

# SENATE BILL 186

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2lr0060

(PRE-FILED)

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By: **Chair, Education, Health, and Environmental Affairs Committee (By Request  
– Departmental – Health)**

Requested: October 5, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 1, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland AIDS Drug Assistance Program ~~– Rebates Fund~~**

3 FOR the purpose of ~~requiring funds received as rebates from the Maryland AIDS Drug~~  
4 ~~Assistance Program to be held in interest bearing accounts; requiring the Secretary~~  
5 ~~of Health to deposit accrued interest to a special nonlapsing fund~~ repealing  
6 provisions of law regarding funds and rebates related to the Maryland AIDS Drug  
7 Assistance Program; establishing the Maryland AIDS Drug Assistance Program  
8 Fund as a special, nonlapsing fund; requiring interest earnings of the Fund to be  
9 credited to the Fund; requiring the Maryland Department of Health to deposit  
10 certain rebates into a certain account; and generally relating to the Maryland AIDS  
11 Drug Assistance Program.

12 BY repealing and reenacting, with amendments,  
13 Article – Health – General  
14 Section 2–104(j)  
15 Annotated Code of Maryland  
16 (2019 Replacement Volume and 2021 Supplement)

17 BY adding to  
18 Article – Health – General  
19 Section 24–1801 to be under the new subtitle “Subtitle 18. Maryland AIDS Drug  
20 Assistance Program Fund”  
21 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2019 Replacement Volume and 2021 Supplement)

2 BY repealing and reenacting, without amendments,  
3 Article – State Finance and Procurement  
4 Section 6–226(a)(2)(i) and (b)  
5 Annotated Code of Maryland  
6 (2021 Replacement Volume)

7 BY repealing and reenacting, with amendments,  
8 Article – State Finance and Procurement  
9 Section 6–226(a)(2)(ii)144. and 145.  
10 Annotated Code of Maryland  
11 (2021 Replacement Volume)

12 BY adding to  
13 Article – State Finance and Procurement  
14 Section 6–226(a)(2)(ii)146.  
15 Annotated Code of Maryland  
16 (2021 Replacement Volume)

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

19 **Article – Health – General**

20 2–104.

21 (j) ~~(4)~~ Except as otherwise provided by law and paragraphs (2) and (3) of this  
22 subsection, the Secretary shall pay all money collected by the Department under this article  
23 into the General Fund of this State.

24 ~~(2) (1) Any APPLICABLE rebates received by the Department from the~~  
25 ~~Maryland AIDS Drug Assistance Program shall be distributed to a special nonlapsing fund~~  
26 ~~that is not subject to § 7–302 of the State Finance and Procurement Article, to be used only~~  
27 ~~to fund:~~

28 ~~[(i)] 1. The Maryland AIDS Drug Assistance Program (MADAP);~~

29 ~~[(ii)] 2. The Maryland AIDS Drug Assistance Program Plus~~  
30 ~~(MADAP Plus); and~~

31 ~~[(iii)] 3. Any other services to eligible individuals as allowable~~  
32 ~~under Part B of the federal Ryan White HIV/AIDS Program.~~

~~(H) ANY REBATES RECEIVED BY THE DEPARTMENT FROM THE MARYLAND AIDS DRUG ASSISTANCE PROGRAM SHALL BE HELD IN INTEREST BEARING ACCOUNTS.~~

~~(HH) ACCRUED INTEREST EARNINGS SHALL BE DEPOSITED BY THE SECRETARY INTO THE SPECIAL NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(3) (I) Notwithstanding paragraph (2) of this subsection, any rebates received by the Department from the Maryland AIDS Drug Assistance Program as a result of State General Fund expenditures shall be:~~

~~[(i)] 1. Distributed to a separate special nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article; [and]~~

~~[(ii)] 2. Used only to fund State identified priorities for HIV prevention, surveillance, and care services; AND~~

~~3. HELD IN INTEREST BEARING ACCOUNTS.~~

~~(H) ACCRUED INTEREST EARNINGS SHALL BE DEPOSITED BY THE SECRETARY INTO THE SPECIAL NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(4) The Secretary shall adopt regulations establishing, as appropriate, income and other eligibility criteria for the receipt of HIV prevention and care services funded under paragraph (3) of this subsection.~~

## SUBTITLE 18. MARYLAND AIDS DRUG ASSISTANCE PROGRAM FUND.

### 24-1801.

(A) IN THIS SECTION, "FUND" MEANS THE MARYLAND AIDS DRUG ASSISTANCE PROGRAM FUND.

