
**Department of Legislative Services' Recommendations
for Amendments to the Administration's:**

**Budget Financing Act of 2005 (HB 147/SB 124)
Budget Reconciliation Act of 2005 (HB 148/SB 127)
Tax Compliance Act of 2005 (HB 149/SB 126)**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

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Total General Fund Impact of Administration's Proposed Legislation

Combined, the Budget Financing Act (BFA), Budget Reconciliation Act (BRA), and Tax Compliance Act provide a total of \$313.1 million in revenues, spending reductions, and transfers in fiscal 2005 and 2006 that contributes to the estimated overall fiscal 2006 general fund closing balance.

(\$ in Millions)		
	<u>2005 GF</u>	<u>2006 GF</u>
Budget Financing Act of 2005		\$3.5
Budget Reconciliation Act of 2005	\$13.6	237.7
Tax Compliance Act of 2005		58.3
Total	\$13.6	\$299.5

Revenue is provided mostly from the transfer of special fund revenues generated by the transfer tax, general fund contingent reductions, and revenues from a variety of sources including fees and tax compliance measures.

(\$ in Millions)		
	<u>2005 GF</u>	<u>2006 GF</u>
Contingent GF Reductions		\$77.9
Transfers	\$13.6	163.3
Revenues		58.3
Total	\$13.6	\$299.5

Summary of Provisions in the Budget Financing Act of 2005

Establishes New Fees for the:

- Heritage Tax Credit in the Department of Housing and Community Development (DHCD) – regulations must include a reasonable fee for certifying heritage structures and rehabilitations – effectuates a \$400,000 contingent general fund reduction in the fiscal 2006 budget bill; and
- Drinking Driver Monitor Program within the Division of Parole and Probation – imposes a new monthly program fee of \$45 on all supervisees, allows exemptions for certain supervisees, and creates a special fund to be used for all program costs – effectuates a \$8,351,830 special fund contingent appropriation in the fiscal 2006 budget bill.

Increases Existing Fees for:

- Division of Parole and Probation – increases the existing monthly fee on probationer supervisees (some of whom are exempt) from \$25 to \$40 and names that fee the “supervision fee” – effectuates a \$598,000 general fund contingent appropriation in the fiscal 2006 budget bill; and
- Traffic and Criminal Court Cases – increases court fees from \$20 to \$25 for cases in which costs are imposed and increases the share of such fees paid into the Law Enforcement and Correctional Training Fund (LECTF) from one-fourth to two-fifths (which amounts to an increase from \$5 to \$10 per case to LECTF) – effectuates a \$750,906 general fund contingent reduction in the fiscal 2006 budget bill.

Reduces Program Reliance on General Funds by Providing Alternate Funding Sources in the:

- Medical Assistance Program in the Department of Health and Mental Hygiene (DHMH) – authorizes DHMH to seek recovery, under specified conditions, from the estate of the spouse of a deceased Medicaid recipient for the cost of furnishing Medicaid services to individuals who applied for Medicaid on or after July 1, 2005, and extends the timeframe for DHMH to file a claim on any estate of a deceased Medicaid recipient – effectuates contingent reductions of \$28,779 in general funds and \$28,779 in federal funds in the fiscal 2006 budget bill;

- Maryland Pharmacy Assistance Program (MPAP) in DHMH – enhances cost-sharing requirements for participants by increasing the copayment for prescription drugs that are not on the preferred drug list by \$1.00 (from \$7.50 to \$8.50) – effectuates contingent reductions of \$102,000 in general funds and \$102,000 in federal funds in the fiscal 2006 budget bill;
- Health regulatory commissions in DHMH – makes permanent the indirect cost assessment to the health regulatory commissions and increases the fee cap for each commission (all authorized for one year in the Budget Reconciliation and Financing Act (BRFA) of 2004) – effectuates a \$1,833,000 general fund contingent reduction in the fiscal 2006 budget bill:
 - \$11,200,000 is the fee cap for the Maryland Health Care Commission (MHCC); and
 - \$4,500,000 is the fee cap for the Health Services Cost Review Commission (HSCRC).

Relieves State Agencies of the Obligation to Pay Certain Taxes by:

- Exempting fuel purchased by the Department of General Services (DGS) for use by State agencies from the motor fuel tax – effectuates contingent reductions in the fiscal 2006 budget bill of \$875,000 in general funds, \$900,000 in special funds, and \$167,000 in federal funds for Executive Branch agencies to pay the tax as well as \$582,600 in special funds in highway user revenues to local governments.

