A BILL ENTITLED

AN ACT concerning

Operating Budget – Unanticipated Federal Funds – Authorized Uses

FOR the purpose of prohibiting the expenditure of certain money from the federal government by amendment of an appropriation in the fiscal year 2021 or 2022 State budget unless the money is used for certain purposes; providing that the prohibition does not apply to the amendment of an appropriation if the Board of Public Works makes a certain determination; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the amendment of certain federal fund appropriations.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 7–209(c)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–217
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Chapter 19 of the Acts of the General Assembly of 2020
Section 5, 7, and 27

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

Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(c) (1) An amendment of an appropriation for a program:

(i) except as provided in paragraph (2) of this subsection, may not increase the sum of the appropriations from the General Fund of the State for all the programs of the officer or unit; and

(ii) may permit the expenditure of money from a special fund or the federal government as provided in § 2–201 of this article or § 7–217(a) of this subtitle.

(2) An amendment of an appropriation for a program of the Executive Branch may increase the sum of the appropriations from the General Fund of the State for all programs of the officer or unit if money from the Contingent Fund of the Board of Public Works is transferred to the program.

7–217.

(a) (1) An officer or unit of the State government may spend money from a special fund or the federal government that is not estimated or included in the State budget or exceeds the estimate in the State budget and is paid into the State Treasury for a program after an approved amendment of a special FUND APPROPRIATION or, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A federal fund appropriation for the program:

[(1)] (I) for the specific purpose to which the money is dedicated by State law or act of Congress; or

[(2)] (II) if the money is not dedicated to a specific purpose, with the approval of the Governor and as authorized in an approved budget amendment, for necessary current operations.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, AN AMENDMENT OF A FEDERAL FUND APPROPRIATION FOR A PROGRAM IN THE FISCAL YEAR 2021 OR 2022 STATE BUDGET MAY NOT PERMIT THE EXPENDITURE OF MONEY FROM THE FEDERAL GOVERNMENT IF THE FEDERAL FUNDS ARE:

1. APPROPRIATED BY CONGRESS ON OR AFTER DECEMBER 14, 2020; OR

2. PART OF A GRANT THAT IS NOT INCLUDED IN THE FISCAL YEAR 2022 BUDGET BOOKS REQUIRED UNDER § 7–115 OF THIS TITLE.

(II) AN AMENDMENT OF A FEDERAL FUND APPROPRIATION FOR A PROGRAM MAY PERMIT THE EXPENDITURE OF MONEY FROM THE FEDERAL
GOVERNMENT IF:

1. THE FUNDS INCREASE AN APPROPRIATION IN THE FISCAL YEAR 2021 OR 2022 STATE BUDGET THAT PROVIDES FUNDING FOR:

   A. COVID–19 VACCINE ACQUISITION, DISTRIBUTION, AND ADMINISTRATION; OR
   
   B. TRANSIT OPERATING COSTS; OR

2. THE FUNDS INCREASE AN APPROPRIATION IN THE FISCAL YEAR 2022 STATE BUDGET THAT PROVIDES FUNDING:

   A. FOR PROGRAMS AUTHORIZED IN THE BLUEPRINT FOR MARYLAND’S FUTURE; OR
   
   B. TO SUPPORT EVICTION ASSISTANCE AND FINANCIAL SUPPORT FOR UNEMPLOYED INDIVIDUALS.

(III) SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH DO NOT APPLY TO AN AMENDMENT OF A FEDERAL FUND APPROPRIATION FOR A PROGRAM IF THE BOARD OF PUBLIC WORKS DETERMINES THAT THE AMENDMENT IS ESSENTIAL TO:

1. MAINTAINING PUBLIC SAFETY, HEALTH, OR WELFARE OF THE STATE; OR

2. PROTECTING THE ENVIRONMENT OR ECONOMIC WELFARE OF THE STATE.

(b) Money that is derived from a source estimated and included in an appropriation act and that is in excess of the estimate shall remain in the General Fund of the State until appropriated by a subsequent appropriation act.

Chapter 19 of the Acts of 2020

SECTION 5. AND BE IT FURTHER ENACTED, That amounts received pursuant to Sections 2–201 and 7–217 of the State Finance and Procurement Article may be expended, SUBJECT TO SECTION 7–217(A)(2) OF THE STATE FINANCE AND PROCUREMENT ARTICLE, by approved budget amendment.

SECTION 7. AND BE IT FURTHER ENACTED, That, except as otherwise provided, amounts received from sources estimated or calculated upon in the budget in excess of the estimates for any special or federal fund appropriations listed in this bill may be made
available, **subject to Section 7–217(a)(2) of the State Finance and Procurement Article**, by approved budget amendment.

