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Governor

ANTHONY BROWN
Lieutenant Governor

MARYLAND
DEPARTMENT OF BUDGET & MANAGEMENT

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SENATE BILL 152/HOUSE BILL 87

BUDGET RECONCILIATION AND FINANCING ACT OF 2012

Senate Budget and Taxation Committee
House Appropriations Committee
House Ways and Means Committee

February 29, 2012
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Testimony by

T. Eloise Foster, Secretary of Budget and Management

The Budget Reconciliation and Financing Act of 2012 (BRFA) implements several actions to balance the FY 2013 budget and to make significant progress in resolving the structural budget gap. These actions provide nearly $3.3 billion in General Fund savings through FY 2017, including $766 million in FY 2012 and FY 2013.

Background

The FY 2013 budget proposal brings total reductions to State spending to $7.5 billion since Governor O'Malley took office. During that same time, the State workforce has been downsized, with more than 5,500 positions eliminated from State government. As the State's economy continues to recover from the worst economic recession since the Great Depression, the Governor's FY 2013 Allowance:

- Closes a budget gap of approximately $1 billion;
- Creates jobs and spurs economic growth;
- Preserves the State's progress in public education and college affordability;
- Provides health coverage for more than one million Marylanders;
- Invests in environmental and renewable energy programs that promote a sustainable future; and
- Protects critical safety net programs for Maryland's families.

To meet the fiscal challenges facing our State, the O'Malley-Brown Administration is committed to a balanced approach of reductions and investments that continue the State's progress and maintain our record of fiscal responsibility. The Governor's budget plan includes nearly $800 million in spending reductions, preserves $885 million in cash resources, and reduces General Fund spending below FY 2012, after excluding the Rainy Day Fund appropriation. For the sixth year in a row, the Governor's budget complies with the General Assembly's Spending Affordability Committee (SAC) guideline – this year, cutting the structural deficit by 59%, exceeding the SAC recommendation.

Nearly 60% of the proposed deficit reduction plan is directly attributable to spending reductions. Slightly more than $100 million of the plan is achieved by redirecting existing revenue streams to the General Fund. New General Fund revenues account for roughly one-quarter of the plan.

The Budget Reconciliation and Financing Act of 2012 authorizes many of the spending reductions and other actions that comprise the Governor's budget plan. These measures, summarized in the following pages, include: revenue actions and adjustments; a proposal to share the cost of teachers' retirement with the local governments; local fiscal relief; mandate relief; expanded uses of certain special funds; special and capital-related fund transfers; and a variety of other actions.

Revenue Actions/Adjustments

The BRFA of 2012 includes several measures to generate additional revenue to the State, and in some cases, the local governments.

<u>Income Tax Changes</u>

Under the BRFA, itemized deductions are capped and personal exemptions are phased out for higher earners, adding additional progressivity to Maryland's income tax structure. These changes will affect only the top 20% of Maryland's 2.2 million taxpayers. Taxpayers with incomes below $100,000 will see no change in their tax liability. Under the Administration's plan, a family of four with an income of $150,000 will pay about $191 more in State and local income taxes. The Administration's proposals generate $182 million in State revenue in FY 2013, and $115 million in FY 2014.

The BRFA:

- <u>Caps the Value of Itemized Deductions</u> at 90% for taxpayers with Maryland adjusted gross incomes above $100,000 and at 80% for incomes above $200,000. Of the 41 states that have an income tax, 10 allow no itemized deductions of any kind and another five (as well as the District of Columbia) limit them. Under current law, deductions will be limited again under the federal tax code, beginning in tax year 2013. *FY 2013 - $119 million in General Fund revenue.*

- <u>Phases out Personal Exemptions</u> by reducing the exemption value from $2,400 to $1,200 for taxpayers with Federal Adjusted Gross Incomes of $100,000-$125,000 single/$150,000-

$175,000 joint and by eliminating the exemption for taxpayers with incomes above those thresholds. *FY 2013 - $63 million in General Fund revenue.*

Additionally, the BRFA levels the playing field between Maryland retailers and their out-of-state online competitors by requiring more online vendors to collect the sales tax, aligns the tax on other tobacco products with the State cigarette tax, closes unnecessary tax loopholes and removes unwarranted tax credits/exemptions, increases certain fees, maintains the commission on lottery sales at the current rate, and redirects certain revenue streams. The bill:

- <u>Extends the Sales Tax to Downloaded Digital Products</u> that would be subject to the sales tax if sold in tangible form. Newly taxable items include downloaded songs, movies, books, ringtones, and subscription fees for streaming downloads. Currently, 24 states and the District of Columbia tax digital goods. *FY 2013 - $5 million in General Fund revenue.*

- <u>Extends the Sales Tax to Purchases Made through Online Vendors</u> who pay Maryland affiliates to advertise and sell their online products. This provision creates a level playing field with vendors who maintain a physical presence in the State and whose sales are subject to the sales tax. *FY 2013 – $21 million in General Fund revenue.*