**Contingencies in Fiscal 2006 Budget Bill
Effectuated by Provisions in the Budget Financing Act of 2005**

<u>Agency</u>	<u>Item Contingent on Enactment of Legislation to:</u>	<u>Amount</u>	<u>Fund</u>
<i><u>FY 2006 Reductions:</u></i>			
DHMH	Authorize assessment of indirect costs on budgets of HSCRC and MHCC	-\$1,833,000	GF
DHMH	Increase copay in MPAP by \$1 for prescription drugs that are not on the Preferred Drug List	-102,000	GF
	Increase copay in MPAP by \$1 for prescription drugs that are not on the Preferred Drug List	-102,000	FF

<u>Agency</u>	<u>Item Contingent on Enactment of Legislation to:</u>	<u>Amount</u>	<u>Fund</u>
	Authorize DHMH to seek recovery from the estate of the spouse of a deceased Medicaid recipient	-28,779	GF
	Authorize DHMH to seek recovery from the estate of the spouse of a deceased Medicaid recipient	-28,779	FF
DPSCS	Increase administrative District Court fees for traffic and criminal cases	-750,906	GF
DHCD	Authorize DHCD to charge a fee to certify heritage structures	-400,000	GF
SHA	Exempt motor fuel purchased by DGS for State agency use from the motor fuel tax (Executive Branch share to TTF and GMVRA only)	-582,600	SF
Sec 19	Exempt motor fuel purchased by DGS for State agency use from the motor fuel tax (Executive Branch share only)	-875,000	GF
	Exempt motor fuel purchased by DGS for State agency use from the motor fuel tax (Executive Branch share only)	-900,000	SF
	Exempt motor fuel purchased by DGS for State agency use from the motor fuel tax (Executive Branch share only)	-167,000	FF
	<i>General Fund Contingent Reductions</i>	<i>-\$3,989,685</i>	
	<i>Special Fund Contingent Reductions</i>	<i>-\$1,482,600</i>	
	<i>Federal Fund Contingent Reductions</i>	<i>-\$297,779</i>	
	Total Fund Contingent Reductions	-\$5,770,064	
	<u>FY 2006 Appropriations:</u>		
DPSCS	Increase monthly supervision fee for probationary offenders to \$40	\$598,000	GF
	Provide a program fee of \$45 per month for participants in DDMP	8,351,830	SF

DDMP = Drinking Driver Monitor Program
DGS = Department of General Services
DHCD = Department of Housing and Community Development
DHMH = Department of Health and Mental Hygiene
GMVRA = Gasoline and Motor Vehicle Revenue Account
HSCRC = Health Services Cost Review Commission
MHCC = Maryland Health Care Commission
MPAP = Maryland Pharmacy Assistance Program
TTF = Transportation Trust Fund

Department of Legislative Services (DLS) Recommended Amendments to the Budget Financing Act of 2005

- ***Maintain Circuit Court Real Property Records Improvement Fund:*** The clerks of the circuit court land records offices record and maintain the land record instruments, and the State Archives is the ultimate repository and custodian of all land records. Land records include deeds, mortgages, releases, leases, assignments, powers of attorney, agreements, easements, and other instruments affecting title to an interest in real property. Electronic Land Record Optical Images (ELROI) is the Judiciary's program to electronically record all land record instruments. ELROI was implemented in 13 jurisdictions prior to July 1, 2003. The Budget Reconciliation and Financing Act of 2003 increased the surcharge for land records from \$5 to \$20 in order to finance the project through fiscal 2007. Last year, the Judiciary and State Archives entered into a memorandum of understanding to archive ELROI land records and to accelerate implementation of ELROI in the remaining 11 jurisdictions. A pilot program to utilize the Archives database *mdlandrecord.net* was successful, and the Archives database will now serve as the primary repository for all completed land record transactions. The Archives database will reduce the workload of individual land record offices maintaining the database of scanned images and will also reduce equipment and personnel costs of individual land record offices.

Under current law, the Circuit Court Real Property Records Improvement Fund (Fund) terminates on June 30, 2006. The Judiciary has requested legislation (SB 348/HB 640) that would extend the sunset date to 2011. The Fund receives the land record surcharge revenues and may be spent to repair and modernize office equipment and related services in the land records offices. The Fund began in fiscal 2005 with a balance of \$42.6 million, which is projected to grow to \$52.4 million at the end of fiscal 2006. The fiscal 2006 allowance for the lands records offices includes \$5.2 million from the general fund and \$5 million from the Fund. **The Department of Legislative Services recommends that the allowable uses of the Fund be amended to include the annual operating expenses of the circuit court land records offices. This would permit a \$5.2 million general fund reduction in the budget. DLS further recommends that the land record surcharge and the Fund be made permanent to support these annual costs. This action could be taken in the BFA or in SB 348/HB 640, which has passed each house in different forms.**

- ***Eliminate Law Enforcement and Correctional Training Fund:*** When it was created, the LECTF was dedicated to the construction of the Public Safety Training Center. The construction of the center is completed, and the future capital projects listed in the 2005 *Capital Improvement Program* are funded by general obligation bonds rather than the LECTF. As the construction neared completion, the budget committees let the Police and Correctional Training Commissions (PCTC) use funds from the LECTF for operating

expenses. In recent years, the annual revenue has been inadequate to cover the PCTC operating expenses, and the balance of the LECTF has been drawn down. As such, in fiscal 2006 the fund balance, combined with the revenue from the increased court costs proposed in the BFA, will be inadequate to cover PCTC's projected operating expenses of approximately \$8.4 million.