SECTION 27. AND BE IT FURTHER ENACTED, That any budget amendment to increase the total amount of special, federal, or higher education (current restricted and current unrestricted) fund appropriations, or to make reimbursable fund transfers from the Governor’s Office of Justice, Youth, and Victim Services or the Maryland Emergency Management Agency made in Section 1 of this Act shall be subject to the following restrictions:

1. This section may not apply to budget amendments for the sole purpose of:
   1. (a) appropriating funds available as a result of the award of federal disaster assistance; and
   2. (b) transferring funds from the State Reserve Fund – Economic Development Opportunities Account for projects approved by the Legislative Policy Committee (LPC).

2. Budget amendments increasing total appropriations in any fund account by $100,000 or more may not be approved by the Governor until:
   1. (a) that amendment has been submitted to the Department of Legislative Services (DLS); and
   2. (b) the budget committees or LPC has considered the amendment or 45 days have elapsed from the date of submission of the amendment. Each amendment submitted to DLS shall include a statement of the amount, sources of funds and purposes of the amendment, and a summary of the impact on regular position or contractual full–time equivalent payroll requirements.

3. Unless permitted by the budget bill or the accompanying supporting documentation or by any other authorizing legislation, and notwithstanding the provisions of Section 3–216 of the Transportation Article, a budget amendment may not:
   1. (a) restore funds for items or purposes specifically denied by the General Assembly;
   2. (b) fund a capital project not authorized by the General Assembly provided, however, that subject to provisions of the Transportation Article, projects of the Maryland Department of Transportation (MDOT) shall be restricted as provided in Section 1 of this Act;
   3. (c) increase the scope of a capital project by an amount 7.5% or more over the approved estimate or 5.0% or more over the net square footage of the approved project until the amendment has been submitted to DLS and the budget committees have considered and offered comment to the Governor or 45 days have elapsed from the date of
submission of the amendment. This provision does not apply to MDOT; and

(d) provide for the additional appropriation of special, federal, or higher education funds of more than $100,000 for the reclassification of a position or positions.

(4) A budget may not be amended to increase a federal fund appropriation by $100,000 or more unless documentation evidencing the increase in funds is provided with the amendment and fund availability is certified by the Secretary of Budget and Management.

(5) No expenditure or contractual obligation of funds authorized by a proposed budget amendment may be made prior to approval of that amendment by the Governor.

(6) Notwithstanding the provisions of this section, any federal, special, or higher education fund appropriation may be increased by budget amendment upon a declaration by the Board of Public Works that the amendment is essential to maintaining public safety, health, or welfare, including protecting the environment or the economic welfare of the State.

(7) Budget amendments for new major information technology projects, as defined by Sections 3A–301 and 3A–302 of the State Finance and Procurement Article, must include an Information Technology Project Request, as defined in Section 3A–308 of the State Finance and Procurement Article.

(8) Further provided that the fiscal 2021 appropriation detail as shown in the Governor’s budget books submitted to the General Assembly in January 2021 and the supporting electronic detail may not include appropriations for budget amendments that have not been signed by the Governor, exclusive of the MDOT pay–as–you–go capital program.

(9) Further provided that it is the policy of the State to recognize and appropriate additional special, higher education, and federal revenues in the budget bill as approved by the General Assembly. Further provided that for the fiscal 2022 allowance, the Department of Budget and Management shall continue policies and procedures to minimize reliance on budget amendments for appropriations that could be included in a deficiency appropriation.

(10) EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SECTION, AN AMENDMENT OF A FEDERAL FUND APPROPRIATION MAY NOT PERMIT THE EXPENDITURE OF MONEY FROM THE FEDERAL GOVERNMENT IF THE FEDERAL FUNDS ARE APPROPRIATED BY CONGRESS ON OR AFTER DECEMBER 14, 2020, UNLESS THE FUNDS ARE PART OF A FEDERAL GRANT PROGRAM THAT IS INCLUDED IN THE FISCAL 2022 BUDGET BOOKS AS REQUIRED UNDER SECTION 7–115 OF THE STATE FINANCE AND PROCUREMENT ARTICLE OR THE FUNDS INCREASE AN APPROPRIATION THAT PROVIDES FUNDING FOR COVID–19 VACCINE ACQUISITION, DISTRIBUTION, AND ADMINISTRATION OR TRANSIT OPERATING COSTS.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through June 30, 2022, and, at the end of June 30, 2022, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.