SB 124

Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 124 (The President) (By Request – Administration)
Budget and Taxation

Budget Financing Act of 2005

This Administration bill is one of three omnibus bills required under the Governor's budget plan. The bill primarily raises revenues through fees, by imposing new fees and increasing existing fees. Additional budget benefits result from implementing cost-sharing measures and exempting the purchase of motor fuel by the Department of General Services for use by State agencies from the motor fuel tax. The bill includes a severability clause.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: General fund revenues increase by $656,800 in FY 2006, primarily due to increasing the supervision fee on probationers. General fund expenditures are reduced by $11.1 million in FY 2006, reflecting an increase of $11.8 million in special fund revenues and a corresponding increase in special fund expenditures due to imposition of new fees, increasing existing fees, and various cost-sharing measures. The impact in subsequent years remains fairly constant.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	$656,800	$1,257,600	$1,257,600	$1,257,600	$1,257,600
SF Revenue	11,827,500	11,885,100	12,115,300	11,945,500	12,521,100
GF Expenditure	(11,109,200)	(11,203,300)	(11,318,400)	(11,033,500)	(11,321,300)
SF Expenditure	9,011,800	9,169,400	9,399,600	9,229,800	9,805,400
FF Expenditure	(314,600)	(308,700)	(423,800)	(538,900)	(826,700)
NonBud Exp.	(137,900)	(137,900)	(137,900)	(137,900)	(137,900)
ReimB. Exp.	(23,000)	(23,000)	(23,000)	(23,000)	(23,000)
Net EffectNote:()	$15,057,200	$15,646,200	$15,876,400	$15,706,600	$16,282,200

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local highway user revenues would decrease due to exempting State agency purchases of motor fuel from the motor fuel tax.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Bill Summary: Specifically, the bill:

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 – this fee provision effectuates a $400,000 contingent general fund reduction in the fiscal 2006 budget bill; and

- Drinking Driver Monitor Program (DDMP) within the Division of Parole and Probation (DPP) – 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 an $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 – 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 (Medicaid) 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 – effectuates contingent reductions of $28,779 general funds and $28,779 federal funds in the fiscal 2006 budget bill;

- Maryland Pharmacy Assistance Program (MPAP) in DHMH – enhances cost-sharing requirements for participants by increasing the co-payment 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 general funds and $102,000 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 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 for use by State agencies from the motor fuel tax – effectuates contingent reductions in the fiscal 2006 budget bill of $875,000 general funds, $900,000 special funds, and $167,000 federal funds for Executive Branch agencies to pay the tax as well as $582,600 special funds in highway user revenues to local governments.

The bill effectuates contingent reductions and appropriations in the fiscal 2006 budget bill as shown in **Exhibit 1**.

Exhibit 1
Contingencies in FY 2006 Budget Bill Effectuated by Provisions in the Budget Financing Act of 2005

Budget Code	Agency	Item Contingent on Enactment of Legislation to:	Amount	Fund
		FY 2006 Reductions:		
J00B01.05	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
M00C01.04	DHMH	Authorize assessment of indirect costs on budgets of HSCRC and MHCC	-1,833,000	GF
M00Q01.03	DHMH	Increase co-payment in MPAP by $1 for prescription drugs that are not on the Preferred Drug List	-102,000	GF
		Increase co-payment in MPAP by $1 for prescription drugs that are not on the Preferred Drug List	-102,000	FF
		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
Q00G00.01	DPSCS	Increase court fees for traffic and criminal cases	-750,906	GF
S00A23.05	DHCD	Authorize DHCD to charge a fee to certify heritage structures	-400,000	GF
Back of Bill	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
		General Fund Contingent Reductions	-3,989,685	
		Special Fund Contingent Reductions	-1,482,600	
		Federal Fund Contingent Reductions	-297,779	
		Total Fund Contingent Reductions	-5,770,064	
		FY 2006 Appropriations:		
Q00C02.02	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

Appendix 1 is a list of acronyms used throughout the document; many of which are otherwise undefined in the subsequent appendices. **Appendix 2** provides additional detail on each provision in the bill, including the State impact and the local impact, if any. An index to the provisions in Appendix 2 is included as the last two pages of this document. A summary of the fiscal 2006 through 2010 impact of each provision with an impact is included as **Appendix 3**.

Additional Information

Prior Introductions: None.