(B) THERE IS A MARYLAND AIDS DRUG ASSISTANCE PROGRAM FUND.

(C) THE PURPOSE OF THE FUND IS TO SUPPORT THE ADMINISTRATION, OPERATION, AND ACTIVITIES OF THE MARYLAND AIDS DRUG ASSISTANCE PROGRAM.

(D) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1           **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**  
2 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

3           **(F) THE FUND CONSISTS OF:**

4           **(1) EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION,**  
5 **REBATES RECEIVED BY THE DEPARTMENT FROM THE MARYLAND AIDS DRUG**  
6 **ASSISTANCE PROGRAM;**

7           **(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

8           **(3) INTEREST EARNINGS OF THE FUND; AND**

9           **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**  
10 **THE BENEFIT OF THE FUND.**

11           **(G) THE FUND MAY BE USED ONLY TO FUND:**

12           **(1) THE MARYLAND AIDS DRUG ASSISTANCE PROGRAM;**

13           **(2) THE MARYLAND AIDS DRUG ASSISTANCE PROGRAM PLUS**  
14 **(MADAP-PLUS); AND**

15           **(3) ANY OTHER SERVICES TO ELIGIBLE INDIVIDUALS AS AUTHORIZED**  
16 **UNDER PART B OF THE FEDERAL RYAN WHITE HIV/AIDS PROGRAM.**

17           **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**  
18 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

19           **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**  
20 **THE FUND.**

21           **(I) (1) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN**  
22 **ACCORDANCE WITH THE STATE BUDGET.**

23           **(2) THE FUND SHALL HAVE ITS OWN PROGRAM CODE WITHIN THE**  
24 **STATE BUDGET.**

25           **(J) NOTWITHSTANDING SUBSECTION (F) OF THIS SECTION, THE**  
26 **DEPARTMENT SHALL:**

27           **(1) DEPOSIT ANY REBATES FROM A SOURCE OTHER THAN A FEDERAL**  
28 **SOURCE RECEIVED BY THE DEPARTMENT FROM THE MARYLAND AIDS DRUG**  
29 **ASSISTANCE PROGRAM INTO AN ACCOUNT WITHIN THE FUND; AND**

1           **(2) USE THE FUNDS IN THE ACCOUNT UNDER ITEM (1) OF THIS**  
2 **SUBSECTION ONLY TO FUND STATE-IDENTIFIED PRIORITIES FOR HIV PREVENTION,**  
3 **SURVEILLANCE, AND CARE SERVICES.**

4           **(K) THE SECRETARY SHALL ADOPT REGULATIONS ESTABLISHING INCOME**  
5 **AND OTHER ELIGIBILITY CRITERIA FOR THE RECEIPT OF HIV PREVENTION AND**  
6 **CARE SERVICES FUNDED UNDER SUBSECTION (J) OF THIS SECTION.**

7                                   **Article – State Finance and Procurement**

8   6–226.

9           (a) (2) (i) Notwithstanding any other provision of law, and unless  
10 inconsistent with a federal law, grant agreement, or other federal requirement or with the  
11 terms of a gift or settlement agreement, net interest on all State money allocated by the  
12 State Treasurer under this section to special funds or accounts, and otherwise entitled to  
13 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General  
14 Fund of the State.

15                                   (ii) The provisions of subparagraph (i) of this paragraph do not apply  
16 to the following funds:

17   144. the Health Equity Resource Community Reserve Fund;

18 [and]

19   145. the Access to Counsel in Evictions Special Fund; AND

20   **146. THE FUND ESTABLISHED UNDER § 2-104 FOR THE**  
21 **MARYLAND AIDS DRUG ASSISTANCE PROGRAM MARYLAND AIDS DRUG**  
22 **ASSISTANCE PROGRAM FUND.**

23           (b) (1) Notwithstanding any other provision of law, the Treasurer may invest  
24 separately or commingled in 1 or more pools amounts to be invested by law or regulation  
25 for State agencies.

26                                   (2) The Treasurer shall allocate net earnings on amounts commingled in a  
27 pool to the appropriate State agencies entitled to receive interest earnings under subsection  
28 (a) of this section.

29           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
30 1, 2022.