# Budget Reconciliation and Financing Act of 2013 (HB 102/SB 127)

# Budget Summary, Provisions, and Recommendations

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# Contents

# Budget Summary
## Fiscal 2013 and 2014
## ($ in Millions)

### General Fund

| | Admin. Proposal | Without BRFA |
|---|---|---|
| **Fiscal 2013** | | |
| Ending Balance Before Legislative Action | $627.2 | $627.2 |
| Fund Transfers – BRFA | -14.4 | 0.0 |
| **Adjusted Ending Balance** | **$612.8** | **$627.2** |
| **Fiscal 2014** | | |
| Revenues – BRE Estimate | $15,351.2 | $15,351.2 |
| Other Revenues | 28.0 | 28.0 |
| Revenues – BRFA | 8.5 | 0.0 |
| Revenues – New and Enhanced Tax Credits | -18.1 | -18.1 |
| Fund Transfers – Legislation – BRFA | 89.2 | 0.0 |
| Transfer from Rainy Day Fund | 166.0 | 166.0 |
| **Total Revenues and Balance** | **$16,237.5** | **$16,154.3** |
| Expenditures – Allowance | $16,106.0 | $16,106.0 |
| Expenditure Reductions – Contingent on BRFA | -102.7 | 0.0 |
| **Total Expenditures** | **$16,003.4** | **$16,106.0** |
| **Ending Balance (Revenues Less Expenditures)** | **$234.1** | **$48.2** |
| **SAC Recommended Balance** | **$200.0** | **$200.0** |
| **Over/Under SAC Balance** | **$34.1** | **-$151.8** |

### Cash Position

| | | |
|---|---|---|
| General Fund Balance | $234.1 | $48.2 |
| Rainy Day Fund Balance – June 30, 2014 | 921.1 | 921.1 |
| **Total** | **$1,155.2** | **$969.3** |
| Cash and Rainy Day Fund Over 5% | $387.7 | $201.8 |

BRE: Board of Revenue Estimates
BRFA: Budget Reconciliation and Financing Act
SAC: Spending Affordability Committee

# Summary of Provisions

# Budget Reconciliation and Financing Act of 2013
# (HB 102/SB 127)

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## Mandate Relief

- Modifies the distribution of horse racing revenue impact aid to provide for pro-rata allocations of local impact grants if revenues are insufficient (bill pages 3-4; for more detail, see Fiscal and Policy Note (FPN) page 30)

- Repeals the requirement that the State repay $50.0 million annually, from fiscal 2014 to 2020, to replenish the Local Income Tax Reserve Account (bill page 7; FPN page 18)

- Defers until fiscal 2016 the requirement that transfer tax funds diverted to the general fund in fiscal 2006 be repaid by unappropriated general fund balance in excess of $10.0 million (bill page 8; FPN, page 19)

    - The Department of Legislative Services (DLS) recommends that the repayment requirement be repealed entirely (for more detail, see page 11 of this document)

## General and Special Fund Revenue Actions

- Repeals the requirement that the Comptroller publish, in newspapers of general circulation, notice of abandoned property; authorizes the establishment of an electronic database with access via an Internet website (bill pages 4-6; FPN, page 17)

- Requires county boards of education to reimburse the Department of Juvenile Services a portion of the costs to educate a child in detention in a facility for 15 consecutive days or more (bill page 6; FPN, page 23)

- Repeals the provision that directs 5% of the admissions and amusement tax on electronic bingo and electronic tip jars to the Special Fund for the Preservation of Cultural Arts in Maryland and directs that share to the general fund (bill pages 6-7; FPN, page 14)

- Repeals the Maryland-mined Coal Tax Credit effective January 1, 2013 (bill page 8; FPN, page 13)

## New or Expanded Uses of Existing Revenues

- Program Open Space – continues the authorization through fiscal 2015 that $1.2 million of the State share may be used for program administration expenses in the Department of Natural Resources, the Department of General Services, and the Department of Planning (bill page 6; FPN, page 25)

## Transfers

- From the Local Reserve Account held by the Comptroller, $15.4 million to a special fund in the Department of Transportation to provide transportation grants to municipalities (bill page 7; FPN, page 21)
    - DLS recommends striking this provision (see page 13)
- Directs a portion of transfer tax revenues to the general fund: $89.2 million in fiscal 2014; $75.1 million in fiscal 2015; $77.7 million in fiscal 2016; $82.8 million in fiscal 2017; and $86.0 million in fiscal 2018 (bill page 8; FPN, page 9)
    - DLS recommends modifying this provision so that $25.0 million is directed to the general fund for fiscal 2014 through 2018; on an ongoing basis, $25.0 million is directed to the Natural Resources Police budget, relieving the general fund (see page 15)
- From the balance in the State Insurance Trust Fund, $1.0 million to the general fund in fiscal 2013 (bill page 8; FPN, page 16)
- From the Small, Minority, Women-Owned Business Account established with the revenues from the video lottery terminal program, $2.0 million to the Maryland Small Business Development Financing Authority in fiscal 2014 (bill page 8; FPN, page 33)
    - DLS recommends striking this provision (see page 18)

## Cost Control and Miscellaneous Provisions

- Limits, for fiscal 2014, the increase in rates paid to group homes and nonpublic placements to 2.5% over the rates in effect on January 16, 2013 (bill page 9; FPN, pages 26, 27)