Cross File: HB 147 (The Speaker) (By Request – Administration) – Ways and Means and Appropriations.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of General Services; Register of Wills; Comptroller's Office; Department of Housing and Community Development; Department of Health and Mental Hygiene; Maryland Department of Transportation; Department of Budget and Management; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2005
mp/ljm

Analysis by: Laura McCarty

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix 1. Acronyms Used in the Budget Financing Act of 2005

BRFA	Budget Reconciliation and Financing Act
DBM	Department of Budget and Management
DDMP	Drinking Driver Monitor Program
DGS	Department of General Services
DHCD	Department of Housing and Community Development
DHMH	Department of Health and Mental Hygiene
DLS	Department of Legislative Services
DNR	Department of Natural Resources
DPP	Division of Parole and Probation
DPSCS	Department of Public Safety and Correctional Services
DUI	Driving Under the Influence
DWI	Driving While Intoxicated
FF	Federal Funds
FY	Fiscal Year
GF	General Funds
GMVRA	Gasoline and Motor Vehicle Revenue Account
HSCRC	Health Services Cost Review Commission
LECTF	Law Enforcement and Correctional Training Fund
MHCC	Maryland Health Care Commission
MHT	Maryland Historical Trust
MPAP	Maryland Pharmacy Assistance Program
PBJ	Probation Before Judgement
SF	Special Funds
SHA	State Highway Administration
TTF	Transportation Trust Fund

Appendix 2. Additional Details on Each Provision of the Bill

DHCD – Heritage Tax Credit Fee

Provision in the Bill: Requires the Director of the Maryland Historical Trust to adopt regulations to charge a reasonable fee to certify heritage structures and rehabilitations under the Maryland Heritage Structure Rehabilitation Tax Credit Program.

Fiscal Impact:

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revs	$400,000	$400,000	$400,000		
GF Expends	($400,000)	($400,000)	($400,000)		
SF Expends	$400,000	$400,000	$400,000		

State Effect: Eliminates reliance on GF to administer the program, effectuating a $400,000 GF contingent reduction in the FY 2006 budget bill. SF revenues and expenditures would increase correspondingly due to fee revenue. Collection of the fee could be done with existing resources.

This estimate is based on the following facts and assumptions:

- The fee would be set at a level sufficient to cover the costs to administer the program; to do so, DHCD would need to raise about $400,000 a year until the program terminates (on July 1, 2008).

- DHCD and DBM advise that the fee would likely be implemented as a percentage of the value of the tax credit granted against commercial properties only. For commercial credits, funding is mandated at $20 million in FY 2006 and $30 million in both FY 2007 and FY 2008.

- Consequently, a fee of 2% of the commercial value would raise $400,000 in FY 2006. However, the same fee would raise $600,000 in the two remaining years of the program. Accordingly, any fee set as a percentage of the credit would have to vary by year. DBM advises that the fee would likely be lowered to 1.33% of the value of the credit in FY 2007 and FY 2008 to avoid raising excess revenue.

- The fee would not be assessed against residential credits, on which there is no cap.

- It is assumed that the fee would be assessed and collected in the fiscal year of the award despite the existing requirement to submit an application much earlier – in the first three months of the calendar year.

Program Description: The Maryland Historical Trust in DHCD administers the Maryland Heritage Structure Rehabilitation Tax Credit Program. The value of the credit is equal to 20% of the qualified rehabilitation expenditures for the rehabilitation of a certified historic structure. The maximum amount of credits earned for an individual rehabilitation project cannot exceed: (1) $50,000 for noncommercial projects; and (2) the lesser of $3 million or the maximum amount stated on an initial credit certificate for commercial projects.

A commercial rehabilitation is the rehabilitation of a structure other than a single-family, owner-occupied residence. Business entities, individuals, and tax-exempt organizations are eligible to claim the credit.

A taxpayer seeking the tax credit for the rehabilitation of a commercial property after June 1, 2005 must submit an application to MHT between January 1 and March 31. MHT will award an initial credit certificate to each approved commercial rehabilitation plan based on the amount of estimated rehabilitation expenditures.

Awards are made through a competitive process which reflects the geographic diversity of the State and favors the award of tax credits that are: (1) consistent with current State development and growth programs; and (2) for the rehabilitation of structures that meet one of several specified requirements.

Location of Provision in the Bill: Section 1 (Art. 83B, §5-801), p. 3.