- <u>Aligns the Tax on Other Tobacco Products with the Tax on Cigarettes.</u> Increases the tax on other tobacco products to 70% of the wholesale price, roughly equivalent to the cigarette tax. Also extends the tax increase to existing inventory held by wholesalers. *FY 2013 - $19.9 million in General Fund revenue.*

- <u>Repeals the $3 Per Ton Maryland Mined Coal Tax Credit</u> effective December 31, 2012, consistent with the Administration’s commitment to advancing renewable energy sources rather than fossil fuels. *FY 2013 - $4.5 million in General Fund revenue.*

- <u>Eliminates Corporate Tax Credit for Telecommunications Utility Property Taxes.</u> The BRFA repeals the corporate tax credit that telecommunications companies may claim equal to 60% of the value of their property taxes. Property taxes remain deductible on the corporate tax. *FY 2013 - $9 million General Fund revenue; $630,000 Higher Education Investment Fund revenue and a comparable contingent General Fund reduction; $846,000 Transportation Trust Fund revenue.*

- <u>Repeals Unwarranted Sales Tax Exemptions</u> that can no longer be justified. These include sales tax exemptions for used mobile homes, gold and bullion purchases over $1,000, and penalty charges assessed on the late return of gas cylinders. *FY 2013 - 5.1 million in General Fund revenue.*

- <u>Increases Certain Vital Records Fees</u> from $12 to $24. These include the first copy of a death certificate; certificates of fetal death, marriage, birth resulting in stillbirth; and the processing of adoptions, foreign adoptions, and legitimations. The increased fee does not apply to additional copies of a death certificate, only the first copy. *FY 2013 - $739,000 in General Fund Revenue.*

- Increases Office of Administrative Hearings Fee for Appeals of a driver's license suspension or revocation, from $125 to $150. The hearing fee was last raised in FY 2005. *FY 2013 - $457,000 in General Fund Revenue.*

- Permanently Sets Lottery Agent Sales Commission at 5%, consistent with most surrounding states. Under current law, commission will increase to 5.5% beginning in FY 2013. *FY 2013 - $8.8 million in General Fund Revenue.*

- Permanently Dedicates Speed Camera Revenue (after program costs) to the Maryland State Police to support roadside enforcement activities. Under current law, beginning in FY 2013, these revenues are allocated to the Transportation Trust Fund. *FY 2013 - $4.2 million contingent General Fund reduction.*

- Redirects 2010 Trust Fund Revenue to the General Fund in FY 2013. After this action, 2010 Trust Fund spending will total $25 million in FY 2013, exceeding FY 2012 spending by $1.5 million. *FY 2013 - $8 million in General Fund revenue.*

Teacher Pension Cost Sharing

Under current law, the State pays the entire cost of teacher pensions. These costs more than doubled between FY 2007 and FY 2011, and total $946 million in FY 2013. Last year, the Administration and General Assembly implemented measures to ensure the sustainability of the pension system and to improve the system's funded status. Given that teacher salaries, the key driver of pension costs, are determined at the local level, the Administration believes locals should share in the ongoing costs.

In the BRFA of 2012, the Administration proposes an equitable cost-sharing arrangement with local governments that recognizes the social security contributions made by the locals. The Administration's proposal requires locals to pay 50% of the combined costs of social security and retirement contributions, increasing local expenditures by $239 million in FY 2013. Social security payments alone account for about one-third of the combined costs.

Fiscal Relief for Local Governments

The Administration is proposing several measures to assist local governments in managing the shared costs of teacher pensions. These measures mitigate the impact of the additional costs by providing $244.5 million in local fiscal relief. The BRFA of 2012 includes provisions that will generate $225 million in additional revenue to the local governments in FY 2013 as part of this plan. This includes the income tax changes to deductions and exemptions that will generate $111 million for the locals in FY 2013.

In addition, the BRFA:

- Repeals Repayment to the Local Income Tax Reserve Account. Under current law, local governments are required to repay the $367 million transfer from the Local Income Tax Reserve that was made during the 2009 Session. Payments of $36.7 million are to be deducted from local income tax distributions over a ten year period, beginning in FY 2013.

The BRFA permanently repeals this repayment requirement. *FY 2013 - $36.7 million in savings to local governments.*

- Closes the Indemnity Mortgage Tax Loophole which allows entities to create business relationships solely for the purpose of avoiding paying taxes on real estate transactions. In past years, closing this loophole in the recordation tax has been a priority of local governments. *No State budgetary impact, but local government recordation tax revenue to increase by an estimated $39.9 million.*

- As Amended, Redirects Local School System Retirement Payments for federally funded positions from the State to the counties. *FY 2013 - $37 million in relief to local governments.*

Mandate Relief

In order to balance the FY 2013 budget and make progress in resolving the structural budget gap, the BRFA modifies several mandates and provides mandate relief through FY 2017.