- Requires the Health Services Cost Review Commission to study the projected savings that will accrue to Medicaid through the application of tiered rates for hospital outpatient and emergency department services and to take certain action to ensure that general fund savings of $30.0 million are realized for fiscal 2014 (bill pages 9-10; FPN, page 28)

# Additional Recommendations to HB 102/SB 127

## Changes to Grant Programs

- Modify the Disparity Grant to allow participation of currently eligible jurisdictions that are excluded by the fiscal 2010 cap (for more detail, see page 20 of this document)

## Special Fund Actions

- Modify the allocation of funds from the Maryland Emergency Medical System Operations Fund that are used to support the Maryland State Police Aviation Command (see page 22)

- Require the Maryland Transit Administration to adjust fares to the nearest dime triennially, beginning in fiscal 2014, based on the increase in the Consumer Price Index over the preceding three calendar years (see page 24)

## Transfers to the General Fund

- Sustainable Communities Tax Credit Reserve Fund – $13.2 million from the accumulated balance (see page 25)

- Mental Hygiene Administration – reduce the fiscal 2013 community services appropriation by $5.0 million in general funds (see page 26)

## Restrictions of Fiscal 2013 Appropriations

- Mental Hygiene Administration – restrict $2.1 million in general funds to be used only to increase the rates paid to specialty physicians for certain diagnostic codes effective January 1, 2013 (see page 27)

- Mental Hygiene Administration – restrict $4.2 million in general funds to be used only to eliminate the fiscal 2012 unprovided for payables which were carried into fiscal 2013 (see page 28)

- Aid to Education – restrict general funds of $5.5 million in nonpublic placements and $1.5 million in Out-of-county Living Arrangements either for the program or to fund Quality Teacher Incentive payments (see page 29)

## Miscellaneous

- Rainy Day Fund – increase the amount of balance transfer that requires separate legislation to 6.0% in fiscal 2014, increasing incrementally to 7.5% in fiscal 2020 (see page 31)

- Major Information Technology Projects – modify the requirements for new projects to include those undertaken via Memoranda of Understanding with public institutions of higher education (see page 32)

- Income Tax – provide that the automatic one-year decoupling provision does not apply to any amendment of the federal tax code enacted under the American Taxpayer Relief Act of 2012 (see page 33)

# Detail on Alternative and Additional Recommendations on HB 102/SB 127

**Proposed Amendment to HB 102/SB 127 as Introduced**

## Repeal Program Open Space $90 Million Repayment

**Provision in BRFA as Introduced:** Defer repayment for a $90 million distribution of transfer tax revenues to the general fund made in fiscal 2006 until fiscal 2016.

**Provision as Recommended by DLS:** Repeal repayment requirement in its entirety.

**Agency:** Maryland Department of Natural Resources, Maryland Department of Agriculture, Maryland Department of Planning, Local Governments.

**Type of Action:** Mandate Relief

**Fiscal Impact vs. Current Law:** If adopted the provision would eliminate a $90 million mandated general fund appropriation to agencies which receive Program Open Space (POS) funds.

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Exp | $0.0 | -$50.0 | -$40.0 | $0.0 | $0.0 | $0.0 |
| SF Rev | 0.0 | -50.0 | -40.0 | 0.0 | 0.0 | 0.0 |
| SF Exp | 0.0 | -50.0 | -40.0 | 0.0 | 0.0 | 0.0 |

**Fiscal Impact vs. BRFA as Introduced:** The fiscal 2014 effect would be the same under either scenario, with no repayment being made. However, the $90 million would need to be repaid over time in years where the fund balance is available.

**Background/Recent History:** Chapter 473 of 2005 stipulated that all transfer tax revenues to the general fund since fiscal 2006 must be repaid up to $50 million per year, starting in fiscal 2012 in any year where there is a surplus in excess of $10 million. A $90 million transfer was made in fiscal 2006 and has not been repaid. All subsequent transfers since fiscal 2006 have been repaid, are planned to be repaid, or have been specifically exempted from repayment. The Governor included mandated appropriations of $50 million in fiscal 2012 and 2013 in conjunction with contingent reductions tied to budget reconciliation legislation. Funds are again budgeted in the fiscal 2014 allowance to be reduced contingent on the Budget Reconciliation and Financing Act (BRFA) of 2013. The BRFA of 2013 further proposes to defer repayment until fiscal 2016; however, the Governor’s forecast shows no repayment through fiscal 2018 since no surplus closing balance is projected in any year beyond fiscal 2014.

**State Effect:** The Department of Natural Resources (DNR) would forgo a total of $55.4 million and the Maryland Department of Agriculture (MDA) would forgo $14.9 million through the POS formula.

| Agency | FY 2014 Repayment | FY 2015 Repayment | Total |
|---|---|---|---|
| Department of Natural Resources | $30.8 | $24.6 | $55.4 |
| Maryland Department of Agriculture | 8.3 | 6.6 | 14.9 |
| **Total** | **$39.1** | **$31.2** | **$70.3** |

**Local Effect:** Local governments would lose $19.6 million based on the POS formula.

| Agency | FY 2014 Repayment | FY 2015 Repayment | Total |
|---|---|---|---|
| Local Governments | $10.9 | $8.7 | $19.6 |

Subcommittee Assignments: APP/B&T Alt-8

**Proposed Amendment to HB 102/SB 127 as Introduced**

## Local Income Tax Reserve Account – Maryland Department of Transportation Grants

**Provision in BRFA as Introduced:** Requires the Comptroller to transfer $15,379,979 from the Local Income Tax Reserve Account to a special fund established in the Maryland Department of Transportation (MDOT) for the purpose of providing transportation grants to municipalities.

