Budget Reconciliation and Financing Act of 2021 (HB 589/SB 493)

Budget Summary, Provisions, and Recommendations

Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland

February 2021

Contributing Staff

Writers

Andrew C. Garrison
Andrew D. Gray
Laura H. Hyde
Jason A. Kramer
Steven D. McCulloch
Simon G. Powell
Anne P.Wagner
Caleb E. Weiss
Tonya D. Zimmerman

Reviewers

David C. Romans
Tonya D. Zimmerman

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: 410-946-5400 ● Washington Area: 301-970-5400
Other Areas: 1-800-492-7122, Extension 5400
TTY: 410-946-5401 ● 301-970-5401
TTY users may also use the Maryland Relay Service
to contact the General Assembly.

Email: libr@mlis.state.md.us
Home Page: http://mgaleg.maryland.gov

Contents

Page

Impact of DLS BRFA Recommendations vs. Governor's Plan 1

DLS Alternatives to HB 589/SB 493 Provisions as Introduced 3

DLS Additional Recommendations to HB 589/SB 493 as Introduced 5

Detail on Alternative and Additional Recommendations on HB 589 /HB 493... 7

Blueprint for Maryland's Future Fund – Expanded Uses 9
Modify Use of and Threshold for the CareFirst Premium Tax Exemption 11
Require Transfers of Reinsurance Provider Assessment Revenue to Medicaid 12
Repeal Transfer Tax Repayment Requirement 13
Strike Transfer of Fund Balance from the State Board of Pharmacy Fund to the Office of Controlled Substances Administration 15
Transfer Fund Balance from State Board of Examiners of Psychologists Fund to the Behavioral Health Administration.. 16
Transfer of Improperly Retained Rate Stabilization Funds 17
Revert Improperly Retained Funding for Library Services 18
No Fiscal 2021 Funds Spending for Supplemental Retirement Contribution........... 19
Transfer from the Charlotte Hall Veterans Home Special Fund to the General Fund 21
Reduce Fiscal 2021 Funds for Excess Statewide Salary Actions 22
Mandate Relief for Maryland Transit Administration 23
Reduce Unneeded Fiscal 2020 Funds for Behavioral Health Provider Reimbursement.. 24
Reduce Fiscal 2021 Spending to Recognize Enhanced Federal Matching Funds in the Developmental Disabilities Administration 25
Reduce Unneeded Fiscal 2020 Funds for Nonpublic Placements 27

Impact of DLS BRFA Recommendations vs. Governor's Plan

	Governor's Plan	DLS Additions/ Alternatives	Difference
General Fund Impacts			
Revenue Actions			
Transfer Tax Diversion (to Be Replaced with General Obligation Bonds)	$100.6		
Set Revenue Volatility Adjustment at $0 in Fiscal 2022 Only	80.0		
Maryland Health Benefit Exchange Mandate Decrease	3.0		
Fund Balance Transfers			
State Unemployment Insurance Fund Balance Transfer (Fiscal 2021)	30.0		
Consumer Protection Recoveries	10.0		
Rate Stabilization Fund Improperly Retained (Fiscal 2021)		$5.0	$5.0
Charlotte Hall Veterans Home Fund to Offset CARES Act Grant (Fiscal 2021)		1.0	1.0
Reserve Fund/Liabilities Actions			
Reduce Appropriation to Rainy Day Fund to Leave a Balance of 5%	422.0		
Delay Program Open Space Repayment*	43.9		
No Pension Sweeper and Retiree Health Sweeper in Fiscal 2022 Only	50.0		
General Fund Reductions Due to Changes to Mandates			
Level Fund Joseph A. Sellinger Formula and Alter Future Growth	29.8		
Slow Growth of Senator John A. Cade Funding Formula and Alter Future Growth	26.6		
Level Fund Maryland State Arts Council and Alter Future Growth	2.9		
DNR Fisheries Research and Development Fund One-time Repeal of Mandate	1.8		
Maryland Public Broadcasting Commission Mandate Repeal	0.8		
City of Annapolis Mandate Reduction	0.4		
Loan Assistance Repayment Program For Foster Care Recipients Mandate Repeal	0.1		
General Fund Reductions Due to Fund Swaps			
Use Reinsurance Program Provider Assessment Fund Balance for Medicaid (Fiscal 2021 and 2022)*	200.0		
Medicaid Deficit Assessment Alteration	35.0		
Use Medical Cannabis Commission Fund Balance to support BHA	6.0		
Increase Local Share of SDAT to 60%	3.9		
Use Board of Examiners of Professional Counselors Fund Balance to Support BHA	2.0		
Use Consumer Protection Funds for Financial Consumer Protection in the Office of Attorney General	0.7		
Use Board of Pharmacy Fund Balance for MDH Office of Controlled Substances Administration	0.5	0.0	-0.5