The BRFA sets per pupil funding under several higher education formulas at the FY 2012 level through FY 2017. These provisions, impacting the local community colleges, Baltimore City Community Colleges, and the independent colleges and universities, generate structural budget savings while also recognizing increases in enrollment. Under this proposal, campuses are rewarded for their efforts to grow, which help to meet the Administration's college completion goals. Formula funding is phased back up to the current mandates beginning in FY 2018. These provisions provide $4.7 million in General Fund savings in FY 2013.

In addition, the BRFA level funds the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) at $2.75 million in FY 2013 and FY 2014, and reaches the mandated amount of $4 million beginning in FY 2015. This provision provides $250,000 in General Fund savings in FY 2013

The BRFA contains a provision that provides significant structural budget relief by allowing mandates – other than education aid, retirement contributions, State Reserve Fund appropriations, and those included in the bill – to be funded at the FY 2012 level through FY 2017. Mandates impacted by this provision and their related FY 2013 General Fund savings totaling $93.5 million are listed below:

- Transfer Tax Repayment for a transfer made by a prior administration- $50 million
- Police Aid - $21.4 million
- Medicaid savings related to Cigarette Restitution Fund reduction - $14.7 million
- Miscellaneous grant to Baltimore City - $3.1 million
- Local Health Grants - $1.9 million
- Community Colleges - English for Speakers of Other Languages grants - $1 million
- Maryland Tourism Board - $1 million
- Maryland State Arts Council - $345,000

- Baltimore City Community College - English for Speakers of Other Languages grants - $101,000

In addition, the mandate relief provision generates the following special fund savings: $14.7 million in Cigarette Restitution Funds and $720,800 in Racing Impact Aid.

Fund Uses

The BRFA authorizes the uses of Special Funds for purposes other than those provided for under current statute in order to provide General Fund relief. The BRFA:

- Expands Uses of the Community Right-to-Know Fund to include emergency response activities of the Maryland Department of Environment (MDE). The bill also repeals the requirement that 50% of moneys in the Fund be used for local emergency planning grants. *FY 2013 - $200,000 Special Fund reduction in grants.*

- Broadens Uses of the State Recycling Fund to all activities of the MDE Land Management Administration, which includes the Office of Recycling. *FY 2013 - $200,000 Special Fund reduction in grants.*

- Provides Additional POS Funds to Support Operating Costs. Allows an additional $1,150,000 of Program Open Space funds dedicated to the Heritage Areas Authority to be used in FY 2013 to support operating expenses within the Department of Planning. Under current law, up to $300,000 may be used for this purpose. The BRFA of 2012 permitted an additional $500,000 be used for operating costs in FY 2012. *FY 2013 - $1,150,000 contingent General Fund reduction.*

- Expands Uses of Premium Tax Exemption Funds currently allocated to the Community Health Resources Commission (CHRC) Fund to include support for mental health services for the uninsured. *FY 2013 - $10.8 million contingent General Fund reduction.*

- Increases Allowable Transfer of Senior Prescription Drug Assistance Program (SPDAP) Funds to the Kidney Disease Program in FY 2013. Current law permits up to $3 million to be transferred; the BRFA increases that amount to $5 million. The SPDAP account balance exceeded $9.6 million at the close of FY 2011. *FY 2013 - $2 million contingent Special Fund appropriation and $2 million contingent General Fund reduction.*

FY 2012 Fund Transfers to GF – $2.8 million

- Baltimore City Community College - $1.8 million transfer from fund balance
- Helicopter Replacement Fund - $1 million

FY 2013 Fund Transfers to General Fund - $1.8 million

- Maryland Correctional Enterprises Revolving Fund - $500,000
- Spinal Cord Injury Research Trust Fund - $500,000

- Health Board and Commissions - $426,529
- State Insurance Trust Fund - $206,000
- Not-for-Profit Development Fund - $111,063
- Division of State Documents - $50,000

FY 2013 Transfers to Other Special Funds - $2.3 million

- Small, Minority, and Women-Owned Business Investment Account - $1.9 million to the Education Trust Fund
- Fair Campaign Financing Fund - $423,000 to the State Board of Elections to support operating and maintenance costs of the new on-line campaign finance system

FY 2013 Transfers from Capital-Related Funds to be Replaced with General Obligation Bonds – $99.5 million

- Transfer Tax - $96.9 million
- Waterway Improvement Fund - $2.6 million

Other Actions

The BRFA includes several other budget-related provisions. The bill:

- <u>Authorizes Online Unclaimed Property Advertising</u> with quarterly newspaper ads directing readers to the Comptroller's website to view the full listing. *FY 2013 – $500,000 contingent Special Fund reduction.*

- <u>Clarifies Local Board of Education Responsibility to Pay Court Judgments</u> related to their own contracts and precludes a local government from reducing the amount requested by a school board to pay these judgments. Also clarifies that, should a court order the State to pay a judgment on behalf of a local board of education, the State can deduct that amount from the local board's State aid payments. *No budget impact at this time.*

- <u>Funds Aging Schools Program at $6.1 million</u>, conforming language in the statute to the allocation in the FY 2013 capital budget. Removes language that requires funding to equal the prior year amount.

