
**Alternative and Additional
Recommendations on HB 101/SB 166**

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Proposed Amendment to HB 101/SB 166 as Introduced

Program: Soil Conservation District – Mandate Relief

Provision in BRFA as Introduced: Reduces mandated funding levels for Soil Conservation Districts (SCDs) in fiscal 2010, 2011, and 2012 and repeals a requirement that the Governor include an amount sufficient to employ not less than 110 SCD field personnel in the annual budget bill.

Provision as Recommended by DLS: Permanently reduce mandated funding levels for SCDs and repeal the requirement that the Governor include an amount sufficient to employ not less than 110 SCD field personnel in the annual budget bill.

Agency: Maryland Department of Agriculture

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law: The general fund appropriation for SCDs is reduced by \$400,000 in fiscal 2010, \$800,000 in fiscal 2011 and \$800,000 in fiscal 2012 relative to the mandated funding levels of \$9.6 million, \$10.0 million, and \$10.0 million, respectively.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$0.4)	(\$0.8)	(\$0.8)	(\$0.8)	(\$0.8)

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: The proposed recommendation would permanently level fund SCDs at \$9.2 million and thus would be an additional \$400,000 general fund reduction in fiscal 2012 and \$800,000 reduction thereafter.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp				(\$0.4)	(\$0.8)	(\$0.8)

Background/Recent History: SCD offices are located throughout the State to help farmers manage and protect natural resources on their land. SCD staff help farmers build and install a variety of best management practices, including animal waste storage structures and livestock watering systems to manage farm resources and safeguard water quality. The Agricultural Stewardship Act of 2006 (Chapter 289 of 2006) mandates increased funding for SCDs; specifically, the Act requires funding levels of \$8.8 million for fiscal 2008, \$9.2 million for fiscal 2009, \$9.6 million for fiscal 2010, and \$10.0 million for fiscal 2011 and each year thereafter.

Committee narrative in the *2008 Joint Chairmen's Report* expressed the General Assembly's intent that MDA submit a report on the number of authorized soil conservation district field personnel positions, the number of vacant authorized field personnel positions, the funding source, the amount for each authorized position and the source of funding and the amount, as well as which subprograms and subobjects are covered under soil conservation district funding. This report was to be submitted with the fiscal 2010 State budget submission; however, the Department of Legislative Services did not receive the report with the fiscal 2010 State budget submission.

State Effect: Mandated general fund expenditures decrease by \$400,000 in fiscal 2010 and by \$800,000 in fiscal 2011, and thereafter. The fiscal 2010 expenditure reduction will preclude the hiring of five new SCD field positions and will decrease grant funding for SCDs.

Local Effect: No effect except for possible reduced technical assistance from SCD field personnel.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Mandate for Maryland Tourism Development Board

Provision in BRFA as Introduced: Requires the Governor to provide in the allowance \$4.9 million in general funds for the Maryland Tourism Development Board in fiscal 2010 and 2011. Further requires \$5.5 million in general funds in fiscal 2012 and \$6.0 million in general funds in fiscal 2013 and each year thereafter.

Provision as Recommended by DLS: DLS recommends that the amount mandated in the statute be capped at the proposed fiscal 2010 level (\$4.9 million) in fiscal 2010 and each year thereafter.

Agency: Department of Business and Economic Development

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	(\$1.1)	(\$1.1)	(\$1.1)	(\$1.1)	(\$1.1)

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	\$0	\$0	(\$0.6)	(\$1.1)	(\$1.1)

Background/Recent History: The Maryland Tourism Board promotes Maryland tourism through various media by administering a program of local matching grants and providing other assistance for local tourism development. In the original fiscal 2009 appropriation, the board received \$7.0 million in general funds, \$1.0 million over the required \$6.0 million mandate. However, in the cost containment effort, the board was required to relinquish \$2.15 million in general funds.

Chapter 181 of 2008 authorizes the Governor to include in the board’s allowance an amount of sales and use tax revenue derived from tourism-related economic activity. This would provide an additional source of funds for the board. The fiscal 2010 allowance does not, however, provide any funds related to the Tourism Promotion Act.

State Effect: The recommendation would decrease general funds expenditures by at least \$1.1 million in fiscal 2010 and in each year thereafter.

Local Effect: Local government revenues may decrease to the extent that fewer funds are available for grants to destination marketing organizations, most of which are local government entities.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: MARBIDCO – Capitalization Schedule Change

Provision in BRFA as Introduced: Reduces mandated rural business development and assistance funding for the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) from \$4.0 million to \$2.75 million in fiscal 2010 and 2011 only.

Provision as Recommended by DLS: Reduce the mandated rural business development and assistance funding to \$1.5 million in fiscal 2010 and \$2.75 million permanently beginning in fiscal 2011 by amending Economic Development Article §10-523.

Agency: Maryland Department of Agriculture

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$2.50)	(\$1.25)	(1.25)	(\$1.25)	(\$1.25)

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: The fiscal impact would be to reduce permanently general fund expenditures by \$1,250,000. In fiscal 2010, the Department of Legislative Services (DLS) has recommended a reduction of \$2.5 million in general funds, which is reflected as a \$1.25 million increase in the BRFA reduction. This action would necessitate a discussion on the number of years MARBIDCO will receive capitalization as the permanent reduction would prevent sustainability by 2020 as currently planned.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$1.25)		(\$1.25)	(\$1.25)	(\$1.25)

Background/Recent History: MARBIDCO, established under Chapter 467 of 2004, is a public corporation and instrumentality of the State helping Maryland’s farm, forestry, seafood and related rural businesses to achieve profitability and sustainability. The Agricultural Stewardship Act of 2006 (Chapter 289) mandated rural business development and assistance funding for MARBIDCO of \$1.0 million in fiscal 2007, \$3.0 million in fiscal 2008, \$3.5 million in fiscal 2009, and \$4.0 million in fiscal 2010 to 2020. The actual appropriations through fiscal 2009 were \$1.0 million, \$3.0 million, and \$2.75 million in fiscal 2007, 2008, and 2009, respectively, adjusted from the mandated amounts in fiscal 2007 and 2009 through reductions made by the General Assembly.

State Effect: Reduces general fund expenditures by \$2.5 million in fiscal 2010 and to reduce MARBIDCO's appropriation \$1.25 million thereafter.

Local Effect: Local governments may be affected in fiscal 2010 and thereafter to the extent the reduction in mandated funding limits MARBIDCO cost-share support to local government-funded rural business development projects.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Nonpublic Placement Formula

Provision in BRFA as Introduced: Reduces the State share of costs for nonpublic special education placements from 80% of the costs above the initial local share to 50% of the costs above the initial local share. The local share of these costs increases from 20 to 50%.