	Governor's Plan	DLS Additions/ Alternatives	Difference
General Fund Impacts			
Use Board of Examiners of Psychologists Fund Balance to support BHA		0.7	0.7
Withdrawn General Fund Spending from Prior Years			
Fiscal 2021 Supplemental Retirement Payment		63.0	63.0
Fiscal 2021 DDA Community Services Due to Enhanced Medicaid Match That Was Unclaimed in Fiscal 2020		16.8	16.8
Fiscal 2020 Accruals in MSDE for Nonpublic Placements		7.5	7.5
Fiscal 2020 Accruals in the BHA Provider Reimbursements		5.0	5.0
Fiscal 2021 DBM Statewide Program Due to Excess Salary Funding		1.8	1.8
Prior Year Funding in MSDE Headquarters Due to Improper Encumbrance		0.2	0.2
Fiscal 2021 Contingent Special Fund Appropriations			
Use Marketplace Facilitator Revenues to Cover ETF Shortfall	174.8		
Use Reinsurance Program Provider Assessment Fund Balance for Medicaid*	100.0		
Medicaid Deficit Assessment Alteration	35.0		
Special Fund Reductions			
DNR Program Open Space due to Transfer Tax Diversion	69.6		
MDA Maryland Agricultural Land Preservation Program due to Transfer Tax Diversion	31.0		
Fiscal 2021 Supplemental Retirement Payment		6.0	6.0
Community Health Resource Mandate Change as part of Carefirst Premium Tax Exemption Distribution Alteration	4.4	1.9	-2.5
Maryland Health Benefit Exchange Mandate Decrease	3.0		
Impact of BRFA on General Funds	***$1,050.0***		***$100.5***
Impact of BRFA on Special Funds	***-$201.9***		***$3.5***
Total Impact of BRFA on Budget	**$848.0**		**$104.0**

BHA: Behavioral Health Administration
BRFA: Budget Reconciliation and Financing Act
CARES: Coronavirus Aid, Relief, and Economic Security
DDA: Developmental Disabilities Administration
DLS: Department of Legislative Services
DNR: Department of Natural Resources
ETF: Education Trust Fund
MDA: Maryland Department of Agriculture
MDH: Maryland Department of Health
MSDE: Maryland State Department of Education
SDAT: State Department of Assessments and Taxation

*DLS recommends an alternative that does not alter the impact on the fiscal 2022 operating budget or revenue.

DLS Alternatives to HB 589/SB 493 Provisions as Introduced

Mandate Relief

- ***Transfer Tax Repayment:*** Alters the repayment of transfer tax revenue to eliminate the fiscal 2022 repayment and extend the repayment schedule by one year.
  - The Department of Legislative Services (DLS) recommends repealing the repayments in their entirety.

Changes to the Use of Special Funds

- ***Blueprint for Maryland's Future Fund:*** Alters the allowable uses of the Blueprint for Maryland's Future Fund to include early childhood, primary, and secondary education costs associated with the COVID-19 pandemic, including one-time grants to address enrollment declines related to the pandemic and to ensure that all jurisdictions receive an increase over fiscal 2021 (hold harmless grants).
  - DLS recommends further expanding the allowable uses of the fund to include items allocated in Supplemental Budget No. 1 (summer school and other activities to address learning loss, identify and support students dealing with trauma and behavioral health issues as a result of COVID-19, and grants to allow schools to safely reopen).
- ***Use of Carefirst Premium Tax Exemption:*** Alters the use of the Carefirst premium tax exemption beginning in fiscal 2022, to make the distribution to the Community Health Resources Commission ($8.0 million) a cap rather than a floor and make the distribution to the Senior Prescription Drug Assistance Program (SPDAP) ($14 million) a floor rather than a cap. In addition, grants under the Community Health Resources Commission Fund are capped beginning in fiscal 2022.
  - DLS recommends phasing in the change to the distribution to the SPDAP to $11.5 million in fiscal 2022 and then $14 million beginning in fiscal 2023, which increases the funding available to the Community Health Resources Commission in fiscal 2022.
- ***Reinsurance Program Provider Assessment:*** Requires the transfer of $100 million in each fiscal year, fiscal 2021 through 2026, from the provider assessment created for the State Reinsurance Program, to Medicaid.
  - DLS recommends a technical change to allow the transfer to occur from either fund balance or new revenue and clarify that the transfer is made by either the Governor or the Insurance Commissioner.

- ***Board of Pharmacy Fund Balance:*** Authorizes a transfer of $500,000 from the State Board of Pharmacy fund balance to the Office of Controlled Substances Administration in fiscal 2022.
    - DLS recommends striking this provision due to the impact on the board's fund balance.

DLS Additional Recommendations to HB 589/SB 493 as Introduced

Mandate Relief

- ***Maryland Transit Administration Operating Budget:*** Repeals the requirement that the fiscal 2022 operating budget of the Maryland Transit Administration increase by at least 4.4% over the fiscal 2021 appropriation.