**Provision as Recommended by DLS:** Strike the provision. Provision of transportation grants to municipalities should be considered in the broader context of transportation revenues and spending.

**Agency:** Maryland Department of Transportation – Office of the Secretary

**Type of Action:** Fund transfer

**Fiscal Impact of DLS Recommendation vs. Current Law:** None. DLS recommendation would maintain current law.

**Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:**

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Rev | $15.4 | $0.0 | $0.0 | $0.0 | $0.0 | $0.0 |
| SF Rev | -15.4 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SF Exp | 0.0 | -15.4 | 0.0 | 0.0 | 0.0 | 0.0 |

**Background:** The local income tax reserve account is used to manage the cash flow of personal income tax payments and distributions to local governments. It is administered by the Comptroller's Office. The account is also used to meet the State's liability for local income taxes according to generally accepted accounting principles (GAAP). Each month, a portion of personal income tax net receipts is put into the account representing an estimate of local income tax payments. At the end of each fiscal year, excess funds are transferred to the general fund or general funds are transferred into the account if the balance is deemed insufficient. For fiscal 2013, the Bureau of Revenue Estimates has recognized an excess of $32.9 million in the account and has booked this amount as a general fund revenue. This provision transfers $15.4 million of this excess to a special fund in MDOT, thereby reducing the transfer that would otherwise accrue to the general fund.

**State Effect:** Adoption of this recommendation increases the general fund balance by $15.4 million.

**Local Effect:** Adoption of this recommendation would reduce the funding available to municipalities for transportation purposes by $15.4 million.

**Proposed Amendment to HB 102/SB 127 as Introduced**

# Transfer Tax Modification

**Provision in BRFA as Introduced:** Authorizes the transfer of $89,198,555 in transfer tax revenues to the general fund in fiscal 2014, $75,062,000 in fiscal 2015, $77,654,000 in fiscal 2016, $82,771,000 in fiscal 2017, and $86,028,000 in fiscal 2018. The transfers may not be taken into account for purposes of determining any allocation or appropriation required under the statutory provisions relating to the repayment of the transfers in subsequent years.

**Provision as Recommended by DLS:** Modify the transfer tax formula to redirect permanently $25,000,000 in special funds to the Natural Resources Police and to redirect for five years $25,000,000 in special funds annually to the State general fund.

**Agency:** Department of Natural Resources; Maryland Department of Agriculture

**Type of Action:** Fund balance transfers and expanded use of special fund

**Fiscal Impact of DLS Recommendation vs. Current Law:**

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Rev | $0.0 | $25.0 | $25.0 | $25.0 | $25.0 | $25.0 |
| GF Exp | 0.0 | -20.2 | -19.1 | -19.1 | -19.1 | -19.1 |
| SF Exp | 0.0 | -25.0 | -25.0 | -25.0 | -25.0 | -25.0 |

**Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:**

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Rev | $0.0 | -$64.2 | -$50.1 | -$52.7 | -$57.8 | -$61.0 |
| GF Exp | 0.0 | -20.2 | -19.1 | -19.1 | -19.1 | -19.1 |
| SF Exp | 0.0 | 64.2 | 50.1 | 52.7 | 57.8 | 61.0 |

**Background/Recent History:** The State transfer tax of 0.5% of the consideration paid for the transfer of real property from one owner to another has been used to fund several land conservation programs in the Department of Natural Resources (DNR) and Maryland Department of Agriculture (MDA). First, transfer tax revenues for debt service on Program Open Space (POS) Acquisition Opportunity Loan of 2009 GO bond authorizations are credited to the Annuity Bond Fund. Second, before any program-specific allocations are made, 3.0% of the transfer tax is distributed to DNR and the other agencies involved in POS for their administration of the program. Third, approximately 76.0% of the remaining transfer tax historically has been allocated to POS, which has three main components: a State share, local share, and Maryland Park Service operations share. All other funds are allocated to the Rural Legacy Program, the Maryland Agricultural Land Preservation Foundation (MALPF), the Maryland Heritage Areas Authority, and the Heritage Conservation Fund pursuant to statute.

State transfer tax revenue and unexpended balances have been redirected and transferred to the general fund in recent years pursuant to budget reconciliation legislation. As shown in **Exhibit 1**, from fiscal 2006 through 2013, a total of $629.9 million in transfer tax revenue and fund balances has been redirected, of which $505.0 million has been or is scheduled to be replaced through fiscal 2015, pursuant to current law.