- <u>Establishes a new Developmental Disabilities Trust Fund</u> into which any unspent General Fund appropriations that would otherwise revert would be deposited at the end of a fiscal year. Moneys in the Fund may only be used to provide community-based services to eligible individuals, to provide in-service training for direct care staff, to enhance services and service coordination for clients, and to provide grants consistent with these purposes. *No budgetary impact in FY 2013.*

- <u>Authorizes a New Assessment on Medical Day Care Providers</u> of not more than 5.5% of revenue. The assessment provides $3.4 million in General Fund relief in FY 2013, and supports a 7.6% rate increase for providers. *FY 2013 - $3.4 million contingent General Fund reduction*.

- Eliminates Nursing Home Bed-Hold Policy under which Medicaid reimburses a nursing home for a patient's absent days. General Fund savings from no longer reserving empty beds will be used to fund additional personal care services. *FY 2013 - $2.6 million in General Fund savings will be redirected to personal care services.*

- Authorizes the Health Services Cost Review Commission to increase the pooling of hospital uncompensated care costs. *FY 2013 - $9.1 million in General Fund savings.*

- Increases Nursing Facility Quality Assessment. Increases assessment from 5.5% to 6%, providing $6.9 million in General Fund relief in FY 2013, and supports a 0.7% increase in nursing home rates. *FY 2013 - $6.9 million contingent General Fund reduction*.

- Alters Geographic Cost of Education Index Reporting Requirement so that a single report is due in September 2016 rather than every three years. *No budget impact.*

- As Amended, Authorizes a Transfer of at Least $50 Million from the Injured Workers Insurance Fund (IWIF) to the General Fund and renounces any future State interest in the Fund. The amount of the transfer is set at the greater of $50 million or the amount determined by the Insurance Commissioner to be the appropriate value of the benefits IWIF has realized from its association with the State. *FY 2013 – at a minimum, a $50 million transfer to the General Fund.*

- Provides a 1% Rate Increase for Group Home and Non-Public Placement Providers. Rates for group home providers have been frozen since FY 2010 and non-public placement provider rates have been frozen since FY 2011. *The FY 2013 budget includes $2.6 million to support these increases.*

Proposed Amendments

The Administration is offering several amendments to the Budget Reconciliation and Financing Act of 2012 (attached).

- Amendment #1: Makes technical changes to the purpose paragraph.

- Amendment # 2: Makes technical changes to the function paragraph.

- Amendment #3: Redirects local school system retirement payments for federally funded positions from the State to the counties.

- Amendment #4: Makes technical corrections to correct aid amounts for community colleges and Baltimore City Community College.

- Amendment #5: Codifies and strengthens language in §11 of the BRFA clarifying that the transfer of funds from IWIF resolves any claim the State has to the property or assets of IWIF.

- Amendment #6: Adjusts the retirement contributions for community college employees to account for the actual county support for regional community colleges.

- Amendment #7: Delays remaining repayment for the Intercounty Connector until FY 2014.

- Amendment #8: Makes technical corrections and clarifications to the provisions extending the sales tax to digital downloads.

- Amendment #9: Deletes an uncodified section of that is no longer necessary.

- Amendment #10: Clarifies that the maximum amount of the transfer from the IWIF fund is subject to a determination by the Insurance Commissioner of the value IWIF has received from the State.

- Amendment # 11: Makes technical corrections to the bill's uncodified section.

Departmental Position

The Department of Budget and Management believes that the Budget Reconciliation and Financing Act of 2012, as amended above, is necessary to ensure a balanced FY 2013 budget and to make necessary progress in resolving our structural gap. While the BRFA of 2012 represents the Administration's ingoing budget plan, as always we are available to work with the committees to address any concerns and to come to an agreement on a final proposal. For these reasons, we urge the Committees to vote favorable with amendments on SB 152/HB 87.

By: The Department of Budget and Management
(To be offered in the Budget and Taxation Committee and the House Appropriations Committee/House Ways and Means Committee)

Amendments to Senate Bill No. 152/House Bill 87

(First Reading File Bill)

Amendment No. 1

On page 1, in line 28, after "facilities;" insert "providing that the State has no interest in the assets of a certain fund; providing for the ownership of a certain fund; prohibiting the State from taking certain actions;" in line 29, after "agents;" insert "altering certain provisions relating to certain reimbursements of certain retirement contributions; altering certain provisions relating to the funding of a certain highway;".

