By: Delegate McIntosh
Introduced and read first time: February 11, 2022
Assigned to: Appropriations

A BILL ENTITLED

AN ACT concerning

Operating Budget – Consolidated Transportation Program and
Unanticipated Federal Funds

FOR the purpose of requiring the financial forecast that supports the Consolidated
Transportation Program to include a reserve of a certain amount for certain changes
in certain revenue sources; prohibiting the expenditure of certain money from the
federal government by amendment of an appropriation in the fiscal year 2022 or
2023 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; and generally relating to the operating
budget, the Consolidated Transportation Program, and unanticipated federal fund
appropriations.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 2–103.1(b)
Annotated Code of Maryland
(2020 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.1(m)
Annotated Code of Maryland
(2020 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 7–209(c)
Annotated Code of Maryland
(2021 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–217
Annotated Code of Maryland
(2021 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 357 of the Acts of the General Assembly of 2021
Section 5 and 7

BY repealing and reenacting, without amendments,
Chapter 357 of the Acts of the General Assembly of 2021
Section 30(6)

BY adding to
Chapter 357 of the Acts of the General Assembly of 2021
Section 30(11)

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

Article – Transportation

2–103.1.

(b) The State Report on Transportation consists of the Consolidated Transportation Program and the Maryland Transportation Plan.

(m) (1) (i) Subject to § 2–1257 of the State Government Article:

1. On or before September 1 of each year, the Department shall submit copies of the proposed Consolidated Transportation Program and the supporting financial forecast to the General Assembly; and

2. On submission of the budget bill to the presiding officers of the General Assembly, the Department shall submit copies of the approved Consolidated Transportation Program, including the manner in which each major transportation project was evaluated and ranked under § 2–103.7 of this subtitle, and the supporting financial forecast to the General Assembly.

(ii) Notwithstanding § 2–1257(b)(2) of the State Government Article, the Department shall provide to each member of the General Assembly a copy of the proposed Consolidated Transportation Program and the approved Consolidated Transportation Program.
(2) (i) The financial forecast supporting the Consolidated Transportation Program to be submitted to the General Assembly under paragraph (1) of this subsection shall include the following components:

1. A schedule of operating expenses for each specific modal administration;

2. A schedule of revenues, including tax and fee revenues, deductions from revenues for other agencies, Department program and fees, Motor Vehicle Administration cost recovery, deductions for highway user revenues, operating revenues by modal administration, and miscellaneous revenues; and

3. A summary schedule for the Transportation Trust Fund that includes the opening and closing Fund balance, revenues, transfers, bond sales, bond premiums, any other revenues, expenditures for debt service, operating expenses, amounts available for capital expenses, bond interest rates, bond coverage ratios, total bonds outstanding, federal capital aid, and the total amount for the Transportation Capital Program.

(ii) The financial forecast shall include:

1. FOR each of the components specified in subparagraph (i) of this paragraph:

   [1.] A. Actual information for the last full fiscal year; and

   [2.] B. Forecasts of the information for each of the six subsequent fiscal years, including the current fiscal year, the fiscal year for the proposed budget, and the next four subsequent fiscal years; AND

2. FOR THE SUMMARY OF REVENUES AND RECEIPTS COMPONENT, A LINE ITEM OF $35,000,000 FOR A RESERVE FOR CHANGES IN REVENUE SOURCES FOR EACH FISCAL YEAR INCLUDED IN THE FINANCIAL FORECAST.

(iii) 1. For the period beyond the budget request year, the financial forecast:

   A. Shall maximize the use of funds for the capital program;

   B. Except as authorized by law, may not withhold or reserve funds for capital transportation grants to counties or municipal corporations; and

   C. Except as provided in subsubparagraph 2 of this subparagraph, shall increase the operating expenses, net of availability payments paid to public–private partnership concessionaires, each year by at least the 5–year average
annual rate of change in the operating expenses of the Department, ending with the most
recently completed fiscal year.

2. The assumed rate of future operating budget growth
under subsubparagraph 1C of this subparagraph may not increase or decrease by more
than 0.5 percentage points from the growth rate assumed in the previous forecast.

(iv) The Department shall incorporate in the financial forecast the
most recent estimates by the Board of Revenue Estimates of the revenues from:

1. The corporate income tax and the sales and use tax for
each of the six subsequent years, including the current fiscal year and the fiscal year for
the proposed budget; and

2. Motor fuel taxes and motor vehicle titling taxes for the
current fiscal year and the fiscal year for the proposed budget.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
as follows:

Article – State Finance and Procurement

7–209.

(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 2022 OR 2023 STATE BUDGET MAY NOT PERMIT THE EXPENDITURE OF MONEY AUTHORIZED BY THE FEDERAL INFRASTRUCTURE INVESTMENT AND JOBS ACT.

(II) 1. AN AMENDMENT OF A FEDERAL FUND APPROPRIATION FOR A PROGRAM MAY PERMIT THE EXPENDITURE OF FUNDS AUTHORIZED BY THE FEDERAL INFRASTRUCTURE INVESTMENT AND JOBS ACT IF THE FUNDS:

A. SUPPORT A PROJECT INCLUDED IN THE CONSOLIDATED TRANSPORTATION PROGRAM SUBMITTED AT THE 2022 SESSION OF THE GENERAL ASSEMBLY;

B. TARGET THE REPLACEMENT OF LEAD PIPES NEAR SCHOOLS, CHILD CARE FACILITIES, OR STATE RESIDENTIAL FACILITIES SERVING CHILDREN; OR

C. ARE ALLOCATED TO PROJECTS IN UNDERSERVED COMMUNITIES OF THE STATE.

2. FUNDS AUTHORIZED UNDER THIS SUB Paragraph MUST BE EXPENDED BY JUNE 30, 2023.

3. FUNDS AUTHORIZED UNDER THIS SUB Paragraph ARE IN ADDITION TO ANY OTHER FUNDS PROVIDED FOR THE SAME PURPOSE AND MAY NOT SUPPLANT EXISTING FUNDS.

(III) SUB Paragraphs (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 THE PUBLIC SAFETY, HEALTH, OR WELFARE OF THE STATE; OR
2. PROTECTING THE ENVIRONMENT OR THE 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 357 of the Acts of 2021

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 30. 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 Crime Prevention, Youth, and Victim Services or the Maryland Emergency Management Agency made in Section 1 of this Act shall be subject to the following restrictions:

(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.

(11) EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SECTION, AN AMENDMENT OF A FEDERAL FUND APPROPRIATION MAY NOT PERMIT THE EXPENDITURE OF MONEY AUTHORIZED IN THE FEDERAL INFRASTRUCTURE INVESTMENT AND JOBS ACT UNLESS AUTHORIZED UNDER SECTION 7–217 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

SECTION 3. 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. Section 2 of this Act shall remain effective through June 30, 2023, and, at the end of June 30, 2023, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.