**Exhibit 1**

## Transfer Tax Transferred to the General Fund and Replacement Schedule Under Current Law, Reflecting Actions Taken through the 2012 Session

**Fiscal 2006-2015**
**($ in Millions)**

| Fiscal Year | Transfers | Replacement |
|---|---|---|
| 2006 | $90.0 | $0.0 |
| 2007 | 0.0 | 0 |
| 2008 | 0.0 | 0 |
| 2009 | 136.5 | 0 |
| 2010 | 188.5 | 135.6 |
| 2011 | 23.5 | 156.5 |
| 2012 | 94.5 | 46.2 |
| 2013 | 96.9 | 81.9 |
| 2014 Est. | 0.0 | 55.0 |
| 2015 Est. | 0.0 | 29.8 |
| **Total** | **$629.9** | **$505.0** |

Note: This exhibit reflects all $70.0 million of Program Open Space Acquisition Opportunity Loan of 2009 funding split between fiscal 2010 and 2011. In addition, the exhibit reflects all actions taken up to and including the 2012 session; thus, transfers and replacements authorized in the Budget Reconciliation and Financing Act of the First Special Session of 2012 (Chapter 1) and the fiscal 2013 capital budget, including pre-authorizations of general obligation bonds in fiscal 2014 and 2015, are shown even though the proposed fiscal 2014 capital budget modifies those pre-authorizations. Transfers proposed in this bill and additional replacement of funds planned in the *Capital Improvement Program* are not included.

This exhibit does not reflect repayment of the $90.0 million in transfer tax revenue transferred to the general fund in fiscal 2006. For more information on that transfer and the required repayment provision, please see the Deferral of Transfer Tax Payment provision of this bill.

Source: Department of Legislative Services

**State Effect:** General fund revenues increase by $25.0 million in fiscal 2014 through fiscal 2018 due to the transfers. It is assumed that, without the transfer, these special funds would have been used to support POS, the Rural Legacy Program, MALPF, the Heritage Conservation Fund, and the Maryland Park Service in fiscal 2014 through 2018. Thus, special fund expenditures decrease by a corresponding amount in each respective year.

The general fund expenditures decrease by $20.2 million in fiscal 2014 and $19.1 million in fiscal 2015 through 2018. This is less than the $25.0 million in special funds allocated to the Natural Resources Police because the general fund contingent reduction in Natural Resources Police allowed for by the formula change is reduced by the amount of special funds that will be used to backfill annually the $2.1 million Waterway Improvement Fund appropriation to the Natural Resources Police. The Waterway Improvement Fund special fund appropriation in turn will be available for Waterway Improvement Program capital projects. In addition, it is assumed that the reduction to Maryland Park Service operations funding due to the inclusion of the Natural Resources Police in the transfer tax formula will be backfilled with $2.7 million in general funds in fiscal 2014 and $3.8 million thereafter through fiscal 2018. Together, these provisions result in a smaller net decrease in general fund expenditures.

**Local Effect:** Local governments receive grants for land acquisition, the development of park and recreational facilities, and the purchase of easements funded through the local share of POS, Rural Legacy, and MALPF. The funding for these programs will be reduced to the extent that the transfer tax formula rebases these programs and general obligation bond authorization is not provided in the capital budget bill to replace special funds transferred to the general fund.

**Proposed Amendment to HB 102/SB 127 as Introduced**

## Small, Minority, and Women-Owned Business Account

**Provision in BRFA as Introduced:** Authorizes the transfer of $2,000,000 from the Small, Minority, and Women-Owned Business Account (SMWOBA) to the Maryland Small Business Development Financing Authority's (MSBDFA) Contract Financing Fund in fiscal 2014.

**Provision as Recommended by DLS:** Strike the provision.

**Agency:** Department of Business and Economic Development

**Type of Action:** Use of Special Fund Revenue

**Fiscal Impact of DLS Recommendation vs. Current Law:** None. The recommendation would strike the provision that would authorize the transfer of funds from the SMWOBA to MSBDFA.

**Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:** The fiscal 2014 allowance reflects the proposed transfer in the budget for the MSBDFA. The Department of Legislative Services recommendation would allow the $2 million in special funds to remain in the SMWOBA fund balance. The allowance for the MSBDFA Contract Financing Fund would subsequently be reduced by $2 million in special funds.

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| SF Exp | $0.0 | -$2.0 | $0.0 | $0.0 | $0.0 | $0.0 |

**Background/Recent History:** The SMWOBA was created by Chapter 4 of the 2007 special session to provide investment capital and loans to small, minority, and women-owned businesses in the State. The legislation dedicated a portion (1.5%) of gross video lottery terminal (VLT) revenues to the account, and at least 50% of available funds must be dedicated to eligible businesses in the jurisdictions and communities surrounding the State's VLTs. The Board of Public Works (BPW) is tasked 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. A memorandum of understanding (MOU) between BPW and the department, delegating administration of the program to the department, was finalized in August 2012.

Since the MOU was finalized, a workgroup convened to review and approve the request for proposal (RFP) for eligible fund managers for the program. The workgroup paid special attention to how to define small, minority, and women-owned businesses and how to define the areas around VLT facilities in which 50% of the award shall be distributed. The workgroup issued a final approval of the RFP for fund managers for the program in December 2012. The department expects the contracts to start in April 2013.

MSBDFA provides financing assistance to businesses unable to obtain adequate, reasonable financing through private lending institutions due to credit criteria. MSBDFA is managed by a private contractor and operates four programs, including the Contract Financing Program.

**State Effect:** The recommended action would strike the provision that would allow the transfer of funds from the SMWOBA fund balance to MSBDFA. This would result in a reduction of $2 million in the fiscal 2014 allowance for MSBDFA.

**Exhibit 1** shows the funding that has accrued and is expected to accrue to the SMWOBA. In an effort to address the fiscal deficit, Chapter 1 of the First Special Session of 2012 authorized the transfer of $1.88 million from the SMWOBA to the Education Trust Fund, which allowed a general fund reduction to education funding. To the extent that VLT revenues materialize as projected, the SMWOBA will have $19.6 million available for its selected fund managers to award to businesses. The BRFA of 2013 provision would leave $17.6 million in the account.