PCTC expects to generate \$4.2 million in revenue in fiscal 2006 from the existing court costs and an additional \$4.2 million from the \$5 increase in court costs for traffic and criminal cases proposed in the BFA. Funds raised from the fee increase but not needed to fund the fiscal 2006 operating costs would go into the LECTF for future use. The fee increase would give the LECTF an estimated \$2.6 million fund balance at the end of fiscal 2006. Of this balance, approximately \$2.1 million is for planned one-time initiatives in fiscal 2007 that could be considered for funding on an annual basis rather than being "pre-funded" through the fee increase. **DLS recommends that the court costs for traffic and criminal cases be increased by \$2.50, instead of \$5 as proposed by the BFA, which would cover PCTC operating costs only. Since the fund has fulfilled its original purpose, DLS further recommends eliminating the LECTF and directing the court costs fee revenue to the general fund. PCTC would then be funded entirely from the general fund and would compete with other State agencies for funding.**

- ***Clarify Income Tax Decoupling:*** The federal Jobs and Growth Tax Reconciliation Act of 2003 increased, for tax year 2003 through 2005 only, the maximum aggregate costs that a taxpayer may treat as an "expense" under § 179 of the Internal Revenue Code (known as "Small Business Expensing"). Because of the significant potential negative fiscal impact on State income tax revenues, Maryland income was "decoupled" from the federal changes in the BRFA of 2004 to provide for computation of the Maryland income tax without the increased limits.

The federal American Jobs Creation Act of 2004, enacted in October 2004, extended the increased maximums under IRC § 179 to tax year 2006 through 2008. The Comptroller's report on the potential fiscal impact of the federal act on Maryland taxes noted that the changes under the 2004 federal act create a potential ambiguity as to whether the Maryland income tax will remain decoupled from the increased maximums beginning in 2006. General fund revenues would decrease by \$6.5 million in fiscal 2006 and \$16.5 million in fiscal 2007 if decoupling from the increased maximums is not in effect for tax year 2006 and 2007. **DLS recommends an amendment to clarify that the Maryland income tax is calculated without the increased maximums as provided under the 2003 federal act and as extended by the 2004 federal act.**

Technical Amendment

- ***Heritage Certification Fee:*** The BFA authorizes the Department of Housing and Community Development to charge a reasonable fee for certifying heritage structure and rehabilitations eligible for the Heritage Tax Credit. Article 83B of the Annotated Code deals with DHCD and is the subject of code revision this year (HB 11). Article 83B terminates October 1 and is replaced by the new Housing and Community Development Article. **DLS recommends that if the fee is authorized, this provision should also be drafted to the new Housing and Community Development Article in order to remain effective after October 1.**

Summary of Provisions in the Budget Reconciliation Act of 2005

Repeals Mandated Funding for the:

- electric utility generating equipment property tax grant paid to 11 counties, in the amount of \$30.6 million, as well as the grant itself; and
- Senior Citizen Activities Center Operating Fund, in the amount of \$500,000, but retains the fund.

Makes Permanent Reductions in Mandated Funding to the:

- State's share of nonpublic placement special education funding by increasing the local share (from 20% to 25% above the base local share); and
- activities aimed at reducing tobacco use (from \$21 million to \$10 million).

Reduces Mandated Appropriations for Fiscal 2006 Only for the:

- Maryland Tourism Development Board, setting the fiscal 2006 general fund appropriation at \$5 million;
- State Arts Council, setting the fiscal 2006 general fund appropriation at \$11.1 million;
- Baltimore City Community College, setting the fiscal 2006 appropriation at \$32 million;
- Joseph A. Sellinger aid to private colleges and universities, setting the fiscal 2006 general fund appropriation at \$36.2 million and specifying the distribution of those funds;
- Statewide Academic Health Center Public Health Grant to the University of Maryland Medical Group and The Johns Hopkins Institutions, setting the fiscal 2006 special fund appropriation at \$1.2 million for each grant; and
- Department of Aging hold-harmless grant to supplement federal grants to local area agencies on aging, setting the fiscal 2006 general fund appropriation at \$279,485.