Amendments to the Purpose paragraph

Amendment No. 2

On page 3, in line 13, after "5-103(c)" insert "5-203"; on page 4, after line 11, insert:

"By repealing and reenacting, with amendments
Article – Labor and Employment
Section 10-127
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)"

on page 4, in line 35, after "Section" insert "4-321(e) and"; on page 5, in line 8, after "11-102(a)," insert "11-204(a)(6), 11-209, 11-211(b)(2) and (16), 11-214,"; in the same line after "11-217(b)," insert "11-220, 11-221(b) and (c)(1), 11-303, 11-401(b), 11-404(2), (3), and (4), 11-408(b)(1)(iv), (3)(ii) and (c), 11-501(b), 11-502(b)(2)"; in line 9, strike "11-701(b)" and substitute "11-701(b) and (c), 11-703(1), 11-707(a)," and strike in their entirety lines 22 through 26, inclusive.

Amendments to the Function paragraph

Amendment No. 3

On page 9, after line 8, insert:

"5–203.

(a) **[**(1)**]** Subject to **[**paragraph (2)**] SUBSECTION (B)** of this **[**subsection**] SECTION**, a local school system shall reimburse the **[**State**] COUNTY** annually for the employer contributions made by the **[**State**] COUNTY** for an employee who:

(i) Is a member of the Teachers' Retirement System or the Teachers' Pension System under Division II of the State Personnel and Pensions Article; and

(ii) Is receiving a salary funded by a source other than State or local aid.

[(2)**] (B)** To the extent that an employee's salary is funded in part by sources other than State or local aid, the local school system shall reimburse the **[**State**] COUNTY** a pro rata share of the **[**State's**] COUNTY'S** payment based on the percentage of the employee's salary funded by a source other than State or local aid.

[(b) (1) To ensure that each local school system is properly reimbursing the State as provided under subsection (a) of this section, the Department or, at the Department's request, a county board may at any time examine the records of local school systems to determine whether the State's payments for retirement contributions for employees of the school systems are in accordance with the provisions of Division II of the State Personnel and Pensions Article.

(2) An audit conducted under paragraph (1) of this subsection may be:

(i) Included with an existing annual financial audit as a supplemental part and tested independently;

(ii) Conducted in conjunction with a supplemental federally mandated single audit of federal financial assistance programs and tested independently; or

(iii) Conducted as a separate independent audit.

(c) (1) (i) If an examination of the records of a local school system shows that the State has paid more than is required under Division II of the State Personnel and Pensions Article, within 30 days after the date of the notice to the school system of the State overpayment, the school system may appeal the notice of State overpayment to the Secretary of Budget and Management who shall appoint a hearing examiner who is an attorney.

(ii) The hearing examiner shall make recommendations to the Secretary of Budget and Management who shall make a determination regarding the amount, if any, of the State overpayment.

(iii) Should a local school system request a transcript of an audit appeals hearing, the local school system shall provide and pay for the production of the transcript.

(2) At the request of the Department the moneys owed shall be deducted from any other State funds that would otherwise be paid to the school system if:

(i) A local school system does not appeal to the Secretary of Budget and Management or to the Office of Administrative Hearings; or

(ii) The Office of Administrative Hearings determines that the State is due reimbursement for excess payments as provided in paragraph (3) of this subsection.

(3) (i) The local school system may appeal to the Office of Administrative Hearings a determination by the Secretary of Budget and Management regarding the amount, if any, of the State overpayment.

(ii) Within 45 days after the close of the hearing record, the Office of Administrative Hearings shall issue a written decision to the parties and may grant any appropriate remedy.

(iii) The written decision issued by the Office of Administrative Hearings is the final finding of fact and conclusion of law and binding on all parties and is not subject to judicial review.

(d) (1) Any reimbursements under subsection (a) of this section:

(i) Shall be applied first to the cost of any audit or portion of any audit relating to subsection (a) of this section to reimburse either the Department or the county board for the expenses of the audits; and

(ii) After reimbursement to the Department or county board under item (i) of this paragraph, shall be credited to the General Fund.

(2) If an audit under this section is performed by a county board, before the county board is reimbursed under paragraph (1)(i) of this subsection, the county board shall provide documentation to the Department that the incremental costs of the audit incurred by the county board are reasonable.**]**".

Amendment provides that payment by the local school systems for employer contributions for federally funded employees will be paid to the county instead of the State.

Amendment No. 4

On page 12, in line 26, strike "$199,172,005" and substitute "$199,176,114"; on pages 12 and 13, strike in beginning with line 28 on page 12 down through line 13 on page 13 and substitute:

A. Allegany College $4,773,622
B. Anne Arundel Community College $27,235,329
C. Community College of Baltimore County. $34,398,366
D. Carroll Community College. $6,851,515
E. Cecil Community College. $4,645,751
F. College of Southern Maryland. $10,902,580
G. Chesapeake College. $5,675,815
H. Frederick Community College. $8,145,648
I. Garrett College. $2,246,709
J. Hagerstown Community College. $6,965,064
K. Harford Community College. $9,990,806
L. Howard Community College $12,584,485
M. Montgomery College $35,998,553
N. Prince George's Community College $22,013,074
O. Wor-Wic Community College. . . . . $6,748,796."; and

on page 15, in line 26, strike "$39,867,838" and substitute "**$39,863,729**".