DPP – Drinking Driver Monitor Program Fee

Provision in the Bill: Makes the Drinking Driver Monitor Program self-supporting by establishing a monthly fee of $45 for participation in DDMP (effective July 1, 2005) and creates a non-lapsing special fund into which the fee revenue will be deposited. The fund is subject to audit by the Office of Legislative Audits.

Fiscal Impact: **($ in millions)**

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revs	$7.6	$7.6	$7.6	$7.6	$7.6
GF Expends	($7.6)	($7.6)	($7.6)	($7.6)	($7.6)
SF Expends	$7.6	$7.6	$7.6	$7.6	$7.6

State Effect: GF expenditures for the program would decrease by $7.6 million in FY 2006; SF revenues and expenditures would increase correspondingly. The Governor's proposed budget for FY 2006 does not include GF for this program; instead a SF appropriation of $8.3 million is contingent on legislation implementing the fee. Therefore, if the fee is not enacted, the program would be unfunded. Legislative Services advises that the amount of the contingent appropriation does not take into account the fee being waived for some participants or the non-collection that would occur if those not able to pay were required to do so. Total funding for this program has been $7.6 million or less each year. Accordingly, the fee should provide sufficient revenue to maintain the program. To the extent it does not, DPP could request a deficiency appropriation to make up the difference.

This estimate is based on the following facts and assumptions:

- Participation in DDMP has been declining in recent years, with the number of cases ranging from a high of about 27,600 in FY 2002 to a low of 20,200 in FY 2004; however, those numbers reflect total cases during a year, with some offenders having multiple cases.

- DPP advises that it has about 16,000 individuals under supervision. DDP estimates that it will continue to have at least 15,600 individuals under supervision at any one time.

- DPP plans to change the priority for payment of fees to enhance its collection rate for the DDMP fee.

- DPP has the authority to waive the fee in whole or part under specified circumstances; DPP assumes it would exempt about 10% of participants due to inability to pay; given the enhanced priority for payment and its ability to waive anyone who would not be able to pay the fee, DPP assumes collection of the total amount due. Further, DPP advises that participants who do not pay the program fee will be referred to the Central Collection Unit.

- Accordingly, 14,040 participants would pay $45 a month; total collections would be $7,581,600.

- A participant in DDMP would also be subject to the increased monthly supervision fee for probationers that have been directed to pay the fee by the court as well as the increase in court costs proposed under this bill. Any interaction between the three fees that could affect a given offender and collections has not been taken into account and cannot be reliably estimated.

Program Description: The Division of Parole and Probation supervises approximately 16,000 offenders in DDMP. Offenders are placed in DDMP in one of two ways. First, they may be placed on probation by the courts for a current conviction or PBJ for DUI or DWI. Any such offenders must either not have a prior criminal history or have a criminal history exclusive of serious crimes defined as three felonies in the last 10 years, any prior or current convictions for any sex offense, murder, or manslaughter. Second, they may be referred by the Medical Advisory Board of the MVA; this occurs in a very small number of cases.

The program attempts to reduce revocations for new DWI and DUI offenses during the period of probation. The courts determine the length of the probationary term. According to DPP, based on the average number of cases under supervision during the year and the number of intakes, the average length of time under supervision is approximately 18 months.

Location of Provision in the Bill: Section 1 (CS §§ 6-104, 6-115, and 6-116), pp. 3 – 6; Section 1 (CP §6-226), pp. 6 – 7.

DPP – Supervision Fee

Provision in the Bill: Increases an existing fee (renamed to be the supervision fee) from $25 to $40 per month collected from probationers supervised by the Division of Parole and Probation. Only probationers assigned by the court after July 1, 2005 would be subject to the fee; probationers already under supervision would continue to pay the $25 monthly fee.

Fiscal Impact:

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revs	$709,635	$1,310,400	$1,310,400	$1,310,400	$1,310,400
GF Expends	$598,000	$598,000	$598,000	$598,000	$598,000

State Effect: Effectuates a contingent GF appropriation of $598,000 in the FY 2006 budget. GF appropriations at the same level are assumed in the out-years. GF revenues would increase by $709,635 in FY 2006 and $1,310,400 annually thereafter, based on the following facts and assumptions:

- DPP has approximately 40,000 probationers under its supervision at any one time.
- The court has imposed the monthly fee on about 36.4% of these probationers.
- DPP estimates its collection rate at about 50% of such fees owed.
- The fee increase would only be applicable to offenders sentenced on or after July 1, 2005. Therefore, the first year of collections would be lower than in the out-years.
- A probationer under supervision subject to this fee could also be subject to the increase in court costs as well as the DDMP monthly program fee. Any interaction between the three fees that could affect a given offender and collections has not been taken into account and cannot be reliably estimated.