Provision as Recommended by DLS: Reduce the State share of costs for nonpublic special education placements from 80% of the costs above the initial local share to 70% of the costs above the initial local share. The local share of these costs increases from 20 to 30%.

Agency: Maryland State Department of Education- Aid to Education

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$16.1)	(\$16.8)	(\$17.6)	(\$18.5)	(\$19.6)

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		\$32.2	\$33.6	\$35.2	\$37.1	\$39.2

Background/Recent History: Most students with disabilities receive special education services in the public schools. If an appropriate program is not available in the public schools, however, the student is placed in a private school offering more specialized services. The costs for these students, who are placed in nonpublic day or residential facilities, are shared by the local school systems and the State.

Under current law, a local school system pays its respective local share of the basic cost of education for each nonpublic placement plus two times the total basic cost of education in the system, as well as 20% of any expense above that sum. The State pays 80% of the costs above the base local funding.

State Effect: Mandated general fund expenditures for the State share of costs for nonpublic placements increase by an estimated \$32.2 million in fiscal 2010 from the BRFA as proposed but would decrease by an estimated \$16.1 million from current law. As required, full funding for nonpublic placements is included in the proposed fiscal 2010 State budget, and the \$16.1 million reduction is contingent on the enactment of legislation to adjust the State share. The reduction would leave \$88.1 million to support the remaining State share.

Future year spending assumes 5% annual increases in placement costs.

Local Effect: State aid for local school systems decreases by \$16.1 million in fiscal 2010 and by an estimated \$19.6 million in fiscal 2014. The estimated fiscal 2010 in both the BRFA and DLS recommendation reductions are shown below by school system.

**Estimate of State Nonpublic Placement Costs
Fiscal 2010**

<u>School System</u>	<u>Current Law</u>	<u>BRFA Proposed 50/50</u>	<u>DLS Proposed 70/30</u>
Allegheny	\$914,730	\$571,706	\$800,389
Anne Arundel	10,457,158	6,535,724	9,150,014
Baltimore City	25,968,889	16,230,555	22,722,778
Baltimore	15,524,947	9,703,092	13,584,329
Calvert	933,201	583,251	816,551
Caroline	224,775	140,484	196,678
Carroll	3,575,130	2,234,456	3,128,238
Cecil	1,882,673	1,176,670	1,647,339
Charles	1,339,947	837,467	1,172,454
Dorchester	65,391	40,869	57,217
Frederick	2,320,975	1,450,609	2,030,853
Garrett	201,533	125,958	176,341
Harford	5,081,797	3,176,123	4,446,572
Howard	3,429,179	2,143,237	3,000,532
Kent	124,484	77,803	108,924
Montgomery	13,628,428	8,517,767	11,924,874
Prince George's	28,746,291	17,966,432	25,153,005
Queen Anne's	357,414	223,384	312,738
St. Mary's	718,878	449,299	629,018
Somerset	0	0	0
Talbot	26,873	16,796	23,514
Washington	1,662,492	1,039,057	1,454,680
Wicomico	218,824	136,765	191,471
Worcester	0	0	0
Unallocated	11,476,198	7,172,624	10,041,673
Total	\$128,880,206	\$80,550,128	\$112,770,182
Savings vs. Current Law	\$0	-\$48,330,078	-\$16,110,024

Source: Department of Legislative Services

Proposed Amendment to HB 101/SB 166 as Introduced

Program: John A. Cade Funding Formula

Provision in BRFA as Introduced: Reduces the fiscal 2010 amount for the Senator John A. Cade formula to \$194,454,853 and resets the phase-in of scheduled enhancements. The formula would be fully phased in by fiscal 2015 instead of 2013.

Provision as Recommended by DLS: Sets the fiscal 2010 and 2011 amount for the Senator John A. Cade formula to \$209,602,674, requires calculation of the formula to be based on current-year funding at the select public four-year institutions, and resets the phase-in of scheduled enhancements.

Agency: Maryland Higher Education Commission

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	(\$34.8)	(\$47.8)	(\$46.2)	(\$42.5)	(\$21.5)

Fiscal Impact of DLS Recommendation vs. BRFA:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	\$15.1	\$15.1	\$1.9	(\$2.2)	(\$0.2)

The Administration has articulated the intent to level fund the Cade formula in 2011 at the 2010 level. As introduced, the BRFA would not produce that result. For this analysis, the Department of Legislative Services is assuming the Administration will request a technical amendment to achieve funding of \$194.5 million in fiscal 2011.

Background/Recent History: The Cade formula makes up the majority of State funding for the 15 locally operated community colleges in the State. The formula uses a percentage of the State’s prior year per student funding for select public four-year institutions of higher education to determine a per student amount that is then used to calculate a total formula amount for the colleges. Chapter 333 of 2006 began a phased enhancement of the Cade formula that increases the percentage used in the formula from 25% in fiscal 2007 to 30% by fiscal 2013.

The Chapter 333 formula funding enhancements have yet to be fully funded. In fiscal 2008, the Board of Public Works (BPW) reduced the Cade formula by \$2 million, from \$196.5 million to \$194.5 million. The fiscal 2009 State budget currently includes \$202.4 million for the formula, \$16.3 million below the statutory funding level, but the proposed fiscal 2010 budget assumes a further BPW reduction to \$194.5 million before the end of the fiscal year. The fiscal 2010 and

2011 funding levels proposed in the BRFA legislation would provide the third and fourth consecutive years at \$194.5 million.

State Effect: The Department of Legislative Services (DLS) recommended total general fund expenditure for community colleges is \$15.1 million higher than what is currently in the BRFA. This figure was calculated to allow each college an increase in funding equal to the revenue a 4.0% increase in service area tuition would generate. A related budget recommendation reduces the 2010 funding to the 2009 level for any college that does not freeze tuition or maintain local effort. For each college to receive this amount, fiscal 2010 funding should not be determined by the Cade formula but instead allocated as shown below.