Technical amendment to correct the distribution calculation for Aid to Community Colleges and the calculation for aid to Baltimore Community College

Amendment No. 5

On page 24, after line 25, insert:

“**Article – Labor and Employment**

10–127.

[If the General Assembly repeals this subtitle, money in the Fund at the time of repeal shall be distributed:

(1) as the General Assembly provides; or

(2) if the General Assembly does not provide for distribution, as justice requires, with due regard for existing obligations for compensation.**]**

(A) THE STATE HAS NO INTEREST IN THE ASSETS OF THE FUND.

(B) ALL REVENUES, MONEY, AND ASSETS OF THE FUND BELONG SOLELY TO THE FUND AND ARE HELD BY THE FUND IN TRUST FOR THE POLICYHOLDERS, INJURED WORKERS AND THEIR FAMILIES, AND CREDITORS OF THE FUND.

(C) THE STATE MAY NOT BORROW, APPROPRIATE, OR DIRECT PAYMENTS FROM THE REVENUES, MONEY, OR ASSETS OF THE FUND FOR ANY PURPOSE.

(D) THE FUND MAY NOT BE DISSOLVED.”

This amendment codifies and enhances the assurance contained in §11 of the bill that the transfer of funds from IWIF resolves any claim the State has to the property or assets of IWIF.

Amendment No. 6

On page 29, in line 1, after “(C)” insert “**(1) EXCEPT FOR LOCAL EMPLOYEES OF COMMUNITY COLLEGES,**”; and after line 3, insert:

“**(2) (I) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL DETERMINE THE AMOUNTS PAYABLE BY EACH COUNTY UNDER § 21-304(B)(4) OF THIS SUBTITLE FOR THE NEXT FISCAL YEAR FOR LOCAL EMPLOYEES OF COMMUNITY COLLEGES.**

(II) ON OR BEFORE OCTOBER 1 OF EACH YEAR THE MARYLAND HIGHER EDUCATION COMMISSION SHALL DETERMINE AND CERTIFY TO THE BOARD OF TRUSTEES THE NUMBER OF FULL-TIME EQUIVALENT STUDENTS AT EACH COMMUNITY COLLEGE BY COUNTY OF RESIDENCE.

(III) THE AMOUNT ATTRIBUTABLE TO EACH COUNTY FOR LOCAL EMPLOYEES OF REGIONAL COMMUNITY COLLEGES SHALL BE DETERMINED BY APPLYING TO THE REGIONAL COMMUNITY COLLEGE SHARE OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES THE RATIO THAT THE NUMBER OF FULL-TIME EQUIVALENT STUDENTS FROM EACH COUNTY WHO ATTEND THE REGIONAL

COMMUNITY COLLEGE BEARS TO THE TOTAL NUMBER OF FULL-TIME STUDENTS WHO ATTEND THE REGIONAL COMMUNITY COLLEGE FROM ALL COUNTIES THAT SUPPORT THE REGIONAL COMMUNITY COLLEGE.

This amendment adjusts the retirement contributions by counties for community college employees to account for the actual county support for regional community colleges.

Amendment No. 7

On page 30, after line 16, insert:

"4–321.

(e) The Governor shall transfer to the Authority for the Intercounty Connector:

(1) From the Transportation Trust Fund, at least $30,000,000 each year for fiscal years 2007 through 2010;

(2) From the General Fund or general obligation bonds, an aggregate appropriation by fiscal year **[**2013**] 2014** equal to $264,913,000, as follows:

(i) $53,000,000 for fiscal year 2007;

(ii) $55,000,000 for fiscal year 2010;

(iii) At least $80,000,000 for fiscal year 2011; and

(iv) The remaining balance for fiscal year **[**2012 or**] 2012,** fiscal year 2013 **OR FISCAL YEAR 2014**; and

(3) At least $10,000,000 federal aid from any source in amounts as deemed prudent.

Delays the repayment to the Maryland Transportation Authority for the Intercounty Connector

Amendment No. 8

On page 42, after line 8, insert:

"11–204.

(a) The sales and use tax does not apply to:

(6) a sale of tangible personal property **OR A DIGITAL PRODUCT** to a nonprofit parent–teacher association located in the State if the association makes the purchase to contribute the property to a school to which a sale is exempt under item (3) of this subsection or § 11–220 of this subtitle;

11–209.