**Exhibit 1**
**Small, Minority, Women-Owned Business Account History**
**Fiscal 2011-2014**
**($ in Thousands)**

| | 2011 | 2012 | 2013 | 2014 | Total |
|---|---|---|---|---|---|
| Small, Minority, Women-Owned Business Account | $1,550 | $2,918 | $7,869 | $9,102 | $21,439 |
| Transferred to the Education Trust Fund | 0 | -1,867 | 0 | 0 | -1,867 |
| **Total** | **$1,550** | **$1,051** | **$7,869** | **$9,102** | **$19,572** |

Source: Department of Legislative Services; Governor's Budget Books, Fiscal 2014

The fiscal 2014 allowance for MSBDFA reflects the transfer as outlined in the bill, contingent upon its enactment. The allowance for the program is $8.3 million in general and special funds, plus $1.8 million in special funds for the program's management contract.

**Local Effect:** Local revolving loan funds may bid to become fund managers for the SMWOBA. This transfer would result in reduced funds to be awarded to potential bidders. Additionally, the provisions of the SMWOBA program require that 50% of the funds be dedicated to eligible businesses in the jurisdictions and communities surrounding the State's VLTs. The MSBDFA program has no such requirement. This transfer would result in the likely loss of business assistance in those communities.

**Proposed Amendment to HB 102/SB 127**

## Modify Disparity Grant Formula

**Provision as Recommended by DLS:** Modify the Disparity Grant program to allow participation of currently eligible jurisdictions that are excluded by the fiscal 2010 cap. Options include, but are not limited to:

1. establish a minimum 40% grant – this will both permit excluded but eligible jurisdictions to participate and would increase the grant to one existing jurisdiction;

2. phase out the cap over five years but include an adjustment for tax effort; or

3. convert the grant to a flat dollar amount with a minimum 40% grant, then increase annually by a 2% inflation component.

**Agency:** Payments to Civil Divisions of the State

**Type of Action:** Mandate modification

**Fiscal Impact vs. Current Law:**

Option 1 would add a 40% minimum floor requirement, adding Cecil, Kent, and Washington counties to the program. It would also increase funding for Wicomico County, which currently receives 20% of the formula allocation.

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Exp | $0.0 | $6.1 | $6.1 | $6.1 | $6.1 | $6.1 |

Option 2 would phase out the fiscal 2010 cap over five years, adding Cecil, Kent, and Washington counties to the program. It would also decrease funding for any county which has a local income tax rate below the maximum 3.2%.

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Exp | $0.0 | $4.9 | $11.3 | $17.7 | $24.1 | $30.5 |

Option 3 converts the grant to a flat amount, based on at least a 40% minimum grant, adding Cecil, Kent, and Washington counties to the program. Annual increases of 2% are added to account for inflation.

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Exp | $0.0 | $6.1 | $8.6 | $11.2 | $13.9 | $16.6 |

**Background/Recent History:** Established in 1991, the Disparity Grant program provides funding to low wealth jurisdictions with per capita local income tax revenue below 75% of the statewide average. There have been several statutory changes to the program since 1991, with the most recent being the imposition of the funding cap in fiscal 2010. Funding was limited to $121.4 million for Baltimore City, Allegany, Caroline, Dorchester, Garrett, Prince George's, Somerset, and Wicomico counties. Cecil, Kent, and Washington counties qualify for funding under the statutory formula but are excluded because they did not receive funds in fiscal 2010.

**State Effect:** Effects vary based on the option selected. Additional State general funds of $5 million to $6 million would be required for fiscal 2014, increasing to a range from $6 million to $31 million by fiscal 2018.

**Local Effect:** Under all options, new funding would be provided to Cecil, Kent, and Washington counties. Wicomico County would also benefit from the options that raise the minimum to the 40% level. Options to phase out the cap or to include a 2% annual adjustment above current cap levels would provide additional local aid of $6 million in fiscal 2014 up to a range of $17 million to $31 million by fiscal 2018.

Subcommittee Assignments: APP/SB&T DLS-2

**Proposed Amendment to HB 102/SB 127**

## Use of Maryland Emergency Medical System Operations Fund for Aviation Command

**Provision as Recommended by DLS:** Amend the Transportation Article §13-955 to define medically oriented functions of the Maryland State Police Aviation Command (MSPAC) as scene Medevac; interfacility Medevac; and search, rescue, and firefighting missions. Further amend the Transportation Article §13-955 to specify that the expenditures of MSPAC eligible to be funded from the Maryland Emergency Medical System Operations Fund (MEMSOF) be based on the average level of activity dedicated to medically oriented functions in the three most recent completed fiscal years. This determination should be made once every three years, to take effect in fiscal 2015.

**Agency:** Maryland State Police Aviation Command

**Type of Action:** Use of Special Fund Revenue

**Fiscal Impact vs. Current Law:**

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Exp | $0.0 | $0.0 | Increase | Increase | Increase | Increase |
| SF Exp | 0.0 | 0.0 | Decrease | Decrease | Decrease | Decrease |

**Background/Recent History:** Currently, the Transportation Article §13.955(e) codifies that MEMSOF shall be used solely for the medically oriented functions of MSPAC. Medically oriented missions have been accepted as Medevac missions, search and rescue missions, and medical support missions. For several years, MSPAC has allocated MEMSOF costs based on past allocation rather than actual experience with missions. In fiscal 2008, the Maryland General Assembly requested an Attorney General's opinion on whether the method of allocating costs to MEMSOF was consistent with the purpose of the fund. The Attorney General concluded that allocation based on past proportionate usage was a reasonable implementation and further recommended periodic review of the allocation ratio based on actual experience.