Recommended Fiscal 2010 Funding by College

<u>College</u>	<u>2010 Funding Under Current Law</u>	<u>2010 BRFA Funding</u>	<u>2010 Recommended Funding</u>	<u>\$ Change vs. BRFA</u>	<u>\$ Change vs. Current Law</u>
Allegany	\$5,799,136	\$4,663,367	\$4,897,486	\$234,119	-\$901,650
Anne Arundel	33,685,498	26,821,906	28,663,694	1,841,788	-5,021,804
Baltimore County	41,940,782	36,341,154	36,924,256	583,102	-5,016,526
Carroll	8,446,117	6,513,940	6,928,779	414,839	-1,517,338
Cecil	5,553,384	4,302,762	4,626,161	323,399	-927,223
Southern Maryland	12,959,431	10,335,299	11,276,441	941,142	-1,682,990
Chesapeake	6,675,030	5,313,457	5,630,359	316,902	-1,044,671
Frederick	9,679,133	7,484,491	8,343,913	859,422	-1,335,220
Garrett	2,831,877	2,081,368	2,351,331	269,963	-480,546
Hagerstown	8,392,402	6,415,381	7,035,457	620,076	-1,356,945
Harford	12,295,986	9,562,584	10,461,227	898,643	-1,834,759
Howard	15,199,667	11,499,670	12,898,807	1,399,137	-2,300,860
Montgomery	44,906,439	35,089,995	39,234,206	4,144,211	-5,672,233
Prince George's	27,922,639	21,682,169	23,544,409	1,862,240	-4,378,230
Wor-Wic	8,079,976	6,347,310	6,786,148	438,838	-1,293,828
Total	\$244,367,497	\$194,454,853	\$209,602,674	\$15,147,821	-\$34,764,823

Source: Governor's Budget Books, Fiscal 2010; House Bill 101 – Budget Reconciliation and Financing Act of 2009; Department of Legislative Services

As required, full funding for the formula, \$244.4 million, is included in the proposed fiscal 2010 State budget. The DLS recommendation is \$34.8 million below the allowance and is contingent on the enactment of legislation to adjust the formula beginning in fiscal 2010. Future year savings estimates use projected community college enrollments and estimated funding levels for public four-year universities.

In addition, DLS recommends adjusting the formula to use current year funding at the select public four-year institutions as opposed to prior year funding as is currently in statute. Community colleges are often targeted for reductions in difficult economic times because the formula is inflated by prior year funding, resulting in large increases. By “truing up” the formula so that it is no longer based on prior year appropriations at public four-year institutions, community colleges could experience funding growth in the same year as four-year institutions. The recommended phase in schedule accounts for the jump up in funding this adjustment would otherwise create and reaches a maximum of 29% in 2015 as shown below.

**Cade Formula Funding Levels and Projected Appropriations
Fiscal 2010-2015**

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Funding level	23.27%	22.39%	23.50%	25.00%	27.00%	29.00%
Projected Appropriation	\$209,602,974	\$209,602,974	\$230,115,166	\$256,192,071	\$290,987,824	\$328,377,406
Funding per FTES	\$2,338	\$2,312	\$2,496	\$2,738	\$3,065	\$3,413

Source: Department of Legislative Services

Reductions in State aid to community colleges will also slow the growth of community college retirement costs, which are paid by the State on behalf of the colleges. State payments for retirement are calculated using actual community college salary bases from the second prior fiscal year. Lower State aid levels beginning in fiscal 2010, therefore, will affect retirement payments beginning in fiscal 2012. The reductions in general fund expenditures are not included in the estimates above but will total approximately \$2 million to \$5 million annually.

Local Effect: Direct State aid for community colleges is greater than what is provided in the corrected BRFA by \$15.1 million in fiscal 2010 and 2011. By fiscal 2015, when the formula would be fully phased in, funding would be on the same level as it otherwise would be with the BRFA.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Baltimore City Community College Formula

Provision in BRFA as Introduced: Reduces the fiscal 2010 amount for the Baltimore City Community College (BCCC) formula to \$42,005,078 and resets the phase-in of scheduled formula enhancements. The formula would be fully phased in by fiscal 2015 instead of 2013.

Provision as Recommended by DLS: Reduces the fiscal 2010 amount for the BCCC formula to \$42,005,078, requires calculation of the formula to be based on current-year funding at the select public four-year institutions, and resets the phase-in of scheduled enhancements.

Agency: Baltimore City Community College

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	(\$2.4)	(\$3.5)	(\$3.5)	(\$3.2)	(\$2.0)

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	\$0	(\$0.5)	(\$0.1)	(\$0.4)	(\$0.4)

Background/Recent History: BCCC is the only community college operated by the State. The annual base appropriation for BCCC is determined by formula. Like the Cade formula, the BCCC funding formula uses a percentage of the State’s prior year per student funding for public four-year institutions of higher education to determine a per student amount for the college. Chapter 333 of 2006 began a phased enhancement of the BCCC formula that increases the percentage used in the formula from 66% in fiscal 2007 to 71% by fiscal 2013.

The Chapter 333 formula funding enhancements were not fully funded in fiscal 2008. A Board of Public Works action reduced the budget by \$500,000. The fiscal 2009 working appropriation is fully funded, although a reduction is anticipated to reflect savings from the statewide furlough, \$501,725. The fiscal 2010 funding level proposed in the BRFA legislation is 4.0% greater than the fiscal 2009 working appropriation.

State Effect: As required, full funding for the formula, \$44.4 million, is included in the proposed fiscal 2010 State budget. The DLS recommendation is equal to the BRFA.

DLS also recommends adjusting the formula to use current year funding at the select public four-year institutions as opposed to prior year funding as is currently in statute. The

recommended phase in schedule accounts for the jump up in funding this adjustment would otherwise create and reaches a maximum of 68.5% in 2015 as shown below. Future year savings estimates use projected BCCC enrollment and estimated funding levels for four-year public universities.

**BCCC Funding levels and Projected Appropriations
Fiscal 2010-2015**

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Funding Level	64.71%	62.03%	63.00%	64.50%	66.00%	68.50%
Projected Appropriation	\$42,005,078	\$42,005,078	\$44,586,522	\$47,776,158	\$51,426,374	\$56,169,531
Across-the-board Reduction	-\$359,781					
Actual Appropriation	\$41,645,297					
Funding Per FTES	\$6,495	\$6,399	\$6,692	\$7,065	\$7,492	\$8,062

Source: Department of Legislative Services

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Sellinger Formula

Provision in BRFA as Introduced: Reduces the fiscal 2010 amount for the Joseph A. Sellinger formula to \$50,445,958 and sets a phase-in schedule that fully funds the current law formula level of 16.0% of State funds per full-time equivalent students (FTES) at selected public four-year institutions by fiscal 2015.