Transfers to the General Fund

- ***Rate Stabilization Fund:*** Authorizes a fiscal 2021 transfer of $5 million from the Rate Stabilization Fund to the General Fund. The funds were identified in the fiscal 2020 Statewide Closeout Audit as being improperly retained.

- ***Charlotte Hall Veterans Home Fund:*** Authorizes a transfer of $1 million from the Charlotte Hall Veterans Home Fund to the General Fund to recognize funds that could have been used in lieu of Coronavirus Aid, Relief, and Economic Security Act funding provided to the contractor.

Change in Use of Special Funds/Fund Swap

- ***State Board of Examiners of Psychologists Fund:*** Authorizes a transfer of $700,000 from the State Board of Examiners of Psychologists Fund balance to the Behavioral Health Administration for community mental health services.

Cost Containment

- ***Supplemental Retirement Payments:*** Deletes fiscal 2021 supplemental retirement payments statewide, a reduction of $75 million in total funds.

- ***Excess Funds in the Statewide Program:*** Reduces fiscal 2021 spending in the Department of Budget and Management Statewide Program by $1.8 million due to excess salary funds budgeted in that year.

- ***Maryland State Department of Education (MSDE):*** Requires a reversion in MSDE Headquarters of $235,000 due to an improper encumbrance in July 2017 identified in the fiscal 2020 Statewide Closeout Audit.

- ***Recognize Savings from Accruals in the Maryland Department of Health:*** Reduces fiscal 2020 spending for Medicaid Behavioral Health Provider Reimbursements ($5 million) due to unneeded accruals for that year.

- ***Enhancement Medicaid Match:*** Reduces fiscal 2021 spending to reflect the enhanced Medicaid match in Developmental Disabilities Community Services ($16.8 million) that was unclaimed in fiscal 2020.

- ***Nonpublic Placement Accruals****:* Reduces fiscal 2020 spending in MSDE by $7.5 million due to unneeded accruals for nonpublic placements in that year.

Detail on Alternative and Additional Recommendations on HB 589/SB 493

Proposed Amendment to HB 589/SB 493 as Introduced

Blueprint for Maryland's Future Fund – Expanded Uses

Provision in BRFA as Introduced: Expands the allowable uses of the Blueprint for Maryland's Future Fund to include early childhood, primary, and secondary education costs associated with COVID-19 in fiscal 2022 only. Specifically, the funds may be used for one-time grants to address enrollment declines related to COVID-19 and to ensure that every county board receives an increase in State education aid over the amount allocated in fiscal 2021.

Provision as Recommended by DLS: Expand use of Blueprint for Maryland's Future Fund to include new grants in Supplemental Budget No. 1.

Agency: Maryland State Department of Education (MSDE), Aid to Education

Type of Action: Change in Use of a Special Fund

Fiscal Impact of DLS Recommendation vs. Current Law: No effect on overall special fund revenues or expenditures; however, funds are reallocated among activities.

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: No effect on overall special fund revenues or expenditures; however, funds are reallocated among activities.

Background/Recent History: Chapter 771 of 2019 established the Blueprint for Maryland's Future Fund consistent with funding priorities and recommendations identified by the Commission on Innovation and Excellence in Education (Kirwan Commission). Revenues for the fund are generated from gaming proceeds, including funds dedicated to the Education Trust Fund, and certain online sales tax revenues. The Governor is required to allocate $355 million in fiscal 2021 and $500 million in fiscal 2022 to the fund. The fund has an estimated balance of $479 million at the end of fiscal 2021, and the estimated balance in fiscal 2022 is $541 million after accounting for Supplemental Budget No. 1.

The fiscal 2022 budget as introduced included $213 million in Blueprint hold harmless grants, which are authorized as an eligible use of the funds in the provision included the Budget Reconciliation and Financing Act of 2021 as introduced.

The Supplemental Budget No. 1 for the fiscal 2022 budget allocates $45 million in fiscal 2021 deficiency appropriations and $105 million in fiscal 2022 from the Blueprint for Maryland's Future Fund for programs not otherwise included among the specified eligible uses of the fund. Funds allocated in fiscal 2021 include $25 million to fund summer school costs for struggling learners, $10 million for student behavioral health, and $10 million for school reopening grants. Funds allocated in fiscal 2022 include $45 million for Concentration of Poverty Schools (CPS), $25 million for struggling learners, $20 million for Transitional Supplemental Instruction (TSI), and $15 million for student behavioral health. The Governor's proposed fiscal 2022 budget, inclusive of Supplemental Budget No. 1, includes $857 million in expenditures from the Blueprint Fund.

State Effect: No effect on overall special fund revenues or expenditures; however, funds are reallocated among eligible activities.

Local Effect: This change may impact local school systems because Chapter 771 of 2019 does not specify allocations for programs added in Supplemental Budget No. 1, the fiscal 2021 local effect regarding Blueprint funds allocated for summer school, student behavioral health, and reopening will be determined by MSDE. In fiscal 2022, funds for CPS and TSI will be allocated as specified in Chapter 36 of 2020; funds for summer school and student behavioral health will be determined by MSDE.