Postpones:

- for another year, repayment of Innovative Partnerships for Technology;
- to the end of fiscal 2006, the comprehensive evaluation of the Cigarette Restitution Fund (CRF) Program; and
- by one year, the next Tobacco Study, with corresponding changes to required reports.

Redirects Transfer Tax Revenues:

- from the State's share of Program Open Space (POS), up to \$5.0 million to operate State forests and parks (from \$1.2 million) on a permanent basis;
- from the estimated revenues in the budget to the State general fund for four years, phasing the amount of the transfer from 75% in fiscal 2006, to 66.67% in fiscal 2007, to 50% in fiscal 2008, and to 25% in fiscal 2009; and
- provides that the revenue attained over the amount estimated in the budget goes to the State general fund on a permanent basis.

Authorizes/Mandates Use of Special Funds/Programs for Other Purposes:

- authorizes use of the Community Services Trust Fund by the Developmental Disabilities Administration (DDA) in DHMH for purchase of community-based services in fiscal 2006, resulting in a contingent reduction of \$1,200,000;
- authorizes use of the State Board of Social Work Examiners Fund for the costs of the social worker training academy within the Department of Human Resources for fiscal 2006 only; and
- mandates use of the Cigarette Restitution Fund to help support the Medicaid program on a permanent basis at 30%. In the fiscal 2006 allowance, Medicaid receives more than 30% of available Cigarette Restitution Funds.

Provides Other Relief/Makes Additional Changes:

- eliminates the State match for employee contributions to the deferred compensation program in fiscal 2006 only;
- uses the proceeds and accumulated interest (\$13.7 million) from demutualization of MetLife Insurance Company for the State Employee and Retiree Health and Welfare Benefits Program;
- delays abrogation of the Senior Prescription Drug Program to January 1, 2006, and on its termination, requires nonprofit health service plans to subsidize the Maryland Pharmacy Assistance Program;
- repeals the Prevailing Wage Law;
- repeals Senatorial and Delegate Scholarship programs and mandates an appropriation equivalent to the amount previously provided (at least \$11.3 million) for need-based scholarships; and
- authorizes use of restricted fiscal 2005 appropriations for a contract at the Charles H. Hickey, Jr. School to be used for State operation of the facility and other programs in the Department of Juvenile Services (DJS).

**Contingencies in Fiscal 2006 Budget Bill
Effectuated by Provisions in the Budget Reconciliation Act of 2005**

<u>Agency</u>	<u>Item Contingent on Enactment of Legislation to:</u>	<u>Amount</u>	<u>Fund</u>
<u>FY 2006 Reductions:</u>			
Local Aid	Eliminate Electric Utility Generating Equipment Property Tax Grant	-\$30,615,201	GF
Aging	Reduce hold-harmless grant to local area agencies on aging	-162,725	GF
Aging	Reduce mandated amount for Senior Citizen Activities Center Operating Fund	-500,000	GF
MIA	Authorize SPDP subsidy for MPAP, effective January 1, 2006	-11,750,000	SF
DNR	Increase State share of transfer tax revenues to operate State Forests and Parks to \$5 million	-3,000,000	GF
DNR	Alter amount of transfer tax revenues distributed to POS		
	<i>State Share</i>	-77,883,671	SF
	<i>Local Share</i>	-61,348,627	SF
MDA	Alter amount of transfer tax revenues distributed to MALPP	-27,837,501	SF
DHMH	Provide funding for community placements for 40 Rosewood residents during fiscal 2006	-1,227,038	GF
DHMH	Authorize SF from premium tax exemption on nonprofit health service plan for MPAP, effective January 1, 2006	-11,750,000	GF
MSDE	Reduce State's share of cost of educating children with disabilities in the nonpublic placements program	-5,799,866	GF
MHEC	Reduce required appropriation for nonpublic institutions of higher education	-10,094,601	GF
Higher Ed	Reduce required appropriation for Baltimore City Community College	-1,628,829	GF
DBED	Reduce required appropriation for Maryland Tourism Development Board Fund	-1,000,000	GF
DBED	Reduce required appropriation for Maryland State Arts Council	-180,000	GF
Sec 18	Eliminate payment of employer contributions for State supplemental plans in fiscal 2006 (Executive Branch share only)	-7,601,505	GF