Provision as Recommended by DLS: The Department of Legislative Services (DLS) recommends reducing Sellinger aid to nonpublic institutions \$15,633,522 as proposed by the Governor and amending the formula so that it builds off the current year per FTES funding at select four-year public institutions. DLS also recommends that the Sellinger formula be level funded in fiscal 2011 and that the per FTES funding level should be frozen at the independent’s per FTES percentage of State appropriation to select public four-year institutions given level funding in fiscal 2011, projected to be 11.8%.

Agency: Maryland Higher Education Commission

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendations vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	(\$15.6)	(\$16.1)	(\$16.7)	(\$17.4)	(\$17.9)

Fiscal Impact of DLS Recommendations vs. BRFA as Introduced:
(\$in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	\$0	\$1.8	(\$2.4)	(\$7.0)	(\$11.7)

Background/Recent History: In fiscal 2008, the Board of Public Works reduced the Sellinger formula by \$2.5 million. Cost containment actions in fiscal 2009 reduced funding by \$8.1 million to \$50.4 million. Sellinger is often targeted for reductions in difficult economic times because the formula is inflated by prior year funding, resulting in large increases. By “truing up” the formula so that it is no longer based on prior year appropriations at selected public four-year institutions, independent institutions could experience funding growth in the same year as public institutions.

State Effect: Mandated general fund expenditures for the Sellinger formula decrease by \$15.6 million in fiscal 2010. As required, full funding for the formula, \$66.1 million, is included in the proposed fiscal 2010 State budget with the contingent reduction. Future year savings

estimates use projected enrollments at independent colleges and universities and estimated funding levels for public four-year universities.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Mandate for Maryland State Arts Council

Provision in BRFA as Introduced: Alters the funding requirement for the Maryland State Arts Council. Current law requires the proposed appropriation to be set at the previous year’s level plus a rate of growth equal to the rate of growth of projected general fund revenues. However, the BRFA reduces the mandated amount for fiscal 2010 and 2011 to \$10,545,740, a decrease of \$6 million from the currently required level. The BRFA also sets the fiscal 2012 funding level at \$13,545,740 and the fiscal 2013 funding level at \$16,545,740, after which the increases based on general fund growth would resume.

Provision as Recommended by DLS: DLS recommends that the amount mandated in the statute be capped at the proposed fiscal 2010 level (\$10,545,740) in fiscal 2010 and each year thereafter. The recommendation includes the elimination of the growth rate based on general fund growth that is currently built into the statute.

Agency: Department of Business and Economic Development

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	(\$6)	(\$6.8)	(\$7.7)	(\$8.6)	(\$9.4)

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	\$0	\$0	(\$3.0)	(\$6.0)	(\$6.7)

Background/Recent History: The Maryland State Arts Council provides grants to individual artists, arts organizations and presenters, and county arts councils. The original appropriation for fiscal 2009 was reduced by about \$2.3 million to \$14.2 million due to the cost containment effort.

State Effect: The recommendation would decrease general funds expenditures by \$6 million in fiscal 2010 matching the impact of the BRFA. The effect on general fund expenditures decrease in the out-years based on future growth rates in general fund revenue that affect the Arts Council formula in current law.

Local Effect: The Maryland State Arts Council provides grants to county arts organizations. Therefore, a reduction in funds for the State Arts Council reduces potential funding available for county grants.

Subcommittee Assignments: EED/HEHR

22-Alt

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Postretirement Health Benefits Trust Fund

Provision in BRFA as Introduced: Redirects the federal Medicare Part D employer subsidy from the Postretirement Health Benefits Trust Fund to the State Employee Health and Welfare Benefits Fund.

Provision as Recommended by DLS: The Department of Legislative Services (DLS) recommends striking this provision (as well as Section 20 of HB 100/SB 165) and retaining Medicare Part D reimbursements for transfer to the Postretirement Health Benefits Trust Fund.

Agency: Department of Budget and Management and State Retirement Agency

Type of Action: Fund Swap

Fiscal Impact of DLS Recommendation vs. Current Law: None. DLS' recommendation would retain current law.

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
Nonbudgeted Revenue to OPEB Trust		\$24.6	\$26.3	\$28.1	\$30.1	\$32.2
Federal Fund Revenue to Health and Welfare Benefits Fund		(\$24.6)	(\$26.3)	(\$28.1)	(\$30.1)	(\$32.2)

Background/Recent History: Chapter 466 of 2004 established the Postretirement Health Benefits Trust Fund to assist the State in financing the postretirement health insurance subsidy paid by the State. Beginning in fiscal 2006, any subsidy received by the State that is provided to employers as a result of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or other similar federal subsidy was to be deposited into the fund. However, Chapter 444 of 2005 (the Budget Reconciliation and Financing Act) diverted the Medicare Part D subsidy from the fund to pay for employee and retiree health premiums in fiscal 2006 and 2007. Chapter 355 of 2007 restored proceeds from the Medicare Part D federal subsidy to the Postretirement Health Benefits Trust Fund beginning in fiscal 2008.

State Effect: As introduced, the \$24.6 million from Medicare Part D reimbursements would be redirected from the Postretirement Health Benefits Trust to the State Employee Health and Welfare Benefits Fund, which provides pay-as-you go funding for the State's share of

employee/retiree health insurance expenditures. Out year estimates reflect 7% annual increases in prescription drug costs for Medicare-eligible State retirees, which determines the amount of the Part D subsidy payment.

The removal of these funds would eliminate all State prefunding of the Other Post Employment Benefits liability in fiscal 2010. The current practice of transferring the Medicare Part D reimbursements provides a dedicated source of funding to the Postretirement Health Benefits Trust that is independent of the annual budgeting process. Under current law, the State can demonstrate a level of commitment, one valued by bond rating agencies, to addressing its OPEB liability without drawing away resources from the general fund. Moreover, the Medicare Part D proceeds are directly linked to retiree health care, tying their usage to the source of the very liability the State is prefunding.

The redirection of monies is prompted by health insurance cost increases that are not fully explained by the vendors, while the funding provided from Medicare Part D reimbursements will be insufficient to address the long-term needs of the employee/retiree health benefit. Section 20 of the budget bill contains a contingent reduction to replace budgeted appropriations with these federally allocated funds in the following budgeted funds: \$14.7 million in general funds, \$3.6 million in special funds, \$2.5 million in federal funds, \$240,403 in reimbursable funds, \$1.8 million in current unrestricted funds, and \$1.7 million in current restricted funds.

Local Effect: None.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Chesapeake and Atlantic Coastal Bays 2010 Trust Fund

Provision in BRFA as Introduced: Redirects \$2,554,000 of the motor fuel tax and \$3,933,556 of the short-term vehicle rental revenues from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund to the general fund for fiscal 2010 by amending Tax -General Article §2-1104(c) and §2-1302.1(c).