Subcommittee Assignments: EED/EBA 2 – DLS Alt

Proposed Amendment to HB 589/SB 493 as Introduced

Modify Use of and Threshold for the CareFirst Premium Tax Exemption

Provision in BRFA as Introduced: Alters the use of the CareFirst premium tax exemption beginning in fiscal 2022 by (1) making the distribution of $8.0 million to the Maryland Community Health Resource Commission (CHRC) a cap rather than a floor and (2) making the distribution of $14.0 million to the Senior Prescription Drug Assistance Program (SPDAP) a floor rather than a cap.

Provision as Recommended by DLS: Alters the timing of these changes so that for fiscal 2022 only, the floor for the SPDAP is $11.5 million, thereby delaying the change to a cap in the distribution for CHRC. For fiscal 2023 and beyond, the floor for SPDAP would be $14.0 million as proposed in the Budget Reconciliation and Financing Act as introduced.

Agency: Maryland Department of Health

Type of Action: Change Use of Special Funds

Fiscal Impact of DLS Recommendation vs. Current Law: No net effect on overall special fund revenues or expenditures; however, funds are reallocated between SPDAP and CHRC.

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: No net effect on overall special fund revenues or expenditures; however, funds are reallocated between the SPDAP and CHRC. Specifically, the SPDAP would be authorized to process a budget amendment of $1.9 million rather than $4.4 million as proposed in the fiscal 2022 budget bill, and the CHRC contingent reduction would be reduced from $4.4 million to $1.9 million, providing a $2.5 million increase in available funding.

State Effect: No net effect on overall special fund revenues or expenditures; however, funds are reallocated between the SPDAP and CHRC. The special fund contingent reduction of CHRC would be reduced from $4.4 million to $1.9 million due to the delay in the full change in distribution.

Local Effect: None.

Subcommittee Assignments: HHS/HSS 8 – DLS Alt

Proposed Amendment to HB 589/SB 493 as Introduced

Require Transfers of Reinsurance Provider Assessment Revenue to Medicaid

Provision in BRFA as Introduced: Requires transfers, in each of fiscal 2021 through 2026, of $100 million of health insurance provider fee assessment revenue created to support the State Reinsurance Program to Medicaid with the remaining revenue provided to the Maryland Health Benefit Exchange (MHBE) Fund.

Provision as Recommended by DLS: Clarifies that the transfers can occur from revenue already received and held in the MHBE Fund rather than only new revenue and, to the extent that it is new revenue being transferred, the Insurance Commissioner is responsible for the transfer.

Agency: MHBE

Type of Action: Fund Swap; Change Use of Special Fund

Fiscal Impact of DLS Recommendation vs. Current Law: None.

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: None.

Background/Recent History: Chapters 37 and 38 of 2018 established a health insurance provider fee assessment on certain entities. Under Chapters 37 and 38, the assessment was only to be in effect for calendar 2019 and was set at 2.75% on all amounts used to calculate the entity's premium tax liability (or the amount of the premium tax exemption value) from the prior year. Chapters 597 and 598 of 2019 extended the assessment through calendar 2023 but set the amount of the assessment at 1% for calendar 2020 through 2023.

The health insurance provider assessment was expected to help support the costs of a State Reinsurance Program, authorized through an approved State Innovation Waiver under § 1332 of the federal Patient Protection and Affordable Care Act. Due to higher than expected federal pass-through funds in the first two years of the program and lower than expected costs in the first year, a portion of the funds to be collected are no longer expected to be needed for the original purpose. In calendar 2019, the assessment generated approximately $327.5 million. In calendar 2020, the 1% provider assessment generated approximately $118.5 million.

State Effect: None. At least a portion of the funds required to be transferred have been collected prior to the effective date of the bill and will be transferred from the MHBE Fund rather than transferred prior to distribution as specified in the bill. This amendment would clarify that this transfer from prior collected funds is allowable, since the requirement could not otherwise be met.

Local Effect: None.

Subcommittee Assignments: HSS/HHS 9 – DLS Alt

Proposed Amendment to HB 589/SB 493 as Introduced

Repeal Transfer Tax Repayment Requirement

Provision in BRFA as Introduced: Delays the required transfer tax repayments totaling $43,860,950 in fiscal 2022. Extends by one year the requirement for transfer tax repayment to Program Open Space (POS) and other programs funded by the transfer tax that were not provided in fiscal 2022 resulting in repayments of (1) for the fiscal 2006 transfer, $12.5 million in fiscal 2024 and $6.8 million in fiscal 2025 and (2) for park development and critical maintenance, $6.0 million in fiscal 2027 and $4.0 million in fiscal 2028. Modifies the timing of and extends by one year the requirement for transfer tax repayment to POS and other programs funded by the transfer tax for the fiscal 2016 to 2018 repayment requirements as follows: (1) a reduction of $25,360,950 for the first repayment grouping (originally required by June 30, 2022); and (2) an additional $25,360,950 by June 30, 2032, for the third repayment grouping. The effect of these modifications is to reschedule the repealed fiscal 2022 repayment.