<u>Agency</u>	<u>Item Contingent on Enactment of Legislation to:</u>	<u>Amount</u>	<u>Fund</u>
	Eliminate payment of employer contributions for State supplemental plans in fiscal 2006 (Executive Branch share only)	-3,713,898	SF
	Eliminate payment of employer contributions for State supplemental plans in fiscal 2006 (Executive Branch share only)	-3,029,667	FF
	<i>General Fund Contingent Reductions</i>	<i>-\$73,559,765</i>	<i>GF</i>
	<i>Special Fund Contingent Reductions</i>	<i>-\$182,533,697</i>	<i>SF</i>
	<i>Federal Fund Contingent Reductions</i>	<i>-\$3,029,667</i>	<i>FF</i>
	Total Fund Contingent Reductions	-\$259,123,129	TF
	<u><i>FY 2006 Transfers:</i></u>		
DHMH	Failure to alter minimum amount to be included in the annual budget for reducing tobacco use – transfer from cancer prevention, screening, or treatment programs	\$10,000,000	SF
MHEC	Repeal Senatorial Scholarships – transfer amount to Educational Excellence Awards	6,486,000	GF
MHEC	Repeal Delegate Scholarships – transfer amount to Educational Excellence Awards	4,813,000	GF
	<u><i>FY 2005 Deficiency Appropriations:</i></u>		
DBM	Authorize use of MetLife demutualization proceeds for health insurance costs	13,645,949	SF
DBED	= Department of Business and Economic Development		
DBM	= Department of Budget and Management		
DHMH	= Department of Health and Mental Hygiene		
DNR	= Department of Natural Resources		
FF	= Federal Fund		
GF	= General Fund		
MALPP	= Maryland Agricultural Land Preservation Program		
MDA	= Maryland Department of Agriculture		
MHEC	= Maryland Higher Education Commission		
MIA	= Maryland Insurance Administration		
MPAP	= Maryland Pharmacy Assistance Program		
MSDE	= Maryland State Department of Education		
POS	= Program Open Space		
SF	= Special Fund		
SPDP	= Subsidy Prescription Drug Program		
TF	= Total Fund		

DLS Recommended Amendments to Budget Reconciliation Act of 2005

Changes to Provisions in Budget Reconciliation Act

- ***Delete Contingent Reductions:*** The Governor's fiscal 2006 budget makes reductions in a number of programs contingent on provisions in the BRA. The General Assembly can make many of these reductions in the budget without the BRA. DLS is making budget recommendations on these proposed reductions in the appropriate budget analyses. **Therefore, DLS recommends deleting the following BRA language implementing contingent reductions in the budget.**
 - Maryland Tourism Development Board – sets at \$5 million
 - State Arts Council – sets at \$11.1 million
 - Baltimore City Community College – sets at \$32 million
 - Sellinger formula for private colleges and universities – sets at \$36.2 million
 - Local aging agency grants – sets at \$279,485
 - Deferred compensation – eliminates State match for employee contributions
 - Senior Citizen Centers Operating Fund – repeals \$500,000 mandated funding

- ***Phase-out Electric Utility Generating Equipment Property Tax Grant:*** The proposed fiscal 2006 budget eliminates funding for electric utility generating equipment property tax grants contingent upon the BRA. These grants are provided to 11 jurisdictions to partially offset the revenue loss due to 1999 legislation that provided for a 50% property tax exemption for personal property used in generating electricity. The reliance on the utility grant varies by jurisdiction. For example, the \$6.1 million grant in Calvert County is equivalent to the amount of revenue raised from a \$0.094 property tax rate; however, the \$2.8 million grant in Montgomery County is equivalent to the amount of revenue raised from a \$0.003 property tax rate. Eliminating the utility grant would have a larger impact on Anne Arundel, Calvert, Charles, and Prince George's counties than the other counties.

Due to the reliance on the utility grants in certain jurisdictions, **DLS does not recommend that the utility grants be eliminated completely this year. Instead, the department recommends that the utility grants be phased out over five years**

beginning in fiscal 2006. As shown in the following table, local jurisdictions would receive 80% of their fiscal 2005 appropriation in fiscal 2006, 60% in fiscal 2007, 40% in fiscal 2008, and 20% in fiscal 2009. The grants would be eliminated in fiscal 2010.

Phase-out of the Electric Utility Generating Equipment Property Tax Grant

<u>County</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
Anne Arundel	\$7,820,202	\$6,256,162	\$4,692,121	\$3,128,081	\$1,564,040	\$0
Baltimore City	453,421	362,737	272,053	181,368	90,684	0
Baltimore	1,794,835	1,435,868	1,076,901	717,934	358,967	0
Calvert	6,096,574	4,877,259	3,657,944	2,438,630	1,219,315	0
Charles	2,522,612	2,018,090	1,513,567	1,009,045	504,522	0
Dorchester	187,442	149,954	112,465	74,977	37,488	0
Garrett	11,907	9,526	7,144	4,763	2,381	0
Harford	860,767	688,614	516,460	344,307	172,153	0
Montgomery	2,765,553	2,212,442	1,659,332	1,106,221	553,111	0
Prince George's	7,744,806	6,195,845	4,646,884	3,097,922	1,548,961	0
Washington	357,082	285,666	214,249	142,833	71,416	0
Total Grants	\$30,615,201	\$24,492,163	\$18,369,120	\$12,246,081	\$6,123,038	\$0
% of FY 2005 Appropriation		80%	60%	40%	20%	0%
Reduction		\$6,123,038	\$12,246,081	\$18,369,120	\$24,492,163	\$30,615,201