(a) The sales and use tax does not apply to a casual and isolated sale by a person who regularly does not sell tangible personal property**, A DIGITAL PRODUCT,** or a taxable service if:

(1) the sale price is less than $1,000; and

(2) the sale is not made through an auctioneer or a dealer.

(b) The sales and use tax does not apply to a distribution of tangible personal property **OR DIGITAL PRODUCTS** by:

(1) a corporation or joint-stock company to its stockholders as a liquidating distribution;

(2) a partnership to a partner; or

(3) a limited liability company to a member.

(c) (1) The sales and use tax does not apply to a transfer of tangible personal property **OR DIGITAL PRODUCTS**:

(i) under a reorganization within the meaning of § 368(a) of the Internal Revenue Code;

(ii) on organization of a corporation or joint-stock company, to the corporation or company principally in consideration for the issuance of its stock;

(iii) to a partnership only as a contribution to its capital or in consideration for a partnership interest in the partnership; or

(iv) to a limited liability company only as a capital contribution or in consideration for an interest in the limited liability company.

(2) For a transfer that would qualify as a casual and isolated sale under subsection (a) of this section if the sale price limitation were disregarded, the amount of liability transferred to or assumed by a corporation, joint-stock company, partnership, or limited liability company shall be excluded from the consideration transferred by the corporation, joint-stock company, partnership, or limited liability company in exchange for the tangible personal property **OR DIGITAL PRODUCTS** to determine whether the transfer is made:

(i) principally in consideration for the issuance of stock of a corporation or joint-stock company;

(ii) only as a contribution to the capital of a partnership or in consideration for a partnership interest; or

(iii) only as a capital contribution to a limited liability company or in consideration for an interest in a limited liability company.

11-211.

(b) The sales and use tax does not apply to a sale of:

(2) tangible personal property **OR A DIGITAL PRODUCT** that is manufactured or adapted specifically to compensate for blindness, including braille slates and paper, items with braille markings, preset insulin syringes, and raised line drawing kits;

(16) tangible personal property **OR A DIGITAL PRODUCT** for installation in a motor vehicle:

(i) to provide access to the motor vehicle by an individual with a disability; or

(ii) to permit an individual with a disability to operate the motor vehicle;

11-214

The sales and use tax does not apply to use of tangible personal property**, A DIGITAL PRODUCT,** or a taxable service that:

(1) a nonresident:

(i) acquires before the property or service enters the State; and

(ii) uses:

1. for personal enjoyment or use or for a use that the Comptroller specifies by regulation, other than for a business purpose; or

2. in a presentation or in conjunction with a presentation of an exhibit, show, sporting event, or other public performance or display; and

(2) does not remain in the State for more than 30 days."; after line 12, insert:

"11–220.

(a) The sales and use tax does not apply to a sale to the State or a political subdivision of the State.

(b) The exemption under subsection (a) of this section may not be construed to exempt any sale of tangible personal property **OR A DIGITAL PRODUCT**, otherwise taxable under this title, to a contractor to be used under a contract with the State or a political subdivision of the State for construction, repair, or alteration of real property.”; strike in their entirety, lines 14 through 16 and substitute:

(b) If a person who buys tangible personal property**, A DIGITAL PRODUCT,** or a taxable service in a retail sale pays the sales and use tax when the retail sale is made, the person is not required to pay the tax again when the person uses that tangible personal property**, DIGITAL PRODUCT,** or taxable service in the State.

(c) (1) To the extent that a buyer pays another state a tax on a sale or gross receipts from a sale of tangible personal property**, A DIGITAL PRODUCT,** or a taxable service that the buyer acquires before the property**, PRODUCT,** or service enters this State, the sales and use tax does not apply to use of the property**, PRODUCT,** or service in this State.

(D) EXCEPT FOR A TAXABLE SERVICE AS DEFINED IN § 11-101(M) OF THIS TITLE, THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF A CABLE TELEVISION SERVICE PROVIDED BY A PERSON WHOSE CHARGE FOR CABLE TELEVISION SERVICE IS SUBJECT TO FEES UNDER 47 U.S.C. SEC.542.

11–303.

(a) A buyer is allowed a depreciation allowance as an adjustment to taxable price if:

(1) tangible personal property**, A DIGITAL PRODUCT,** or a taxable service is acquired before the tangible personal property **OR DIGITAL PRODUCT** is brought into the State for use in the State or before the **DIGITAL PRODUCT OR** taxable service is used in the State; and

(2) the use first occurs in another state or federal jurisdiction.

(b) The allowance under subsection (a) of this section for each full year that follows the date of purchase is 10% of the taxable price paid to acquire the tangible personal property**, DIGITAL PRODUCT,** or taxable service.

11–401.

(b) A vendor has the same rights to collect the sales and use tax from a buyer and the same rights regarding the nonpayment of the sales and use tax by a buyer that the vendor would have if the sales and use tax were a part of the purchase price of the tangible personal property**, DIGITAL PRODUCT,** or taxable service at the time of the sale.”