Provision as Recommended by DLS: Repeals the requirement to repay prior year transfers of transfer tax revenue to the General Fund.

Agency: Department of Natural Resources (DNR); Maryland Department of Agriculture (MDA)

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Exp.	$0.0	-$43.9	-$31.2	-$25.5	-$18.7	-$18.7
SF Rev.	0.0	-43.9	-31.2	-25.5	-18.7	-18.7
SF Exp.	0.0	-43.9	-31.2	-25.5	-18.7	-18.7

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Exp.	$0.0	$0.0	-$31.2	-$31.2	-$25.5	-$18.7
SF Rev.	0.0	0.0	-31.2	-31.2	-25.5	-18.7
SF Exp.	0.0	0.0	-31.2	-31.2	-25.5	-18.7

Background/Recent History: Chapter 10 of 2018 (Budget Reconciliation and Financing Act (BRFA)) repealed the mandated $15.0 million general fund repayment to POS in fiscal 2019, reduced future repayment amounts from $15.0 million to $12.5 million, and added a repayment requirement in fiscal 2022. In addition, Chapter 10 extended the requirement that the Governor provide $2.5 million to the Maryland Agricultural and Resource-Based Industry Development

Corporation (MARBIDCO) for the Next Generation Farmland Acquisition Program to fiscal 2020 through 2022 and specified that funding must come from a portion of the repayment of prior year transfer tax diversions to the general fund that would have otherwise been allocated through the POS formula. That MARBIDCO requirement is unaffected by this provision.

Chapter 565 of 2019 (the fiscal 2020 Budget Bill) allocated the $43.9 million in transfer tax repayment and a provision in Chapter 16 of 2019 (BRFA) authorized the funds to be transferred by budget amendment from the Dedicated Purpose Account (DPA) for the purposes specified in the operating budget bill. The Governor elected to not process a budget amendment allocating the $43.9 million in the Dedicated Purpose Account to the purposes specified in the operating budget.

Chapter 583 of 2020 (BRFA) transferred to the general fund in fiscal 2021 the $43,860,950 that was not released from the DPA in fiscal 2020 and rescheduled the repayment of this funding. Chapter 19 of 2021 (the fiscal 2021 Budget Bill) removed the $38,170,449 repayment budgeted in the DPA, and Chapter 583 rescheduled the repayment of this funding.

State Effect: Overall, general fund expenditures decrease by $218.0 million through fiscal 2032 with an overall repayment of $24.2 million of the $242.2 million originally planned to be repaid. Special fund revenues and expenditures for DNR and MDA decrease commensurately.

Local Effect: Local governments receive grants for land acquisition, the development of park and recreational facilities, and the purchase of easements funded through the local share of POS, Rural Legacy, and the Maryland Agricultural Land Preservation Foundation. Local revenues and expenditures decrease commensurately with the changes in funding for the programs.

Proposed Amendment to HB 589/SB 493 as Introduced

Strike Transfer of Fund Balance from the State Board of Pharmacy Fund to The Office of Controlled Substances Administration

Provision in BRFA as Introduced: Authorizes the transfer of $500,000 from the balance in the State Board of Pharmacy Fund to the Office of Controlled Substances Administration (OCSA) in the Maryland Department of Health (MDH) to reduce general fund expenditures supporting the program.

Provision as Recommended by DLS: Rejects the transfer of funds from the State Board of Pharmacy Fund.

Agency: MDH

Type of Action: Change Use of Special Fund

Fiscal Impact of DLS Recommendation vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Exp.	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0
SF Exp.	0.0	0.0	0.0	0.0	0.0	0.0

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Exp.	$0.0	$0.5	$0.0	$0.0	$0.0	$0.0
SF Exp.	0.0	-0.5	0.0	0.0	0.0	0.0

Background/Recent History: The Budget Reconciliation and Financing Act (BRFA) of 2020 (Chapter 538) authorized fund balance transfers of $750,000 in fiscal 2021 and 2022 from the State Board of Pharmacy Fund balance to replace general funds supporting access to small, rural pharmacies in the Medicaid program. Enforcing the previously authorized transfer and the transfer in the BRFA as introduced would reduce the Board of Pharmacy's fund balance below 20% of fiscal 2022 appropriation.

State Effect: General fund expenditures in OCSA increase by $500,000 and special fund expenditures decrease correspondingly in fiscal 2022 relative to the BRFA as introduced. However, there is no change relative to current law.

Local Effect: None.

Subcommittee Assignments: HHS/HSS 26 – DLS Alt

Proposed Amendment to HB 589/SB 493

Transfer Fund Balance from State Board of Examiners of Psychologists Fund To the Behavioral Health Administration

Provision as Recommended by DLS: Authorizes the transfer of $700,000 from the balance in the State Board of Examiners of Psychologists Fund to the Behavioral Health Administration (BHA) in the Maryland Department of Health (MDH) in fiscal 2022.