- ***Reject Delay of CRF Comprehensive Evaluation:*** The legislation establishing the CRF tobacco and cancer programs included a provision for a comprehensive evaluation of the programs at the end of fiscal 2004. The 2004 BRFA delayed the evaluation until the end of fiscal 2005; the 2005 BRA proposes to delay the evaluation for another year. Funds for evaluation are critical in determining the effects of the CRF programs and maximizing the use of funds with the increased availability of funds in fiscal 2007 and 2008. Funds for the comprehensive evaluation could be made available from CRF countermarketing activities, as these are not funded at a level that would produce statewide impact. **DLS recommends that the General Assembly reject the delay of the comprehensive evaluation of the CRF program.**
- ***Modify Community Services Trust Fund:*** The Community Services Trust Fund, which consists of proceeds of the sale or lease of property at the State residential centers, is used to provide community-based services to individuals on the DDA waiting list. The BRA authorizes DDA to use a portion of the principal to purchase community services for 80 individuals, specifically authorizing the move of 40 individuals from Rosewood Center. The fiscal 2006 budget assumes that these placements would cost \$4.9 million, with

\$2.6 million derived from the Community Services Trust Fund, and results in a \$1.2 million contingent reduction in the budget.

DLS recommends amending the BRA to provide for 59 community placements from the State residential centers in fiscal 2006. This number is equivalent to the fiscal 2006 estimated average daily census of Potomac Center, allowing for closure of the facility by the end of fiscal 2006. Those residents who wish to continue receiving care in a State residential center would have that option, allowing a resident of an alternate facility to move to the community in fiscal 2006. Capacity exists sufficient to place all Potomac Center residents in either institutional or community care. Funding would provide for a net reduction of 59 residents from the State residential centers in fiscal 2006, with priority given to current Potomac Center residents who wish to be placed in a community rather than an institutional setting. This action would result in a contingent reduction of \$4.4 million in fiscal 2006.

- ***Charles H. Hickey, Jr. School:*** Language in the fiscal 2005 budget bill restricts \$17.1 million to support a contract for programming at the Hickey School. DJS took over operation of the Hickey School from a private contractor in April 2004 and has decided to permanently operate the facility. Section 15 of the BRA authorizes the Governor to use the restricted funds for State operation of the school and also allows the funds to be transferred to other programs in DJS as necessary. **DLS recommends amending Section 15 to limit the use of funds not needed for Hickey School operating costs only to (1) unbudgeted general fund payables reported to the General Accounting Division at fiscal 2004 closeout; and (2) anticipated fiscal 2005 deficits in the residential per diem program.**

New Provisions for the Budget Reconciliation Act

Maryland Department of Transportation (MDOT)

- ***Withdraw Fiscal 2005 Appropriation for Debt Service:*** In the 2004 legislative session, the General Assembly appropriated \$175.9 million to support MDOT's Consolidated Transportation Bond debt service requirements. Since the 2004 session, the revenue overattainment and continued low interest rates reduced MDOT's fiscal 2005 debt service requirements. The appropriation exceeds debt service requirements by \$21.9 million. **DLS recommends that the General Assembly reduce MDOT's fiscal 2005 debt service appropriation by \$21,911,313.**
- ***Codify Submissions Dates for the Consolidated Transportation Program (CTP) and the Supporting Transportation Trust Fund (TTF) Financial Forecast:*** In prior years, MDOT has provided a copy of the draft CTP and TTF forecast in September to the General Assembly and DLS. In 2004, MDOT refused to provide the forecast absent a statutory requirement, and the CTP was provided in sections throughout the fall as

MDOT visited each county. **DLS recommends adoption of provisions to specifically require MDOT to annually submit on September 1 a copy of the complete draft CTP and the supporting TTF financial forecast and require submission of the final CTP and supporting financial forecast in conjunction with the operating budget.**

- ***Amend the “Super Sweeper” to Recognize Discretionary Repayments from the General Fund to the TTF:*** A provision in the Budget Reconciliation and Financing Act of 2004 requires that up to \$50 million each year shall be repaid to the TTF based on the amount of any unappropriated general fund surplus at closeout each year (known as the “Super Sweeper” amendment). Funds are to be repaid through this mechanism until the total \$314.9 million that was transferred from the TTF to the general fund is repaid. As drafted, this mechanism would continue to require annual repayment to the TTF until the full \$314.9 million is repaid, regardless of any discretionary payments that the Administration might make as shown in its outyear general fund forecast. **DLS recommends adoption of a technical amendment to recognize discretionary repayment from the general fund to the TTF, so that a total of \$314.9 million is repaid regardless of the mechanism.**