Provision as Recommended by DLS: Redirect \$16,486,556 of the motor fuel tax and short-term vehicle rental revenues from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund to the general fund for fiscal 2010 by amending Tax -General Article §2-1104(c) and §2-1302.1(c).

Agency: Department of Natural Resources (DNR)

Type of Action: Dedicated Revenue Relief

Fiscal Impact of DLS Recommendation vs. Current Law: General fund revenues increase by \$16.5 million and special fund revenues decrease by \$16.5 million in fiscal 2010 due to the redirection of tax revenues that would otherwise be dedicated to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund; this leaves \$15.0 million in the fund. Future years are not affected.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Rev		\$16.5				
SF Rev		(\$16.5)				
SF Exp		(\$16.5)				

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: General fund revenues increase by \$16.5 million. A complementary recommended action is the reduction of \$16,486,555 in special funds in the DNR’s fiscal 2010 operating budget. A related BRFA recommendation would provide \$5.0 million for the cover crop program from the Bay Restoration Fund.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Rev		\$10.0				
SF Rev		(\$10.0)				
SF Exp		(\$10.0)				

Background/Recent History: Chapter 6 of the 2007 special session established the Chesapeake Bay 2010 Trust Fund and set financing for the fund by dedicating a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. The fund was renamed the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund by Chapters 120 and 121 of 2008, which also provided a framework for the use of the special funds and expanded the uses to include environmental programs targeting the Atlantic Coastal Bays. The BayStat Subcabinet administers the trust fund.

Although the Governor's proposed fiscal 2009 budget included \$50.0 million for the trust fund, budget reconciliation legislation reduced this amount to \$25.0 million. The fiscal 2009 appropriation was reduced further to \$20.0 million by the Board of Public Works in October 2008. In addition, revenues that support the trust fund have been coming in lower than anticipated. Revenues of approximately \$9.6 million in fiscal 2009 are currently estimated for the fund.

State Effect: The general fund balance will increase by \$16,486,555 and the non-cover crop program funding level will be maintained.

Local Effect: Local government revenues from Chesapeake and Atlantic Coastal Bays 2010 Trust Fund grants may decrease due to the decrease in funding for the program.

Proposed Amendment to HB 101/SB 166

Program: State Department of Assessments and Taxation – Real Property and Business Valuation Divisions

Provision in BRFA as Introduced: Requires county governments to reimburse the State Department of Assessments and Taxation (SDAT) for (1) 90% of the cost of real property valuation; (2) 90% of the cost of business property valuation; and (3) 75% of costs incurred by SDAT with regards to information technology.

Provision as Recommended by DLS: Requires county governments to reimburse SDAT for (1) 50% of the cost of real property valuation; (2) 50% of the cost of business property valuation; and (3) 50% of costs incurred by SDAT with regards to information technology.

Agency: State Department of Assessments and Taxation

Type of Action: Fund Swap

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	(\$20.8)	(\$21.3)	(\$21.1)	(\$21.9)	(\$22.7)
SF Rev	\$0	\$20.8	\$21.3	\$21.1	\$21.9	\$22.7
SF Exp	\$0	\$20.8	\$21.3	\$21.1	\$21.9	\$22.7

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	\$0	\$15.9	\$16.3	\$16.5	\$17.0	\$17.7
SF Rev	\$0	(\$15.9)	(\$16.3)	(\$16.5)	(\$17.0)	(\$17.7)
SF Exp	\$0	(\$15.9)	(\$16.3)	(\$16.5)	(\$17.0)	(\$17.7)

State Effect: The modification would only shift 50% of the costs associated with the activities performed by SDAT for real property valuation, business valuation, and information technology to the counties. The modified cost shift consists of the following:

- a \$18.3 million fund swap, which allows the department to use special funds in lieu of general funds for expenditures associated with the Real Property and Business Valuation programs. This action shifts 50% of the costs associated with these programs to the counties; and

- a \$2.5 million fund swap, which allows the department to use special funds in lieu of general funds for expenditures associated with the Information Technology program and the implementation of the AAVS. Expenditures associated with the AAVS are currently budgeted in the Major Information Technology Development Project Fund. This action shifts 50% of these costs to the counties.

Future years reflect the five-year average of expenditure changes for each unit.

Local Effect: Counties and Baltimore City would contribute \$20.8 million toward the costs of property valuation, allocated on the proportion of real property accounts and business personal property assessable base. Under the BRFA as introduced, counties would pay \$36.7 million.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Local Jail Reimbursements

Provision in BRFA as Introduced: Reduction in per diem reimbursement rates to local detention centers to 34 and 50% (depending on the jurisdiction) of the per-diem rates for fiscal 2010 and 2011 and then returns to the original 50% and 85%.

Provision as Recommended by DLS: Convert current reimbursement program to a State grant program toward the cost of operating local correctional facilities. A per-diem rate of at least \$45 would be allocated to each county for each inmate day between 12 and 18 months based on actual data from the most recent fiscal year.

Agency: Department of Public Safety and Correctional Services – Division of Correction

Type of Action: Mandate Relief

Fiscal Impact of Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp			(\$17.6)	(\$19.0)	(\$19.3)	(\$20.6)

BRFA as Introduced vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		\$3.7	(\$10.2)	\$11.5	\$1.3	\$1.3

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$3.7)	(\$7.3)	(\$30.5)	(\$20.6)	(\$21.9)

Background/Recent History: The fiscal 2010 budget bill includes a \$6.0 million contingent general fund reduction in the Division of Correction (DOC). A similar \$6.0 million reduction was also taken as part of fiscal 2009 cost containment actions. The reductions are contingent on an alteration in the rate of reimbursement the State pays to local detention centers for housing inmates for fiscal 2010 and 2011, only. Since the implementation of a statutory change in 1986, the State has reimbursed local jails for the confinement of inmates who have been sentenced under DOC jurisdiction and are serving their sentence in a local correctional facility for more than 3 months but not more than 18 months. Reimbursement is currently based on one of the following formulas: (1) for inmates sentenced on or after January 1, 1987, the State pays 50% of the per-diem rate per inmate for each day from the 91st day to the 365th day that the inmate is housed within the local facility; or (2) if a county can demonstrate that the average number of

eligible inmate days for the previous fiscal year exceeds the average number of eligible inmate days for fiscal 1984 through 1986, the reimbursement rate is 85% of the per-diem rate. Four counties qualify for the 85% reimbursement rate. Per-diem rates are calculated based on the total annual operating costs reported by the local facilities.