Agency: MDH

Type of Action: Fund Swap; Change Use of Special Fund

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Exp.	$0.0	-$0.7	$0.0	$0.0	$0.0	$0.0
SF Exp.	0.0	0.7	0.0	0.0	0.0	0.0

Background/Recent History: The Budget Reconciliation and Financing Act of 2021, as introduced, includes two fund balance transfers totaling $8.0 million from other Health Professional Occupations Boards to support community service programs in the BHA budget ($6.0 million from the Maryland Medical Cannabis Commission and $2.0 million from the Board of Licensed Professional Counselors and Therapists). Both of these special funds have surplus fund balance at the close of fiscal 2020 of over 100% of the fiscal 2022 operating expenditures. The State Board of Examiners of Psychologists also maintains a fund balance over 100% of operating expenditures. This action would reduce fund balance reserves as a percent of fiscal 2022 allowance from 152% to 57%.

State Effect: General fund expenditures in BHA decrease by $700,000 in fiscal 2022 due to the use of special funds instead of budgeted general funds. Special fund expenditures increase correspondingly.

Local Effect: None.

Subcommittee Assignments: HHS/HSS 101 – DLS Addition

Proposed Amendment to HB 589/SB 493

Transfer of Improperly Retained Rate Stabilization Funds

Provision as Recommended by DLS: Authorizes a transfer of $5 million in improperly retained fund balance from the Health Care Provider Rate Stabilization Fund to the General Fund in fiscal 2021.

Agency: Maryland Insurance Administration (MIA)

Type of Action: Fund Balance Transfer

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Rev.	$5.0	$0.0	$0.0	$0.0	$0.0	$0.0

Background/Recent History: In its January 2021 report on the *Statewide Review of the Budget Closeout Transactions for Fiscal Year 2020*, the Office of Legislative Audits found that MIA had improperly retained $8.1 million in the Health Care Provider Rate Stabilization Fund (RSF). According to the audit report, MIA failed to justify the retention of the RSF fund balance as of June 30, 2020. According to State law, any funds in the RSF are to be transferred to the Maryland Department of Health for the purpose of retaining certain health care providers in the State. MIA management argued that a fund balance was necessary to cover any health maintenance organization (HMO) and managed care organization (MCO) premium tax refunds that were required to be paid. Refunds processed during fiscal 2019 and 2020 related to HMO and MCO premium taxes totaled $17,000 and $3 million, respectively. Both amounts are well below the $8.1 million that was retained by MIA.

Chapter 538 of 2020 (the Budget Reconciliation and Financing Act) repealed the RSF effective July 1, 2021, and the premium tax payments previously comprising the RSF will be deposited directly into the General Fund going forward.

State Effect: General fund revenues increase by $5 million in fiscal 2021.

Proposed Amendment to HB 589/SB 493

Revert Improperly Retained Funding for Library Services

Provision as Recommended by DLS: Requires a reversion of $235,000 in improperly encumbered general funds from the Maryland State Department of Education (MSDE).

Agency: MSDE Headquarters

Type of Action: Cost Containment

Fiscal Impact vs. Current Law: Prior year general fund expenditures are reduced due to the reversion of the prior year encumbrance.

Background/Recent History: MSDE improperly encumbered unused State grant funds totaling $235,000 that should have been reverted to the State's General Fund at fiscal year-end. These funds had been awarded to a local government by MSDE's Division of Library Development and Services (DLDS) in July 2017. Effective that same month, State law established the Maryland State Library as an independent State agency. The Maryland State Library essentially assumed the functions of DLDS, and DLDS ceased as a division within MSDE. At that point in time, the aforementioned funds were retained and had not been distributed to the local government. MSDE inappropriately continuously recorded this encumbrance for the State grant funds during fiscal 2018, 2019, and 2020 without supporting documentation. As of December 2020, MSDE had not reverted the funds and did not have information to support retaining this encumbrance.

State Effect: General fund expenditures in fiscal 2018 decrease by $235,000.

Local Effect: None.

Subcommittee Assignments: EED/EBA 103 – DLS Addition

Proposed Amendment to HB 589/SB 493

No Fiscal 2021 Funds for Supplemental Retirement Contribution

Provision as Recommended by DLS: Reduces fiscal 2021 spending by $63 million in general funds, $6 million in special funds, and $6 million in federal funds intended for the supplemental retirement reinvestment savings contribution.

Agency: Statewide

Type of Action: Mandate Relief

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Exp.	-$63.0	$0.0	$6.0	$6.3	$6.5	$6.7
SF Exp.	-6.0	0.0	0.6	0.6	0.6	0.6
FF Exp.	-6.0	0.0	0.6	0.6	0.6	0.6

Background/Recent History: The pension reforms of 2011 included the provision of an annual supplemental contribution to the plan based on the anticipated savings generated by the increase in member contributions and other changes that reduced benefits for employees hired after 2011. Since fiscal 2016, the mandated reinvestment savings contribution has been $75 million per year; that amount is provided via an increase in the actuarially determined rates so that the additional $75 million is generated.