11–404.

The collection of the sales and use tax on a sale for use in the State is not affected even if:

(2) the order of the buyer or the contract of sale provides for:

(I) tangible personal property obtained or manufactured out of the State to be shipped directly to the buyer from the point of origin; **or**

(II) A DIGITAL PRODUCT OBTAINED OR PRODUCED OUT OF THE STATE TO BE DELIVERED ELECTRONICALLY TO THE BUYER FROM THE POINT OF ORIGIN;

(3) tangible personal property **OR DIGITAL PRODUCT**, intended to be brought into the State for use in the State, is delivered outside the State directly to the buyer;

(4) the order of the buyer or the contract of sale is made or closed:

(i) by acceptance or approval out of the State; or

(ii) before the tangible personal property **OR DIGITAL PRODUCT** enters the State; or

11–408.

(b) (1) Except as provided in paragraph (3) of this subsection, the duty of a vendor to collect the sales and use tax from a buyer is waived if the buyer provides the vendor with a signed resale certificate that:

(iv) contains a statement to the effect that the tangible personal property**, DIGITAL PRODUCT,** or taxable service is bought for the purpose of resale.

(3) (ii) A vendor may not accept a resale certificate for a cash, check, or credit card sale if:

1. the taxable price is less than $200; and

2. the tangible personal property**, DIGITAL PRODUCT,** or taxable service is not delivered by the vendor directly to the buyer's retail place of business.

(c) If the taxable price is less than $200 for a cash, check, or credit card sale or sale for use that is not a retail sale and the tangible personal property**, DIGITAL PRODUCT,** or taxable service is not delivered by the vendor directly to the buyer's retail place of business:

(1) the sales and use tax shall be paid when the sale is made or when the use becomes taxable; and

(2) the buyer who pays the sales and use tax may file a claim for a refund with the Comptroller.

11–501.

(b) The return shall state for the period that the return covers:

(1) the total value of the tangible personal property**, DIGITAL PRODUCT,** or taxable service that is subject to the sales and use tax; and

(2) the sales and use tax due.

11–502.

(b) A return shall state, for the period that the return covers:

(2) for a vendor making a sale for use:

(i) the total value of the tangible personal property**, DIGITAL PRODUCT,** or taxable service the use of which became subject to the sales and use tax; and

(ii) the sales and use tax due.”; on page 42, after line 30, insert:

“(c) (1) “Engage in the business of a retail vendor” means to sell or deliver tangible personal property**, A DIGITAL PRODUCT,** or a taxable service in the State.

(2) “Engage in the business of a retail vendor” includes liquidating a business that sells tangible personal property**, A DIGITAL PRODUCT,** or a taxable service, when the liquidator holds out to the public that the business is conducted by the liquidator.”; on page 43, after line 30, insert:

“11–703.

An applicant for a license to engage in the business of an out-of-state vendor or to engage in the business of a retail vendor shall submit an application to the Comptroller:

(1) for each place of business in the State where the applicant sells tangible personal property**, A DIGITAL PRODUCT,** or a taxable service;

11–707.

(a) The Comptroller may issue a special license to an applicant who:

(1) is not required to be licensed as an out-of-state vendor or a retail vendor;

(2) operates out of the State and sells tangible personal property**, A DIGITAL PRODUCT,** or a taxable service for use in the State; and

(3) submits to the Comptroller an application on the form that the Comptroller requires."; and on page 42, in lines 19, 23, 27, and 30, in each instance, after "property" insert "**, A DIGITAL PRODUCT,**".

This amendment makes technical corrections and clarifications to the provisions that extend the sales and use tax to digital downloads.

Amendment No. 9

On page 44, strike in their entirety lines 27 and 28.

This amendment strikes language that would repeal § 5-203 of the Education Article because that section is instead reenacted with amendments in Amendment # 3.

Amendment No. 10

On page 46, in line 5, strike "$50,000,000 of" and substitute "from", and in line 5, after "Fund" insert "the greater of $50,000,000 or the amount determined by the Insurance Commissioner to be the appropriate value of the benefits the Injured Workers Insurance Fund has realized from its association with the State, provided that such amount shall not impair the adequacy of the Injured Workers Insurance Fund's surplus and reserves, as determined by the Insurance Commissioner".

This amendment clarifies that the maximum amount of the transfer from the IWIF fund is subject to a determination by the Insurance Commissioner of the value IWIF has received from the State.

Amendment No.11

On page 47, in lines 8 and 12, in each instance, strike "January 19, 2011" and substitute "**January 18, 2012**". on page 48, in line 10, strike "836,461" and substitute "**812,411**", in line 13, strike "3,806,299" and substitute "**3,823,491**", and in line 14, strike "2,222,012" and substitute "**2,228,870**".

This amendment makes further corrections to the distribution calculations for the local share of teacher retirement for the community college contribution and makes other technical corrections.