State Effect under the BRFA: The BRFA action to alter the rates of reimbursement would reduce the liability owed to the counties by approximately \$9.8 million in fiscal 2010. Since the BRFA action does not absolve the State of prior year's liability, however, a \$13.5 million deficiency appropriation would be required in fiscal 2010 in order to cover \$1.6 million, \$10.3 million, and \$1.6 million in carried forward liability for fiscal 2008, 2009, and 2010, respectively. The net effect would be a \$3.7 million increase in expenditures for fiscal 2010, as compared to the liability under the current law.

The liability owed to the counties would be reduced by approximately \$10.2 million in fiscal 2011, based on the altered rates for reimbursement. In fiscal 2012, expenditures would increase by \$11.5 million in order to restore the program to the original 50 and 85% rates of reimbursement. Out-year expenditures beyond fiscal 2012 reflect estimated growth in the liability of 4%.

State Effect Under the DLS Recommendation: The DLS suggested actions would require approximately \$12 million to support the grant program in fiscal 2010. The remaining \$12 million in the fiscal 2010 allowance would be available toward the unfunded liability through fiscal 2009. Future costs for the program would only fluctuate based on the total number of eligible inmate days, not county expenditures.

Local Effect: Reductions in State aid for inmate housing at local detention centers, varying by jurisdiction.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Strategic Energy Investment Fund Allocation

Provision in BRFA as Introduced: Adjusts existing distribution requirements for money received by the Maryland Strategic Energy Investment Fund and makes the requirements applicable specifically to revenue from the sale of CO₂ allowances under the Regional Greenhouse Gas Initiative (RGGI). Notably, the percentage transferred to the Department of Human Resources (DHR) to be used for the Electric Universal Service Program and other electricity assistance programs is adjusted from 17% to “up to 50%.” Percentage requirements applicable to distribution of funds for other purposes are correspondingly adjusted downward.

The provision takes effect July 1, 2009, and terminates June 30, 2011, and, therefore, is applicable only to fiscal 2010 and 2011.

Provision as Recommended by DLS: Adjust the distribution requirements for the \$106,296,640 in fiscal 2010 Strategic Energy Investment Fund appropriation in the BRFA and authorize the processing of a budget amendment not to exceed \$61,056,999 for use of Regional Greenhouse Gas Initiative auction revenues to replace the same amount of general funds. The distribution would be changed by amending State Government Article §9-20B-05 for fiscal 2010 only as follows:

- DHR bill assistance – increase from “up to 50%” to “up to 73.5%”;
- PSC rate relief – retain the 23.0% allocation;
- MEA/Department of Housing and Community Development/Department of General Services energy efficiency programs – reduce the allocation from “at least 17.5%” to 0%;
- MEA/Maryland Department of the Environment renewable and clean energy programs – reduce the allocation from “at least 6.5%” to 0.0%; and
- MEA Administration – increase the allocation from 3.0 to 3.5%.

The overall effect would be to increase the amount of funding for DHR bill assistance by approximately \$25.0 million, which would provide additional funding to cover an anticipated fiscal 2010 shortfall in DHR bill assistance funding.

Agency: Maryland Energy Administration, Department of Human Resources, Maryland Department of the Environment, and Department of Housing and Community Development

Type of Action: Use of Special Funds

Fiscal Impact of DLS Recommendation vs. Current Law: Increases the amount of funding that is allocated from the Strategic Energy Investment Fund to DHR bill assistance by \$61.1 million and replaces the equivalent amount of general funds.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$61.1)				

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: Increases the amount of funding that is allocated from the Strategic Energy Investment Fund to DHR bill assistance by \$25.0 million.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$25.0)	(\$25.0)			

Background/Recent History: The Maryland Strategic Energy Investment Program and the Maryland Strategic Energy Investment Fund (used to implement the program) were created under Chapters 127 and 128 of 2008 to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy. The fund's current primary source of revenue is proceeds from the sale of CO₂ allowances under RGGI. A budget amendment for fiscal 2009 was processed, to use money in the fund generated from initial CO₂ allowance auctions, increasing the overall special fund appropriation in four agencies by \$26,443,281. The proposed fiscal 2010 State budget includes allowances from the fund totaling \$106,296,640.

State Effect: Reduces general fund expenditures by \$61,056,999 and eliminates the energy efficiency and renewable energy programs and project funding from the Strategic Energy Investment Fund. However, federal stimulus funding through the American Recovery and Reinvestment Act of 2009 is anticipated to provide funding for energy efficiency and renewable energy programs in place of the Strategic Energy Investment Fund allocations.

DLS Recommendation vs. BRFA Plus Federal Stimulus Total

	<u>BRFA Plus Federal Stimulus Total</u>	<u>DLS Recommendation</u>	<u>Difference DLS and BRFA Plus Federal Stimulus</u>
DHR – Bill Assistance	\$53,148,320	\$78,148,320	\$25,000,000
PSC – Rate Relief	24,448,227	24,448,227	0
MEA/DHCD – Low/Moderate Income Energy Efficiency	19,300,956	10,000,000	-9,300,956
MEA/DGS – Non-Low/Moderate Income Energy Efficiency	36,300,956	27,000,000	-9,300,956
MDE/MEA – Renewable and Clean Energy	26,909,282	20,000,000	-6,909,282
MEA – Administration	3,188,899	3,700,093	511,194
Total	\$163,296,640	\$163,296,640	

Source: Department of Legislative Services

Local Effect: Reduces the potential amount local jurisdictions could receive in energy efficiency and renewable energy programs and projects spending.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Maryland State Board of Physicians

Provision in BRFA as Introduced: By June 30, 2009, the Governor may transfer \$3,000,000 from the Board of Physicians Fund to the State general fund.

Provision as Recommended by DLS: Increase the transfer from the Board of Physicians to \$3,200,000 by June 30, 2009.

Agency: Department of Health and Mental Hygiene

Type of Action: Fund Swap

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF	\$3.2					

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF	\$0.2					

Background/Recent History: The board is 100% special funded through licensing fee revenue, which it uses for the licensure and discipline of physicians and allied health professionals. Specific board activities include adopting standards of practice, regulations, verifying continuing education requirements and credentials, issuing licenses and certificates, investigating complaints, and disciplining licensees.

State Effect: The State general fund will increase by \$3.2 million in fiscal 2009 and the special fund balance of the Board of Physicians Fund will be reduced by the same amount. This will leave the board's fiscal 2009 fund balance at \$3,098,380. Future years are not affected. The transfer will not affect the board's ability to continue regular operations.