Due to the fiscal uncertainty created by the COVID-19 pandemic, the Department of Budget and Management (DBM) informed the Central Payroll Bureau (CPB) at the Comptroller to not collect the reinvestment savings portion of the pension contribution in fiscal 2021. In recognition of this action, the actuaries calculated the rates to be used for the fiscal 2022 contributions based on no reinvestment savings contribution to the plan in fiscal 2021. In January 2021, DBM informed CPB to restart collection.

State Effect: Fiscal 2021 expenditures statewide are reduced by $75 million in total funds of which $63 million is general funds, $6 million is special funds, and $6 million is federal funds. Expenditures increase beginning in fiscal 2023 due to the impact of not having made this payment on future rates. These increases total $7.2 million in fiscal 2023 of which $6.0 million is general funds, $0.6 million is special funds, and $0.6 million is federal funds. Out-year expenditures growth reflects anticipated increases in State payroll.

Local Effect: None.

Proposed Amendment to HB 589/SB 493

Transfer from the Charlotte Hall Veterans Home Special Fund to the General Fund

Provision as Recommended by DLS: Authorizes a transfer of $1.0 million from the Charlotte Hall Veterans Home Fund to the General Fund in fiscal 2022.

Agency: Maryland Department of Veterans Affairs (MDVA)

Type of Action: Fund Balance Transfer

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Rev.	$0.0	$1.0	$0.0	$0.0	$0.0	$0.0

Background/Recent History: Since fiscal 2018, MDVA has received bed lease payments from the contractor managing the care at Charlotte Hall Veterans Home (CHVH), totaling nearly $3 million annually. These payments are made to the CHVH special fund established by Chapter 317 of 2016. This fund has maintained a modest reserve for additional needs at CHVH. During the COVID-19 pandemic, the contractor at CHVH received $4.2 million in Coronavirus Aid, Relief, and Economic Security (CARES) Act funding from the State to account for a downturn in revenue from a lower resident census. At the time of the CARES Act grant, the CHVH Fund closed with a fund balance of over $1.5 million. This balance could have been used to offset the amount of CARES Act funding provided to the contractor, which in turn could have been used for alternative purposes, including general fund relief elsewhere in the budget.

State Effect: General fund revenue increases by $1.0 million in fiscal 2022 due to the transfer.

Local Effect: None.

Subcommittee Assignments: PSA/PSTE 105 – DLS Addition

Proposed Amendment to HB 589/SB 493

Reduce Fiscal 2021 Funds for Excess Statewide Salary Actions

Provision as Recommended by DLS: Reduces fiscal 2021 spending by $1,784,036 in general funds due to overbudgeting for fiscal 2021 statewide salary actions.

Agency: Department of Budget and Management

Type of Action: Cost Containment

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Exp.	-$1.8	$0.0	$0.0	$0.0	$0.0	$0.0

Background: The fiscal 2021 working appropriation includes funding for various statewide salary actions, including the annualization of the January 2020 1% cost-of-living salary increase, the July 2020 5% State Law Enforcement Officers Labor Alliance cost-of-living salary increase, and the annual salary review. Funds for these three purposes were overbudgeted by a net of $1,784,036 in general funds.

State Effect: General fund expenditures decrease by $1,784,036 in fiscal 2021 due to this reduction.

Local Effect: None.

Proposed Amendment to HB 589/SB 493

Mandate Relief for Maryland Transit Administration

Provision as Recommended by DLS: Amends Transportation Article §7-205 to repeal the requirement that the fiscal 2022 operating budget of the Maryland Transit Administration (MTA) increase by at least 4.4% over the fiscal 2021 appropriation in recognition of the unforeseen circumstances resulting from the COVID-19 pandemic.

Agency: Maryland Department of Transportation

Type of Action: Mandate Relief

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Exp.	$0.0	-$67.1	$0.0	$0.0	$0.0	$0.0

Background/Recent History: The Maryland Metro/Transit Funding Act of 2018 (Chapters 351 and 352) requires the Governor, for fiscal 2020 to 2022, to include an appropriation for the operations of MTA that is least 4.4% greater than the prior year appropriation. The fiscal 2022 operating allowance for MTA is $67.1 million less than required by Chapters 351 and 352. Absent mandate relief, a supplemental appropriation of $67.1 million would be required. This provision would alleviate that requirement in recognition of the unforeseen circumstances related to the COVID-19 pandemic.

State Effect: Special fund expenditures of MTA decrease by $67.1 million due to the repeal of the mandated operating budget increase. However, the Department of Legislative Services notes that this action conforms statute to the budget as introduced.

Local Effect: None.