**State Effect:** Actual general fund and special fund impacts are unknown. However, based on the most recently available mission data from calendar 2011, provided by the Maryland Institute for Emergency Medical Services Systems (MIEMSS) and MSPAC, medically oriented missions based on the revised definition would account for 49.6% of total MSPAC missions. Under this assumption, if fiscal 2014 MSPAC total expenditures are $29.8 million, then $14.8 million would be funded from MEMSOF and $15.0 million would be funded by the general fund, an increase of $8.8 million in general fund expenditures (and corresponding savings to MEMSOF).

The Department of Legislative Services (DLS) would note that 2,286 missions are currently classified as medical support missions and are not included in the new medically oriented mission definition. Medical support missions include transport of specialty medical teams, training, outreach to medical providers, and aircraft maintenance. MSPAC has begun implementing a decentralized maintenance strategy, which should dramatically reduce missions for aircraft maintenance. MSPAC has also received authorization to purchase a flight training device (FTD), which should dramatically reduce training missions when in service; the FTD is scheduled to become operational in fiscal 2015. Bearing this in mind, it is possible that missions within the medical support mission category will fall, and the ratio of medical to non-medical missions will not change as dramatically as shown in the previous scenario. DLS is unable to give an illustration of this alternate scenario because mission data is lacking.

**Proposed Amendment to HB 102/SB 127**

## Maryland Transit Administration Fare Increases

**Provision as Recommended by DLS:** Beginning in fiscal 2014, the fares charged by the Maryland Transit Administration (MTA) will increase by the amount of inflation since fiscal 2011 and then increase by the three-year average of inflation every three years thereafter to the nearest dime. The linking of future fare increases to inflation is consistent with the policy of the Washington Metropolitan Area Transit Authority.

**Agency:** Maryland Transit Administration

**Type of Action:** Fee Increase

**Fiscal Impact vs. Current Law:**

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| SF Rev | $0.0 | $10.2 | $10.3 | $10.3 | $20.1 | $20.3 |

**Background/Recent History:** The Maryland Department of Transportation (MDOT) supports transit in Maryland through MTA. MTA provides transit services in Baltimore City by operating the core bus, light rail, Metro, and paratransit services. Statewide, MTA provides services through MARC and commuter bus service as well as providing operating assistance funds to smaller local transit systems. MTA last increased fares in fiscal 2004.

Statute provides that MTA should recover 35% of its eligible expenditures for transit services provided in Baltimore City. Currently, MTA's farebox recovery rate is below 35%. In a report to the budget committees, MTA advises that it would need to increase fares to $2.25 in fiscal 2013 to meet farebox recovery.

During the 2012 session, the budget conference adopted a provision in the BRFA (SB 152 of 2012) that would have required MTA fares to increase every three years based upon the change in inflation to the nearest dime. Ultimately, the BRFA of 2012 did not pass during the regular session. The First Special Session of 2012 was called to address the budget-related bills that did not pass on Sine Die. The BRFA of 2012 submitted by the Administration in the First Special Session of 2012 did not include the provision relating to linking fare increases to inflation.

**State Effect:** MTA fares would increase in fiscal 2014 from $1.60 to $1.80 resulting in additional revenue of $10.2 million. Fares would increase again in fiscal 2017 to $2.00. The estimate provided by MTA does not assume a decline in revenue due to ridership loss.

Subcommittee Assignments: T&E/PSTE DLS-9

**Proposed Amendment to HB 102/SB 127**

## Sustainable Communities Tax Credit Program – Expired Certificates

**Provision as Recommended by DLS:** Transfer $13,210,281 in general funds from the Sustainable Communities Tax Credit special reserve account to the general fund. This amount reflects initial credit certificates that were issued between fiscal 2006 and 2010, and that have expired, as acknowledged by the Maryland Historical Trust within the Maryland Department of Planning.

**Agency:** Maryland Department of Planning

**Type of Action:** Fund Balance Transfer

**Fiscal Impact vs. Current Law:**

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Rev | $0.0 | $13.2 | $0.0 | $0.0 | $0.0 | $0.0 |

**Recent History:** The tax credit was established as an uncapped, nonbudgeted tax credit by Chapter 601 of 1996 and has been modified periodically over the intervening years. Chapter 76 of 2004 created the Maryland Heritage Structure Rehabilitation Tax Credit Program, which involved creating a tax credit reserve fund and thus appropriating an annual amount of tax credits. It was during this time that a statute of limitations was placed on the time period in which the tax credit is redeemable.

The Maryland Sustainable Communities Tax Credit Program was created by the Sustainable Communities Act of 2010 (Chapter 487 of 2010) as an extension and alteration of the existing Heritage Structure Rehabilitation Tax Credit Program – a budgeted tax credit. The program has a commercial and a residential component, but only the commercial component is a budgeted tax credit. Funding for the program is required for the commercial credit in fiscal 2011 through 2014, and the Maryland Historical Trust is authorized to award an unlimited amount of residential credits to applications received through June 30, 2014.