These assumptions are summarized in the table below.

Fee Period	Number Paying Fee	Increased Amount	Revenues
July	1,213	$15	$18,195
August	2,426	$15	$36,390
September	3,639	$15	$54,585
October	4,852	$15	$72,780
November	6,065	$15	$90,975
December	7,278	$15	$109,170
January	8,491	$15	$127,365
February	9,704	$15	$145,560
March	10,917	$15	$163,755
April	12,130	$15	$181,950
May	13,343	$15	$200,145
June	14,560	$15	$218,400
			$1,419,270
First Year	**Collection Rate of**	**50%**	**$709,635**
Subsequent Years			
12 months	14,560	$15	$2,620,800
Full Year	**Collection Rate of**	**50%**	**$1,310,400**

Program Description: Legislation adopted at the 1991 legislative session mandated the imposition of monthly supervision fees for offenders supervised by the Division of Parole and Probation. The monthly fees of $40 for parolees and mandatory supervision releases and $25 for probationers have remained unchanged since their inception. The bill increases the supervision fee charged to probationers to $40 per month, making the monthly fee consistent for all supervisees. The supervision fees collected are paid into the GF.

Location of Provision in the Bill: Section 1 (CP § 6-226), pp. 6 - 7.

Law Enforcement and Correctional Training Fund Fee

Provision in the Bill: Increases traffic and criminal court fees from $20 to $25 for cases in which costs are imposed and increases the share of such fees paid into LECTF from one-fourth to two-fifths (which amounts to an increase from $5 to $10 per case to LECTF).

Fiscal Impact:

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revs	$4,200,000	$4,200,000	$4,200,000	$4,200,000	$4,200,000
GF Expends	($750,906)	($850,906)	($850,906)	($850,906)	($850,906)
SF Expends	$750,906	$850,906	$850,906	$850,906	$850,906

State Effect: Effectuates a $750,906 GF contingent reduction in the FY 2006 budget bill, eliminating all but $100,000 of the GF contribution to the budget for the Police and Correctional Training Commissions. Legislative Services assumes that the entire level of GF support would be discontinued in future years. SF revenues increase by $4.2 million annually, allowing the fund to develop a balance. Although SF expenditure could increase significantly due to the availability of additional funding, only the amount necessary to offset GF support at the level otherwise provided in FY 2006 is shown above.

The revenue estimate is based on the following facts and assumptions:

- DPSCS and DBM assume that, because the amount of fees for court costs distributed to LECTF would double, total collections would also double.

- The amount of LECTF collections has varied considerably in recent years, from a high of $5.2 million in FY 2001 to a low of $4.5 million in FY 2003. The estimate for FY 2005 is relatively low, at $4.2 million. Absent the fee increase, the amount collected could be somewhat higher than anticipated.

- As the court can waive costs, any additional increase in the fee amount due could result in additional waivers, thereby suppressing the amount of collections anticipated.

- Absent data on how often the court imposes costs and the collection rate for such costs, any such impact cannot be reliably predicted.

- The additional $4.2 million assumed by DPSCS and DBM appears to be a reasonable estimate of collections, due not just to the fee increase but the likelihood that collections would have been higher than $4.2 million anyway. This estimate assumes that collections would have been at the average of recent years and allows for 10% to 13% of costs that would have been imposed to be waived by the court or not collected.

- An offender on whom court costs may be imposed could also be subject to the increased supervision fee for probationers in DPP and the DDMP monthly program fee proposed under this bill. Any interaction between the three fees that could affect a given offender and collections has not been taken into account and cannot be reliably estimated.

Program Description: The Police and Correctional Training Commissions opened the Public Safety Education and Training Center on November 30, 2004. This new facility increases the size and the capacity of the commissions to provide training to all State and local law enforcement and correctional officers within the State.

Location of Provision in the Bill: Section 1 (CJP §7-301), p. 6.

DHMH – Medicaid Estate Recovery

Provision in the Bill: Authorizes DHMH to seek recovery 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.