Local Effect: None.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Maryland State Board of Occupational Therapy

Provision in BRFA as Introduced: By June 30, 2010, the Governor may transfer \$100,000 from the Board of Occupational Therapy Practice Fund to the State general fund.

Provision as Recommended by DLS: Strike language that directs \$100,000 be transferred from the Board of Occupational Therapy Practice Fund to the State general fund by June 30, 2010.

Agency: Department of Health and Mental Hygiene

Type of Action: Fund Swap

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

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF		(\$0.1)				

Background/Recent History: The board is 100% special funded through licensing fee revenue, which it uses to exclusively license and regulate qualified occupational therapists. Specific board regulation activities include adopting standards of practice, regulations, verifying continuing education requirements and credentials, issuing licenses, investigating complaints, and disciplining licensees.

State Effect: This recommendation would reduce the amount going to the general fund by \$100,000, but DLS concludes that this board will be in a deficit situation in fiscal 2011 if this transfer is made.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Maryland State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists

Provision in BRFA as Introduced: By June 30, 2010, the Governor may transfer \$100,000 from the Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists Fund to the State general fund.

Provision as Recommended by DLS: Strike language that directs \$100,000 be transferred from the Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists Fund to the State general fund by June 30, 2010.

Agency: Department of Health and Mental Hygiene

Type of Action: Fund Swap

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

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF		(\$0.1)				

Background/Recent History: The board is 100% special funded through licensing fee revenue, which it uses to exclusively license and regulate qualified audiologists, hearing aid dispensers and speech-language pathologists. Specific board regulation activities include adopting standards of practice, regulations, verifying continuing education requirements and credentials, issuing licenses, investigating complaints, and disciplining licensees.

State Effect: This recommendation would reduce the amount going to the general fund by \$100,000, but DLS concludes that the board will be in a deficit situation in fiscal 2011 if this transfer is made.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Universal Service Trust Fund/Maryland School for the Deaf

Provision in BRFA as Introduced: Section 6. Authorizing the transfer of \$1 million from the Universal Service Trust Fund to the Maryland School for the Deaf.

Provision as Recommended by DLS: Authorizing the transfer of \$5 million from the Universal Service Trust Fund to the Maryland School for the Deaf.

Agency: Maryland School for the Deaf/Department of Information Technology

Type of Action: Fund Transfer

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$5.0)				
SF Exp		\$5.0				

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$4.0)				
SF Exp		\$4.0				

Recent History: The Universal Service Trust Fund supports the Telecommunications Access of Maryland (TAM) program in the Department of Information Technology. The TAM provides telephone access and other services for persons with certain disabilities. The Universal Service Trust Fund derives its funding from a \$0.20 monthly landline surcharge.

As of December 31, 2008, the fund balance in the Universal Service Trust Fund was \$16,624,341. In the most recent fiscal year, the fund received \$7,516,456 in revenue and interest payments while program costs were \$6,082,282.

State Effect: The transfer reduces general fund expenditures in fiscal 2010 by \$5 million versus the \$1 million originally proposed in the BRFA.

Local Effect: None.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Maryland School for the Deaf Formula

Provision in BRFA as Introduced: Reduces the Maryland School for the Deaf’s (MSD) fiscal 2010 formula appropriation to account for the elimination of MSD’s Other Post Employment Benefits liability and statewide reduction in increments.

Provision as Recommended by DLS: Strike reduction.

Agency: Maryland School for the Deaf

Type of Action: Other

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

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		\$1.3	\$1.3	\$1.4	\$1.4	\$1.4

Background/Recent History: MSD is funded through a minimum funding formula, outlined in Section 8-310.3 of the Education Article. The formula bases the level of funding on the prior year appropriation, student enrollment changes, and growth in the per-pupil foundation amount as mandated by the Bridge to Excellence in Public Schools Act. Funding has been constrained since the 2007 special session when the inflationary adjustment to the per-pupil foundation amount was eliminated, effectively freezing funding to the school. Fiscal 2010 marks the second year of this limited growth. However, in fiscal 2009 MSD absorbed a \$1 million expenditure for the school’s Other Post Employment Benefits liability, without an increase in general fund support. The school was able to shift costs and delay maintenance to account for the added expense.

Again, in fiscal 2010, per pupil foundation growth is frozen, and the school’s formula funding grows only based on enrollment, but personnel costs for health insurance and retirement increase \$869,000. Although formula funds are level, the school will need to accommodate this growth. The BRFA contingent reduction of \$1.3 million in the formula appropriation makes the school’s ability to fund required personnel costs increases even more difficult.

State Effect: General fund expenditures increase by \$1.3 million in fiscal 2010 and 2011 and increase by \$1.4 million in fiscal 2012, 2013, and 2014.

Local Effect: None.

Subcommittee Assignments: EED/HEHR

59-Alt

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Aging Schools Program

Provision in BRFA as Introduced: Eliminates fiscal 2010 general funds for the Aging Schools Program, establishes general funds in fiscal 2011 for the program to \$6.1 million.

Provision as Recommended by DLS: Section 5-206 of the Education Article sets base amounts and requires, for each fiscal year beginning in 2008, the county allocation be the prior year appropriation plus an increase based on the Consumer Price Index (CPI). The BRFA does not codify the change to the county base amounts, leaving ambiguity regarding on what future funding will be based. DLS recommends codifying the new base allocation of \$6.1 million for fiscal 2011, and inflating each county’s allocation by the CPI beginning in fiscal 2012.

Agency: Interagency Committee on School Construction

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$11.7)	(\$6.2)	(\$6.2)	(\$6.3)	(\$6.5)

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

Background/Recent History: Aging School Program funding for each county is based on the fiscal 2007 base funding levels and increases each fiscal year by the Consumer Price Index. The program provides funds to local school systems for improvements, repairs, and deferred maintenance of public school buildings. Eligible expenditures include asbestos and lead paint abatement; upgrade of fire protection systems and equipment; painting; plumbing; roofing; upgrade of heating, ventilation, and air conditioning systems; site redevelopment; wiring schools for technology; and renovation projects related to education programs and services. As of February 2009, the school systems are holding \$18.3 million in prior year general fund appropriation for the program.

State Effect: Mandated general fund expenditures for the Aging Schools Program decreases by \$11.7 million in fiscal 2010. For fiscal 2011, general fund expenditures decrease \$6.2 million. Future fiscal year funding decrease estimates are based on the reduced base funding in fiscal 2011. It should be noted that a provision in HB 102/SB 167 (the capital budget bill) directs \$6.1 million in bond premiums to this program for fiscal 2010, rather than to the Annuity Bond Fund. DLS has recommended that funds are not needed in fiscal 2010 due to availability of prior year funds.