**State Effect:** General fund revenues increase by $13.2 million due to the transfer.

**Proposed Amendment to HB 102/SB 127**

## Mental Hygiene Administration – Surplus Fiscal 2013 Funds

**Provision as Recommended by DLS:** Reduce the fiscal 2013 general fund appropriation for community mental health services by $5 million. The fiscal 2013 community mental health budget is projected to be overfunded based on favorable enrollment and utilization trends.

**Agency:** Mental Hygiene Administration

**Type of Action:** Budget Reduction

**Fiscal Impact vs. Current Law:**

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Exp | -$5.0 | $0.0 | $0.0 | $0.0 | $0.0 | $0.0 |

**State Effect:** The action results in additional general fund balance of $5.0 million in fiscal 2013.

**Proposed Amendment to HB 102/SB 127**

## Mental Hygiene Administration – Specialty Physician Rates

**Provision as Recommended by DLS:** Restrict $2.1 million in fiscal 2013 general funds to allow for an increase in specialty mental health physician evaluation and management rates effective January 1, 2013, consistent with somatic physician rates. The fiscal 2013 community mental health budget is projected to be overfunded based on favorable enrollment and utilization trends.

**Agency:** Mental Hygiene Administration

**Type of Action:** Budget Restriction

**Fiscal Impact vs. Current Law:** There is no change in general fund spending. These funds are already in the fiscal 2013 budget.

**State Effect:** The action merely restricts surplus fiscal 2013 for a specific purpose. There is no impact in fiscal 2014 because the rate increase is assumed in the fiscal 2014 budget.

Subcommittee Assignments: HHR/HHS DLS-4

**Proposed Amendment to HB 102/SB 127**

## Mental Hygiene Administration – Fiscal 2012 Payables

**Provision as Recommended by DLS:** Restrict $4.2 million in fiscal 2013 general funds to eliminate unprovided for general fund payables rolled over from fiscal 2012 into 2013. The fiscal 2013 community mental health budget is projected to be overfunded based on favorable enrollment and utilization trends.

**Agency:** Mental Hygiene Administration

**Type of Action:** Budget Restriction

**Fiscal Impact vs. Current Law:** None. The action merely restricts surplus fiscal 2013 to offset prior year deficits that would ordinarily be paid for with surplus funds in the subsequent year. However, it prevents any new one-time or ongoing spending from occurring in fiscal 2013.

**Proposed Amendment to HB 102/SB 127**

## Out-of-county Living Arrangements and Nonpublic Placements – Use of Surplus Fiscal 2013 Funds

**Provision as Recommended by DLS:** Restrict $1.5 million from the fiscal 2013 appropriation for Out-of-county Living Arrangements and $5.5 million from the Nonpublic Placement program to be used only for the purpose of these programs or for the Quality Teacher Incentive Program.

**Agency:** Maryland State Department of Education

**Type of Action:** Budget Restriction

**Background/Recent History:** Out-of-county Living Arrangements – The State provides a contribution to counties for educating students who are not permanent residents of the county but may be attending the local school. This includes students who live near county lines and the closest school is not in their county of residence and students in State-supervised or foster care who are not in the county where their legal guardian resides.

Nonpublic Placement – Most students with disabilities receive special education services in the public schools. If an appropriate program is not available in the public schools, however, a student may be placed in a private school offering more specialized services. The costs for these students, who are placed in nonpublic day or residential facilities, are shared by the local school systems and the State. The school system contributes an amount equal to the local share of the basic cost of educating a child without disabilities, plus two times the total basic cost. Between fiscal 2010 and 2012, the number of children served by this program declined by 345, and the average State cost of placement has decreased.

Quality Teacher Incentives – Quality Teacher Incentives are used to recruit and retain quality teachers by providing stipends to teachers achieving National Board Certification and teachers holding Advanced Professional Certificates that teach in comprehensive needs schools. The number of comprehensive needs schools reached a peak in fiscal 2013 as a result of increasing Adequate Yearly Progress targets under the federal No Child Left Behind Act. As a result, the fiscal 2013 working appropriation is not expected to cover anticipated expenditures for this program.

The State contribution for both the Nonpublic Placement and Out-of-county Living Arrangements programs depends on the number of children in such circumstances. The fiscal 2013 working appropriation for the Nonpublic Placement program is expected to exceed expenditures by $5.5 million, while the appropriation for Out-of-county Living Arrangements is expected to exceed expenditures by $1.5 million.

**State Effect:** Fiscal 2013 expenditures in the Out-of-county Living Arrangements and Nonpublic Placement programs are expected to fall below the fiscal 2013 appropriation. This action restricts $1.5 million and $5.5 million of the respective fiscal 2013 appropriation either for their original intended purpose, or for the Quality Teacher Incentives program, which would otherwise require a general fund deficiency.  Any funds not used for these specified purposes would revert to the general fund.

**Proposed Amendment to HB 102/SB 127**

## Modify Rainy Day Fund Balance Transfer Requirement

**Provision as Recommended by DLS:** Modify the minimum fund balance in the Rainy Day Fund that can be transferred through separate legislation from the current level of 5% up to 7.5% by fiscal 2020. Under this proposal the required minimum balance transfer that requires separate legislation would be increased to 6% for fiscal 2014 (the current balance in the Rainy Day Fund) and subsequently phased-in to 7.5% at 25 basis points per year.