Cigarette Restitution Fund

- ***CRF Administrative Spending:*** State law limits administrative expenses to 5% of appropriations from the Cigarette Restitution Fund. DHMH has circumvented this requirement by using general funds for expenses that exceed the 5% limit. The Cigarette Restitution Fund program has reduced its administrative expenses with reductions to available funding but not at the rate of the reduction in program expenses. With the variety of oversight functions assigned to the administration of the two programs, the Family Health Administration has found it difficult to contain costs to 5% of program expenditures. Program administrators continue to oversee the same number of local and academic programs, each subject to a variety of administrative and reporting requirements established in statute. **DLS recommends amending the CRF statute to increase the limit on administrative expenses to 7% of tobacco and cancer program spending.**
- ***Permanently Modify Statewide Academic Health Center Grants for Baltimore City Public Health:*** The University of Maryland Medical Group and the Johns Hopkins Institutions receive Cigarette Restitution Funds to provide cancer prevention, education, screening, and treatment services to low-income Baltimore City residents; these programs are provided by local health departments in all other jurisdictions. Current law establishes the minimum amount of the grant to each institution at \$2 million. This amount of spending has not occurred due to funding restrictions in prior years. The BRA mandates \$1.2 million for each institution in fiscal 2006. Even though allocations have not reached minimum required levels, the Baltimore City program has consumed a growing percentage of local health resources. In fiscal 2003, academic health center programs comprised 23% of local health spending; in fiscal 2006, appropriations to these

programs represent nearly one-third of local health funds. The Department of Health and Mental Hygiene has indicated that local public health funds were originally intended to total \$21 million. The \$4 million dedicated to Baltimore City is equivalent to 19% of the originally intended \$21 million in total local health funds. **DLS recommends permanently amending the CRF statute to establish Baltimore City cancer screening and treatment appropriations as 19% of total public health spending beginning in fiscal 2007.**

- ***Modify Enrollment Figure Used in Calculating Higher Education Aid Formulas:*** The statutory formulas for the community colleges, Baltimore City Community College, and the nonpublic institutions include general funds per full-time equivalent student (FTES) at specific institutions as part of the calculation to determine State aid under the formulas. The statute requires the Maryland Higher Education Commission to calculate the formula but is silent on what enrollment data to use in the calculation of general fund per FTES. The Department of Budget and Management (DBM) has used enrollment data from the Governor's Budget Book in order to calculate general funds per FTES. This figure is then used to calculate general funds for community colleges and independent institutions.

DLS has found that, at least for fiscal 2005, the budget books understated enrollment. This caused the general fund per FTES number to be overstated, which in turn inflated the general funds allocated to community colleges and independent institutions. Use of fall enrollment data would provide a more accurate measure in determining general funds for community colleges and independent institutions. Furthermore, in light of the University System of Maryland's efficiency initiative to enroll 2,400 more students over the next three years at no additional cost to the State, budgeted enrollment will not reflect actual enrollment in fiscal 2006 to 2008. **DLS recommends that Section 17-104 of the Education Article be amended to require opening fall enrollment from the prior year to be used to determine the general fund per full-time equivalent student figure used in calculating the aid formulas for community colleges, Baltimore City Community College, and nonpublic institutions.**

Reporting Requirements

- ***Interagency Committee on School Construction (IAC) Contingency Fund:*** All unexpended funds remaining from projects in prior years are reserved in a contingency fund. A portion of the contingency fund is dedicated to specific items such as funding for the Technology in Maryland Schools (TIMS) Program and pay-as-you-go funding designated for repairs to State-owned relocatable classrooms. The IAC determines how much it will allocate within the remaining balance of the contingency fund toward specific projects, with the approval of the Board of Public Works. The IAC reports the balance of the contingency fund as of December 31 each year in the annual *Capital Improvement Program* submitted to the Board of Public Works in January. The Public

School Facilities Act of 2004 required the IAC to report on the balance of the contingency fund bi-annually on June 1 and December 1.

