recommended to the fiscal 2013 budget bill that provides for a fund swap that reduces general funds for local health aid for certain jurisdictions and allows the funds to be replaced from funds held in accounts by each jurisdiction's Local Management Board. The BRFA provision simply makes it clear that the fund swap should not affect the calculation of local health aid for fiscal 2014.

State Effect: None

Local Effect: None

Subcommittee Assignments: B&T/APP DLS-5

Proposed Amendment to SB 152/HB 87

Repeal Office of Smart Growth

Provision as Recommended by DLS: Repeal the Office of Smart Growth from statute because no funding or positions are provided in fiscal 2013.

Agency: Maryland Department of Planning (MDP)

Type of Action: Good Government

Background/Recent History: State Government Article § 9-1403 establishes an Office of Smart Growth as part of the Executive Department. The fiscal 2013 allowance does not include any funding or positions for the Office of Smart Growth. Two positions – 1 vacant senior program manager position and 1 filled administrative officer III position – are transferred to the Governor's Office in the fiscal 2013 allowance. MDP notes that the Office of Smart Growth was merged into the Governor's Delivery Unit a few years ago. Since then, the Governor's Delivery Unit has been combined with StateStat in order to achieve greater efficiencies. MDP indicates that the transferred positions will continue to do smart growth work within the Governor's Office.

State Effect: No effect.

Subcommittee Assignments: PSTE/T&E DLS-6

Proposed Amendment to SB 152/HB 87

Value-based Purchasing Disincentive Payments

Provision as Recommended by DLS: Authorize disincentive payments of up to 1% of any individual managed care organization's (MCO) total capitated payment in the Medicaid Value-based Purchasing Program for the calendar 2012 program.

Agency: Department of Health and Mental Hygiene

Type of Action: Expanded use of existing Value-base Purchasing Program

Background/Recent History: Under current regulation, Medicaid runs a program that offers incentives and disincentives (penalties) to MCOs based on performance on certain measures. Disincentive payments fund the incentive payments. Total incentive payments are capped at 1.0% of any individual MCO's total capitated payment, but disincentive payments are capped at 0.5% of any individual MCO's total capitated payment. The Department of Health and Mental Hygiene proposed to increase this disincentive payment cap to 1.0% but did not promulgate the regulations in time to take effect for calendar 2012. Given the importance of promoting and rewarding quality care, the proposal is to authorize the increase in the disincentive cap for calendar 2012.

State Effect: Potential increase in funding available to MCOs that perform well under the Value-based Purchasing Program. Funding is derived from payments from MCOs that do not perform well under that program.

Subcommittee Assignments: HHS/HHR DLS-14

Proposed Amendment to SB 152/HB 87

Exelon Corporation and Constellation Energy Group Merger Approval Conditions

Provision as Recommended by DLS: Add an amendment requiring any funds provided to State agencies as a result of the conditions of an approved merger between Exelon Corporation (Exelon) and Constellation Energy Group (CEG) be appropriated through the State budget bill.

Agency: Maryland Energy Administration (MEA), Department of Human Resources (DHR), Department of Housing and Community Development (DHCD), Department of General Services (DGS), and public higher educational institutions

Type of Action: Budget control

Fiscal Impact vs. Current Law: None.

Background/Recent History: On April 28, 2011, Exelon and CEG announced a merger agreement, under which Exelon would acquire CEG stock for a total value of approximately $7.9 billion. The merged company would operate under the name Exelon and continue to maintain headquarters in Chicago, Illinois; however, a portion of the combined company would be based in Baltimore. On May 25, 2011, the companies filed an application with the Public Service Commission (PSC) for authorization allowing Exelon to acquire the power to exercise substantial influence over the policies and actions of Baltimore Gas and Electric Company (part of CEG), as required under Section 6-105 of the Public Utilities Article.

On February 17, 2012, PSC issued an order granting approval of the merger with 40 conditions. Some, but not all of the conditions, potentially impact the State budget in future fiscal years beginning in fiscal 2013. The conditions likely to impact the State budget are:

- a contribution of $30.0 million to the State for use in efforts to realize an offshore wind project;

- a contribution of $2.0 million to public higher education institution(s) to support research and development in wind energy applications to be determined by the Maryland Higher Education Commission through a competitive procurement process;

- a contribution of $113.5 million in equal annual installments to a Customer Investment Fund to be allocated at the direction of PSC for purposes to be determined in future proceedings which may include low-income energy assistance programs, energy efficiency and weatherization programs for low-income customers, and other energy efficiency programs;

- the option to pay a subsidy to the State per megawatt hour of animal waste-to-energy generation developed for a power purchase agreement under the Clean Bay Power request for proposals (RFP) released by DGS, rather than develop an animal-waste-to-energy generation facility;

- penalties/liquidated damages associated with the failure to meet the development requirements for various new renewable energy generation facilities which would be paid into the Strategic Energy Investment Fund (SEIF) for the development of new Tier 1 renewable energy sources; and

- a contribution per megawatt hour for renewable energy developed pursuant to a State- or PSC-issued RFP to be paid into the SEIF for the development of new Tier 1 renewable energy sources.

It is uncertain how some of these funds would be used or how much would be provided to State agencies from these conditions. The Customer Investment Fund contribution is allocated at the direction of PSC but could potentially impact the budgets for energy assistance in DHR, weatherization or other energy efficiency projects in DHCD, or MEA.

State Effect: The provision does not impact overall State agency spending that would occur as a result of the conditions placed on the merger approved by PSC, but requires these funds be appropriated through the State budget to (rather than, potentially, by budget amendment) provide the General Assembly the opportunity to review and approve the use of funds as part of the budget for agencies.