Fiscal Impact:

	FY 2006	**FY 2007**	**FY 2008**	**FY 2009**	**FY 2010**
SF Revs	$57,558	$115,116	$345,347	$575,579	$1,151,157
GF Expends	($28,779)	($57,558)	($172,674)	($287,790)	($575,579)
SF Expends	$57,558	$115,116	$345,347	$575,579	$1,151,157
FF Expends	($28,779)	($57,558)	($172,674)	($287,790)	($575,579)

State Effect: Effectuates GF and FF contingent reductions of $28,779 each in the FY 2006 budget bill. DHMH would use SF revenues to supplant GF and FF expenditures in the Medicaid program. Technically, DHMH should pay half the estate recoveries ($28,779) back to the federal government. As a practical matter, the department would instead expend the special funds and not claim any federal match.

Allowing the department to file claims against the estate of a surviving spouse of a deceased Medicaid recipient could result in significant recovery potential in the future. However, the bill imposes several restrictions on the department's ability to file such a claim. First, DHMH could not make a claim against the estate of a surviving spouse if that spouse was survived by a child who is younger than 21, blind, or permanently and totally disabled. Second, the assets of the estate of the surviving spouse subject to such a claim are restricted to the assets which passed to that spouse upon the death of the Medicaid recipient by testamentary disposition, distribution under the laws of intestate succession, right of survivorship from property held in tenancy by the entirety or in joint tenancy, or a remainder interest from a life tenancy. Third, DHMH could only file such a claim if the surviving spouse died within five years of the Medicaid recipient. Fourth, the provision only applies to estates associated with Medicaid recipients who applied for such assistance on or after July 1, 2005.

DHMH estimates that the maximum annual recovery from filing such claims would be $2.3 million in total funds. DLS concurs; this estimate is based on the following facts and assumptions:

- Most estate recoveries would originate from the estates of spouses of deceased Medicaid nursing home residents.

- Of the 23,545 Medicaid nursing home residents in FY 2003, approximately 10% (or 2,355) died.

- Approximately 12.5% of nursing home residents have spouses; consequently, there would be 294 deceased Medicaid nursing home recipients with surviving spouses each year.

- In FY 2004, estate recoveries totaled $2.8 million total funds, with 363 estates closed; the average recovery per case was $7,831 (total funds).

- The maximum potential recovery in the future would be 294 cases * $7,831 (average recovery amount) = $2,302,314 (total funds).

- The capacity for recovery would increase each year as shown below:

Fiscal Year	**Recovery Rate**	**Total Funds**	**Reduced Reliance on General Funds**
FY 2006	2.5%	$57,558	$28,779
FY 2007	5%	115,116	57,558
FY 2008	15%	345,347	172,674
FY 2009	25%	575,579	287,790
FY 2010	50%	1,151,157	575,579

The Comptroller's Office advises that there could be an effect on inheritance tax collections. If the surviving heirs are direct heirs, no inheritance tax would otherwise be due. For collateral heirs, GF revenues would decline by 10% of the value of any property paid to DHMH (75% of that amount as a reduction to inheritance tax revenues and 25% as a reduction to excess fees); DHMH's revenues would increase by approximately the value of the assets received. For estates subject to the estate tax, the estate tax liability could increase due to any reduction in inheritance tax liability, which is a credit against the estate tax. Any such impact has not been factored in to the estimates.

The bill also changes the timeframe in which DHMH may make a claim against an estate from six months after the first appointment of a personal representative to six months after publication of notice of the first appointment of a personal representative. This would permit DHMH to file more claims and potentially recover additional funds. There are insufficient data to reliably estimate the amount of any such recoveries at this time. Currently, there is no required publication of notice for small estates (under $30,000). In circumstances where a small estate is opened and litigation filed on behalf of the estate later results in a large award, DHMH would be barred from making a claim against these funds because the timeframe in which DHMH could file has passed before the department is even aware of the estate. The publication requirement would give DHMH notice and permit the department to make claims against more estates.

Program Description: DHMH currently may make a claim against an estate of a deceased Medicaid recipient to recover the amount of any Medicaid payments made on behalf of the deceased unless that claim would cause substantial hardship to surviving dependents. In such a case, the department must waive the claim. Further, DHMH must file its claim against the estate within a specified period – six months after appointment of a personal representative for the estate or within two months of receiving written notice from the personal representative that the claim must be presented, whichever comes first. After appointment of a personal representative, the register of wills must publish a notice of the appointment in a newspaper of general circulation in the county of appointment once a week for three successive weeks.