**Agency:** State Reserve Fund Revenue Stabilization Account (Rainy Day Fund)

**Type of Action:** Good Government

**Fiscal Impact vs. Governor's FY 2014-2018 GF Forecast:**

($ in Millions)

| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|---|---|---|---|---|---|---|
| GF Rev | $0.0 | $0.0 | -$39.0 | -$26.0 | -$22.0 | -$27.0 |

**Background/Recent History:** Chapters 51 and 52 of 2006 increased the minimum balance required in the Rainy Day Fund from 5% of estimated general fund revenues to 7.5%. The Governor is required to appropriate an amount equal to the greater of the closing general fund balance above $10 million or $50 million per year to the fund when the balance is below 7.5%. In addition, the legislation specified that transfers from the fund that reduce the balance below 5% requires separate legislation whereas balance transfers above 5% may be made as part of the annual budget bill. Following enactment of this law the Governor had drawn the balance down to the 5% level through fiscal 2013 as part of annual budget balancing efforts. For fiscal 2014 the Governor proposes increasing the Rainy Day Fund balance to 6%.

**State Effect:** The Governor's general fund forecast through fiscal 2018 anticipates maintaining a 6% fund balance in the Rainy Day Fund. Since no surpluses are forecast, annual appropriations of $50 million per year are forecast, offset by transfers to the general fund. Increasing the fund's balance by 25 basis points per year will require that an additional $22 million to $39 million per year be retained, compared to the forecast which assumed that fund balance in excess of 6% would be transferred to the general fund each year. Additional amounts may be appropriated to the Rainy Day Fund if there are unappropriated surpluses at closeout, in excess of $10 million per year. Those amounts are required by statute to be appropriated to the Rainy Day Fund.

**Proposed Amendment to HB 102/SB 127**

## Clarify Definition of Major Information Technology Projects

**Provision as Recommended by DLS:** This provision clarifies that major information technology (IT) projects, in which an agency contracts with higher education institutions to plan or implement a major IT project, are subject to the same review as other major IT projects.

**Agency:** Department of Information Technology (DoIT)

**Type of Action:** Good Government

**Fiscal Impact vs. Current Law:** Increased oversight may result in some cost savings, but savings cannot be reliably estimated.

**Background/Recent History:** State agencies regularly enter into memoranda of understanding (MOU) with higher education institutions to operate, maintain, or perform routine upgrades to IT systems and programs. Concerns have been raised by auditors that these contracts can evolve into major IT projects, in which a higher education institution could support the planning, implementation, installation, and testing of a new major IT project. State Finance and Procurement Article §3A-301(b) clearly defines these activities as major IT projects that require DoIT review. While the statute defines major IT projects, it does not specifically state that MOUs with higher education institutions are also major IT projects if they have all the characteristics of major IT projects. The proposed language clarifies the statute.

**State Effect:** The purpose of the language is to ensure all major IT projects receive sufficient oversight. Savings related to this oversight are indefinite.

**Proposed Amendment to HB 102/SB 127**

## Decoupling from Federal Tax Law Changes

**Provision as Recommended by DLS:** The amendment would provide that the automatic one- year decoupling provision in §10-108(a) of the Tax-General Article does not apply to any amendment of the Internal Revenue Code enacted under the American Taxpayer Relief Act (ATRA) of 2012.

**Agency:** Comptroller

**Type of Action:** Revenue enhancement

**Fiscal Impact vs. Current Law:** See discussion under State and Local Effect.

**Background/Recent History:** Within 60 days after an amendment of the Internal Revenue Code (IRC) is enacted, the Comptroller must submit a report to the Governor and the General Assembly that outlines the changes in the IRC, the impact on State revenues, and how different types of taxpayers will be affected. If the Comptroller determines that the federal tax change will impact State revenues by at least $5 million (positive or negative) in the fiscal year that begins during the calendar year in which the federal tax change was enacted, the federal tax change does not apply for Maryland income tax purposes for any taxable year that begins in the calendar year in which the federal tax change is enacted. After this first tax year, amendments to the IRC apply for Maryland income tax purposes unless otherwise explicitly provided by law.

The ATRA of 2012 was signed into law on January 2, 2013. At least one of the provisions in the ATRA of 2012 will impact the calculation of Maryland income tax liability and thus significantly increase State and local income tax revenues. The ATRA of 2012 re-imposes the federal "Pease Limitation" on itemized deductions beginning in tax year 2013. This limitation reduces the amount of itemized deductions that taxpayers may claim beginning at certain income levels; the threshold is $300,000 for married couples filing jointly and $250,000 for individuals.

**State and Local Effect:** In its December 2012 forecast, the Board of Revenue Estimates (BRE) included $70 million in additional Maryland income tax revenue in fiscal 2014 from the return of the Pease limitation, which reflects a year and a half impact (all of tax year 2013 and half of tax year 2014). The ATRA of 2012 brought back the Pease limitation but set the threshold at a higher level than BRE assumed. Thus, relative to the BRE's estimate, fewer taxpayers will be impacted by the Pease limitation; therefore, this estimate could be revised lower by BRE. Adoption of this amendment would allow State and local revenues anticipated in tax year 2013 from the federal itemized deduction limitation to be realized, as well as simplifying the filing of income tax returns for taxpayers and the administration of those returns by the Comptroller's Office.

Subcommittee Assignments: APP/B&T DLS-11