Subcommittee Assignments: PSTE/T&E 107 – DLS Addition

Proposed Amendment to HB 589/SB 493

Reduce Unneeded Fiscal 2020 Funds for Behavioral Health Provider Reimbursement

Provision as Recommended by DLS: Reduces $5.0 million of funds accrued at the end of fiscal 2020 in the Maryland Department of Health (MDH) Behavioral Health Administration that are not needed to pay fiscal 2020 bills.

Agency: MDH

Type of Action: Cost Containment

Fiscal Impact vs. Current Law: General fund expenditures for behavioral health provider reimbursements decrease by $5.0 million in fiscal 2020.

Background/Recent History: At year-end closeout, MDH traditionally accrues funds to account for claims yet to be submitted or paid that occurred during the fiscal year because claims can be submitted up to a year after the service has been delivered. In fiscal 2020, the department accrued $117.0 million. This was significantly more than traditionally accrued, due to the difficulties with the Administrative Services Organization in processing claims during calendar 2020. Through January, MDH had booked $65.4 million in claims against the fiscal 2020 accrual. Based on claims through February 2021 continuing at their current pace, the Department of Legislative Services estimates an accrual surplus of $5 million.

State Effect: General fund expenditures in fiscal 2020 decrease by $5.0 million.

Local Effect: None.

Subcommittee Assignments: HHS/HSS 109 – DLS Addition

Proposed Amendment to HB 589/SB 493

Reduce Fiscal 2021 Spending to Recognize Enhanced Federal Matching Funds in the Developmental Disabilities Administration

Provision as Recommended by DLS: Reduces fiscal 2021 spending by $16.8 million in general funds to reflect savings from enhanced federal matching funds that were not claimed in fiscal 2020 under the Community Services program of the Maryland Department of Health (MDH) Developmental Disabilities Administration (DDA).

Agency: MDH

Type of Action: Cost Containment

Fiscal Impact vs. Current Law:

($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Exp.	-$16.8	$0.0	$0.0	$0.0	$0.0	$0.0
FF Rev.	16.8	0.0	0.0	0.0	0.0	0.0
FF Exp.	16.8	0.0	0.0	0.0	0.0	0.0

Background/Recent History: The federal Families First Coronavirus Response Act provided an enhanced Federal Medical Assistance Percentage of 6.2 percentage points on qualifying Medicaid expenses during a national health emergency declared by the U.S. Secretary of Health and Human Services. This applied to spending on community-based services through DDA's three Medicaid waiver programs, effective January 1, 2020, and continuing through the end of fiscal 2020. The national health emergency declaration has since been extended through fiscal 2021 and into fiscal 2022.

During the fiscal 2020 closeout process, DDA did not recognize any federal fund attainment or equivalent general fund savings related to the enhanced match. The Department of Legislative Services estimates that fiscal 2020 general fund savings would total $16.8 million after accounting for the enhanced federal match, which are partially offset by increased provider payments resulting from the COVID-19 emergency response.

State Effect: General fund expenditures in fiscal 2021 for DDA are reduced by $16.8 million to reflect enhanced federal matching funds for fiscal 2020 claims in fiscal 2021. Federal fund revenues and expenditures increase correspondingly.

Local Effect: None.

Proposed Amendment to HB 589/SB 493

Reduce Unneeded Fiscal 2020 Funds for Nonpublic Placements

Provision as Recommended by DLS: Reduces $7.5 million of funds accrued at the end of fiscal 2020 for nonpublic placements that are not needed to pay fiscal 2020 bills.

Agency: Maryland State Department of Education (MSDE)

Type of Action: Cost Containment

Fiscal Impact vs. Current Law: General fund expenditures for nonpublic placements decrease by $7.5 million in fiscal 2020.

Background/Recent History: The Nonpublic Placement program is part of the Aid to Education, Students with Disabilities budget. This program serves students who need academic support beyond what their local public school can provide and qualify to be placed in an alternate educational setting. The annual budget for this program is approximately $120 million in general funds. As required by the 2020 *Joint Chairman's Report*, MSDE prepares monthly reports for this program for the budget committees, the Department of Legislative Services, the Department of Budget and Management, and the Comptroller. This report must indicate, by fund type and fiscal year, total appropriations and total disbursements for services provided during that fiscal year up through the last day of the second month preceding the date on which the report is to be submitted and compare data applicable to those periods in the preceding fiscal year.

In the most recent report submission dated February 2021, MSDE reported that the disbursement of funds for this program for fiscal 2020 totaled approximately $83.3 million out of a $123.5 million budget. With the fiscal year closeout having occurred in June 2020, this discrepancy suggests that program funds are unlikely to be spent and can be transferred to the General Fund.

State Effect: General fund expenditures in fiscal 2020 decrease by $7.5 million.

Local Effect: Because MSDE should have already reimbursed nonpublic providers for services rendered in fiscal 2020, no local effect is anticipated.

Subcommittee Assignments: EED/EBA 111 – DLS Addition