Location of Provision in the Bill: Section 1 (ET § 8-103 and HG § 15-121), pp. 7 – 8.

DHMH – Maryland Pharmacy Assistance Program Co-payment

Provision in the Bill: Increases the co-payment, in MPAP, by $1.00 (from $7.50 to $8.50) for prescription drugs that are not on the preferred drug list.

Fiscal Impact:

	FY 2006	**FY 2007**	**FY 2008**	**FY 2009**	**FY 2010**
GF Expends	($102,000)	($67,300)	($67,300)	($67,300)	($67,300)
FF Expends	($102,000)	($67,300)	($67,300)	($67,300)	($67,300)

State Effect: Effectuates GF and FF contingent reductions of $102,000 each in the FY 2006 budget bill. Savings in the out years decrease because enrollment is expected to decline by about one-third in FY 2007 as Medicare-eligible individuals enroll in the new Medicare Part D prescription drug benefit. This estimate is based on a total of 1.5 million prescriptions filled in the program, 204,000 of which were for non-preferred drugs.

Program Description: MPAP purchases drugs for income-eligible individuals (up to 116% of the federal poverty level) who do not qualify for Medicaid. Co-payments of $7.50 (for brand-name drugs that are not on the preferred drug list) and $2.50 (for generic and preferred drugs) are required for each eligible original prescription and refill. Federal matching funds for this previously State funded program became available effective October 1, 2002.

Location of Provision in the Bill: Section 1 (HG §15-124), p. 8.

DHMH - Health Regulatory Commissions Indirect Cost Assessment

Provision in the Bill: Permanently authorizes the Secretary of Health and Mental Hygiene to charge the health regulatory commissions for indirect costs and makes corresponding changes in the total fees the commissions may assess.

Fiscal Impact: **($ in millions)**

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revs	$1.833	$1.833	$1.833	$1.833	$1.833
GF Expends	($1.833)	($1.833)	($1.833)	($1.833)	($1.833)
SF Expends	$1.833	$1.833	$1.833	$1.833	$1.833

State Effect: Effectuates a $1.833 million GF contingent reduction in the FY 2006 budget bill and increases SF revenues and expenditures correspondingly. MHCC would be responsible for $1.23 million and HSCRC for $600,000 of the cost.

Costs of the health regulatory commissions would include the administrative costs incurred by DHMH on behalf of the two commissions, and the total user fees that the commissions may assess would increase to allow them to raise sufficient revenue to pay the indirect cost assessment. The Secretary would assess the commissions at a rate consistent with the indirect cost charge to federal grants: 32% of base salary levels. These revenues would be transferred to DHMH to defray the cost of shared services, including personnel services and access to the department's attorneys general and budget management office.

MHCC may assess $11.2 million in any fiscal year, an increase of $1.2 million from the $10 million it would otherwise be able to charge; these fees are assessed on hospitals, nursing homes, payors, and health care practitioners.

HSCRC may assess up to $4.5 million in any fiscal year, an increase of $500,000 from the $4 million it would otherwise be able to charge; these fees are assessed on hospitals and related institutions whose rates have been approved by HSCRC.

The one-year cost assessment authorized by BRFA of 2004 raised $1.9 million for DHMH. Although the user fee limit was also temporarily increased for each of the commissions, MHCC used a portion of its fund balance to cover the cost of the assessment – thereby reducing a planned return of funds to its payors but avoiding an increase in fees.

Recent History: In the 2004 session, the Administration proposed a permanent indirect cost assessment against the commissions and a corresponding increase in their user fee caps; the General Assembly authorized the assessment and increased fee cap for FY 2005 only in BRFA of 2004.

Location of Provision in the Bill: Section 1 (HG §§ 19-110, 19-111, 19-208, and 19-213), pp. 9 – 10.

Motor Fuel Tax Exemption

Provision in the Bill: Expands the exemptions for payment of the motor fuel tax to include motor fuel purchased by the Department of General Services for use by State agencies.