The contingency fund is a significant source of funding for school construction that is currently maintained “off-budget” with no oversight by the General Assembly. For fiscal 2006, the available balance as of December 31 that could be allocated to projects is \$13.7 million. In past years, the amount allocated by the IAC has been significantly greater than the December 31 balance. Presently, the General Assembly has very limited information on the contingency fund at the time budget decisions are made regarding the level of funding for school construction. **DLS recommends that Section 5-301(j) of the Education Article be amended to require the IAC to report quarterly on March 15, June 15, September 15, and December 31, on the total balance in the contingency fund as of the reporting date. This will provide the General Assembly with information during the legislative session on the additional balance in the fund available for school construction projects.**

- ***Enhance Information Technology Reporting:*** In the 2002 session, the General Assembly passed legislation enhancing the oversight on Information Technology (IT) project development in the office of the State Chief Information Officer. During the 2004 interim, the Office of Legislative Audits conducted a performance review of IT oversight and IT project development practices to assess the impact of the 2002 legislation. The review concluded that State agencies were still not consistently following industry best practices. **DLS recommends amending the existing statute governing reporting requirements on the development of major IT projects (State Finance and Procurement Article, Section 3-410.2(n)) to broaden the existing reporting requirement to include not just those projects funded through the Major Information Technology Development Project Fund but any major IT projects.**

Additionally, the following elements should be added to existing project reporting requirements: (1) a requirement that a determination be made that major IT projects are using best practices, including who made that determination; and (2) a summary of any monitoring and oversight provided from outside of the agency in which the project is being developed, including any problems identified by that external review and the corrective actions taken.

Additional Amendments

DLS is still finalizing several budget analyses and may have additional budget recommendations that would require BRA amendments to implement if they are adopted by the budget committees.

Technical Amendments

- ***Correct Section 8-132 of the State Finance and Procurement Article:*** The 2004 BRFA amended Section 8-125 of the State Finance and Procurement Article to preclude the expenditure of bond sale proceeds to fund other capital projects. However, the Act did not amend a provision in Section 8-132 that allows the use of the proceeds for capital projects. **To make the State Finance and Procurement Article consistent with respect to the use of bond sale proceeds, it is recommended that Section 8-132 be amended to allow the use of bond sale proceeds solely for debt service.**
- ***Approval of Reserve Fund Account Requests:*** DLS recommends restoring language concerning withdrawals from reserve fund accounts to its original form to correct a drafting error in the 2004 BRFA.

Summary of Provisions in the Tax Compliance Act of 2005

Requires Tax Clearance for Certain Renewals:

- driver's licenses and vehicle registrations – \$15 million assumed in the fiscal 2006 budget; and
- insurance business licenses – the 2003 BRFA required tax clearance for business licenses, but insurance licenses were omitted – \$1 million assumed in the fiscal 2006 budget.

Requires Withholding on Lump-sum Distributions:

- from retirement plans that “are cashed out” and not directly rolled over to another retirement plan; the 7.75% rate is imposed only if the distribution is subject to federal withholding – \$30 million assumed in the fiscal 2006 budget.

Increases Withholding Tax Rates:

- on nonresident income derived from real estate sales and gambling winnings from 4.75% to 6% – \$6 million assumed in the fiscal 2006 budget;
- for gambling winnings of residents from 7.25% to 7.75%*; and
- on partnerships, S-corporations, and local coordinating councils having nonresident partners, shareholders, or members, the pass-through entity tax from 4.75% to 6%*.

Modifies the Sales Tax Vendor Credit:

- eliminates the discount currently allowed for collecting and remitting the sales tax for payments made by paper, limiting the discount to electronic payments – \$3 million assumed in the fiscal 2006 budget; and
- makes permanent the current reduction in the sales tax vendor collection credit (which is one-half the amount that would otherwise be allowed) – this reduction was last extended to apply through fiscal 2006 by the 2004 BRFA.

Other Provisions:

- authorizes reciprocal agreements with local governments to intercept the tax refunds of individuals and State and local government payments to vendors who have unpaid State or local tax liabilities – \$1 million assumed in the fiscal 2006 budget; and
- limits the number of exemptions an employee can claim for income tax withholding purposes if subject to child support or central collection intercepts – \$5 million assumed in the fiscal 2006 budget.

*No estimate of revenues provided in the detail with the Governor's budget books.

Tax Compliance Act of 2005 General Fund Impact in Fiscal 2006 and 2007

	<u>FY 2006</u>	<u>FY 2007</u>
<u>Revenues</u>		
Withholding:		
Lump Sum Retirement Distributions	\$25,006,891	\$3,005,782
Nonresident Realty	7,495,182	3,329,591
Gambling Winnings	521,491	87,330
Adjust for State Debtors	3,000,000	4,000,000
Nonresident Pass-through Entities Tax	6,197,104	2,141,622
Sales and Use Vendor Credit	3,358,000	21,440,000
Tax Clearance:		
Driver's Licenses	3,750,000	5,000,000
Vehicle Registration	7,500,000	10,000,000
Insurance Licenses	1,007,738	1,343,651
Local Reciprocal	500,000	1,000,000
Total Revenues	\$58,336,406	\$51,347,976
<u>Expenditures</u>		
Comptroller	\$441,611	\$394,960
Motor Vehicle Administration	200,130	189,316
Retirement	100,000	
Total Expenditures	\$741,741	\$584,276
Net Effect	\$57,594,665	\$50,763,700