Fiscal Impact: **($ in millions)**

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revs	($0.05)	($0.05)	($0.05)	($0.05)	($0.05)
SF Revs	($2.24)	($2.24)	($2.24)	($2.24)	($2.24)
GF Expends	($1.01)	($1.01)	($1.01)	($1.01)	($1.01)
SF Expends	($1.61)	($1.61)	($1.61)	($1.61)	($1.61)
FF Expends	($0.18)	($0.18)	($0.18)	($0.18)	($0.18)
RF Expends	($0.02)	($0.02)	($0.02)	($0.02)	($0.02)
Nonbud Exp	($1.38)	($1.38)	($1.38)	($1.38)	($1.38)

State Effect: TTF revenues would decrease by $2.2 million annually. SF revenues in DNR would decrease by about $13,800 annually. GF revenues for Chesapeake Bay related programs would decrease by about $52,800 annually. Agency expenditures for motor fuel would decrease as shown above (higher education and local health department expenditures are categorized as GF expenditures). In addition, SHA distribution of highway user revenues would decrease by $669,300 annually. Effectuates contingent reductions in the FY 2006 budget bill of lesser amounts, reflecting the impact of the provision on Executive Branch agencies only.

This estimate is based on the following facts and assumptions:

- State purchases for motor fuel that would be exempt under the bill remain constant. Accordingly, based on actual gallons purchased by the State from November 1, 2003 through October 31, 2004, almost $2.3 million in motor fuel taxes would no longer be collected as shown below.

Type of Motor Fuel	Gallons	Tax Collected
Gasoline	7.3 million	$1,715,500
Special fuel	2.4 million	582,000
Total		**$2,297,500**

- The Administrative Cost Account in the Comptroller's Office would not be affected as sufficient funds would already have been deducted from other receipts.

- According to DBM and the Comptroller, the allocation of costs for such motor fuel is as follows:

GF expenditures	40%
SF expenditures	41%
FF expenditures	8%
Reimbursable expenditures	1%
Nonbudgeted expenditures	6%
Higher education expenditures	1%
DHMH local health departments	3%

Local Effect: Local highway user revenues would decrease by $669,300 in FY 2006; however, the FY 2006 budget bill reflects a contingent reduction of $582,600 for this purpose based on the impact of the provision on Executive Branch agencies only.

Program Description: The Department of General Services has tanks at 89 sites across the State for use by State agency personnel in fleet vehicles.

Motor fuel is taxed at the following rates per gallon:

Type of Motor Fuel	Tax Rate per Gallon
Aviation gasoline	$0.07
Gasoline other than aviation gasoline	$0.235
Special fuel other than clean-burning fuel (diesel)	$0.2425
Turbine fuel	$0.07
Gasoline-equivalent of clean-burning fuel	$0.235

Most motor fuel tax revenue is distributed to GMVRA within TTF; therefore, 70% is retained by the State and 30% is subsequently distributed to local jurisdictions as highway user revenues.

Additional Comments: The Comptroller's Office advises that this exemption must be effected through a refund of the tax paid by suppliers of motor fuel to DGS; however, as drafted, a refund could not be issued. The bill would need to be amended to include these sales under the Tax General Article (§13-901(f)(ii)(2)) to give the Comptroller authority to issue a refund of the tax paid.

Location of Provision in the Bill: Section 1 (TG § 9-303), pp. 10 – 11.

Appendix 3. Summary of Fiscal Impacts in the Budget Financing Act of 2005

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
General Fund Revenues					
Increase supervision fee on probationers	709,635	1,310,400	1,310,400	1,310,400	1,310,400
Exempt State agency purchases from motor fuel tax	-52,842	-52,842	-52,842	-52,842	-52,842
Total	***656,793***	***1,257,558***	***1,257,558***	***1,257,558***	***1,257,558***
Special Fund Revenues					
Authorize heritage tax credit fee	400,000	400,000	400,000		
Authorize DDMP program fee*	7,581,600	7,581,600	7,581,600	7,581,600	7,581,600
Increase court fee and direct to LECTF	4,200,000	4,200,000	4,200,000	4,200,000	4,200,000
Authorize Medicaid estate recovery	57,558	115,116	345,347	575,579	1,151,157
Increase user fee cap for HSCRC/MHCC	1,833,000	1,833,000	1,833,000	1,833,000	1,833,000
Exempt State agency purchases from motor fuel tax	-2,244,658	-2,244,658	-2,244,658	-2,244,658	-2,244,658
Total	***11,827,500***	***11,885,058***	***12,115,289***	***11,945,521***	***12,521,099***
General Fund Expenditures					
Increase supervision fee on probationers*	598,000	598,000	598,000	598,000	598,000
Authorize heritage tax credit fee	-400,000	-400,000	-400,000		
Authorize DDMP program fee*	-7,581,600	-7,581,600	-7,581,600	-7,581,600	-7,581,600
Increase court fee and direct to LECTF*	-750,906	-850,906	-850,906	-850,906	-850,906
Authorize Medicaid estate recovery	-28,779	-57,558	-172,674	-287,790	-575,597
Assess HSCRC/MHCC for indirect costs	-1,833,000	-1,833,000	-1,833,000	-1,833,000	-1,833,000
Increase MPAP co-payment	-102,000	-67,300	-67,300	-67,300	-67,300
Exempt State agency purchases from motor fuel tax*	-1,010,900	-1,010,900	-1,010,900	-1,010,900	-1,010,900
Total	***-11,109,185***	***-11,203,264***	***-11,318,380***	***-11,033,496***	***-11,321,303***

Special Fund Expenditures					
Authorize heritage tax credit fee	400,000	400,000	400,000		
Authorize DDMP program fee*	7,581,600	7,581,600	7,581,600	7,581,600	7,581,600
Increase court fee and direct to LECTF*	750,906	850,906	850,906	850,906	850,906
Authorize Medicaid estate recovery	57,558	115,116	345,347	575,579	1,151,157
Assess HSCRC/MHCC for indirect costs	1,833,000	1,833,000	1,833,000	1,833,000	1,833,000
Exempt State agency purchases from motor fuel tax	-941,975	-941,975	-941,975	-941,975	-941,975
Reduced highway user revenues to locals	-669,262	-669,262	-669,262	-669,262	-669,262
Total	***9,011,827***	***9,169,385***	***9,399,616***	***9,229,848***	***9,805,426***
Reimbursable Fund Expenditures					
Exempt State agency purchases from motor fuel tax	-22,975	-22,975	-22,975	-22,975	-22,975
Nonbudgeted Expenditures					
Exempt State agency purchases from motor fuel tax	-137,850	-137,850	-137,850	-137,850	-137,850
Federal Fund Expenditures					
Authorize Medicaid estate recovery	-28,779	-57,558	-172,674	-287,790	-575,597
Increase MPAP co-payment	-102,000	-67,300	-67,300	-67,300	-67,300
Exempt State agency purchases from motor fuel tax	-183,800	-183,800	-183,800	-183,800	-183,800
Total	***-314,579***	***-308,658***	***-423,774***	***-538,890***	***-826,697***
Net Impact on General Funds	**11,765,978**	**12,460,822**	**12,575,938**	**12,291,054**	**12,578,861**
Net Impact on Special Funds	**2,815,673**	**2,715,673**	**12,715,673**	**2,715,673**	**2,715,673**
Net Impact on Reimbursable Funds	**-22,975**	**-22,975**	**-22,975**	**-22,975**	**-22,975**
Net Impact on Nonbudgeted Funds	**-137,850**	**-137,850**	**-137,850**	**-137,850**	**-137,850**
Net Impact on State Funds	**14,742,476**	**15,337,320**	**15,452,436**	**15,167,552**	**15,455,359**
Net Impact on All Funds	**15,057,055**	**15,645,978**	**15,876,210**	**15,706,442**	**16,282,056**

Notes: Increasing the supervision fee for probationers would result in a GF contingent appropriation of $598,000 to the Division of Parole and Probation; it is assumed that an appropriation would continue at the same level in the out-years.

Imposing a monthly program fee for the Drinking Driver Monitor Program would result in a SF contingent appropriation of $8,351,830; however, as Legislative Services estimates a lower level of fee collection, the SF revenues and corresponding GF and SF expenditures reflect the estimate, not the contingent appropriation. The fee collections estimated by Legislative Services would be sufficient to fund the program, based on actual expenditures in previous years.

Increasing the court fee to $25 would effectuate a contingent GF reduction of $750,906 for the Police and Correctional Training Commissions, leaving $100,000 in GF support. Legislative Services assumes that the entire level of GF support would be discontinued in future years. Further, although additional SF expenditures would occur, only the amount necessary to offset GF support at the level provided in FY 2006 is shown above.

The GF expenditure reductions shown due to exempting State agency purchases from the motor fuel tax include higher education expenditures and local health department expenditures. The contingent reductions in the FY 2006 related to this provision reflect the amount associated with Executive Branch agencies only.

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