Local Effect: State aid for local school systems decreases by \$11.7 million in fiscal 2010. In fiscal 2011, the State funding decreases \$6.2 million. Future year funding is reduced due to the

reduced base funding in fiscal 2011. In fiscal 2011, \$6.1 million in Aging School Program funds will be allocated to the counties proportionally based on the fiscal 2007 county allocations, creating the new base funding amount by county. The fiscal 2011 new county base funding levels are shown by school system.

**Proposed Aging Schools Allocation
Fiscal 2011**

<u>Local Education Agency</u>	<u>Fiscal 2011 Base</u>
Allegany	\$97,791
Anne Arundel	506,038
Baltimore City	1,387,924
Baltimore County	874,227
Calvert	38,292
Caroline	50,074
Carroll	137,261
Cecil	96,024
Charles	50,074
Dorchester	38,292
Frederick	182,622
Garrett	38,292
Harford	217,379
Howard	87,776
Kent	38,292
Montgomery	602,651
Prince George's	1,209,426
Queen Anne's	50,074
St. Mary's	50,074
Somerset	38,292
Talbot	38,292
Washington	134,904
Wicomico	106,627
Worcester	38,292
Total	\$6,108,986

Source: Department of Legislative Services

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Natural Resources – Payment in Lieu of Taxes

Provision in BRFA as Introduced: Restricts the Department of Natural Resources (DNR) from making non-timber sales revenue sharing payments (payments in lieu of taxes (PILOT)) to counties in fiscal 2010 and 2011.

Provision as Recommended by DLS: Repeal permanently the mandate to provide both timber sales and non-timber sales revenue sharing payments to counties by amending Natural Resources Article §5-212 (f) and (g).

Agency: Department of Natural Resources

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law: Special fund revenues available for specified State forest and park purposes increase by an estimated \$2.3 million in fiscal 2010 and \$2.4 million in fiscal 2011. The budget bill authorizes the processing of a special fund budget amendment in fiscal 2010 to replace the general funds.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$2.3)	(\$2.4)	(\$2.6)	(\$2.7)	(\$2.9)

Fiscal Impact of DLS Recommendation vs. BRFA as Introduced: Special fund revenues available for specified State forest and park purposes increases by an estimated \$401,333 in fiscal 2010 and 2011 relative to the BRFA increases of \$1,881,877 and \$2,013,608, respectively, due to the inclusion of timber sales revenue. In fiscal 2012 and beyond, the increases reflect an approximately 7% annual increase in non-timber sales revenue (PILOT – Park) and no increase in the timber sales revenue (PILOT – Forests).

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$0.4)	(\$0.4)	(\$2.6)	(\$2.7)	(\$2.9)

Background/Recent History: The Forest or Park Reserve Fund is administered by DNR and is used to purchase and manage State lands suitable for forest culture, reserves, watershed protection, State parks, scenic preserves, historic monuments, parkways, and State recreational reserves. The fund, which generally consists of revenues derived from State forests and park fees, may only be used for purchasing and managing those lands; certain annual payments to counties; and specific administrative costs. Park fee revenues are extremely weather dependent. The allocation to counties with State forest or park reserve comprising less than 10% of the total land area in the county is 15% of the timber and non-timber revenue derived from the State

forest or park reserve located in that county. The allocation to counties with State forest or park reserve comprising 10% or more of the total land area in the county is 25% of the timber and non-timber revenue derived from the State forest or park reserve located in that county.

The actual and estimated payments to counties from the Forest or Park Reserve Fund in fiscal 2007 through 2014 are shown below. Both PILOT – Park and PILOT – Forests revenue sharing payments are affected by this proposed change to the BRFA.

Forest or Park Reserve Fund – PILOT Payments to Counties
(\$ in Millions)

<u>Fiscal Year</u>	<u>PILOT – Park</u>	<u>PILOT – Forests</u>	<u>Total Payment</u>
2007	\$1,582,294	\$574,659	\$2,156,953
2008	1,675,338	462,128	2,137,466
2009 (estimate)	1,770,106	401,333	2,171,439
2010 (estimate)	1,881,676	401,333	2,283,009
2011 (estimate)	2,013,608	401,333	2,414,941
2012 (estimate)	2,154,331	401,333	2,555,664
2013 (estimate)	2,305,134	401,333	2,706,467
2014 (estimate)	2,466,494	401,333	2,867,827

State Effect: The proposed change would increase the special fund revenue allowed to be used by the Maryland Park Service as long as a special fund budget amendment is authorized to be processed of the same amount from SF savings in Maryland Park Service’s Statewide Operation and Revenue Operations in order to replace the GF amount reduced.

Local Effect: Local jurisdiction revenues from Forest or Park Reserve Fund PILOT payments decrease by an estimated \$2.3 million in fiscal 2010, \$2.4 million in fiscal 2011, \$2.6 million in fiscal 2012, \$2.7 million in fiscal 2013, and \$2.9 million in fiscal 2014.

Proposed Amendment to HB 101/SB 166

Program: Circuit Court Law Clerks

Provision as Recommended by DLS: Shift the cost of circuit court law clerks’ salaries and benefits to local jurisdictions.

Agency: Judiciary

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$8.2)	(\$8.5)	(\$8.9)	(\$9.3)	(\$9.7)

Background/Recent History: Historically, circuit court law clerks were employed by the local jurisdictions. Chapter 677 of 2001 alleviated the locals of this responsibility by deeming law clerks State employees. The Budget Reconciliation and Financing Act (BRFA) of 2003 later amended the statute requiring the counties and Baltimore City to share in the cost by contributing 25% of the salaries and expenses the State assumed for those positions. Finally, Chapter 366 of 2006 returned full responsibility for the law clerk salaries to the State

State Effect: The Governor’s fiscal 2010 allowance includes 153.0 positions for circuit court law clerks with a corresponding budget of \$8.2 million in general funds for salaries and benefits. This provision would eliminate the full cost, saving the State \$8.2 million in fiscal 2010 and eliminating the ongoing cost.

Local Effect: The local jurisdictions would assume the salary and benefit costs of circuit court law clerks as follows (note this includes salaries only and not benefits):

<u>Jurisdiction</u>	<u>Positions</u>	<u>Estimated Salaries</u>
Allegany	2.0	\$80,693
Anne Arundel	11.0	443,811
Baltimore City	32.0	1,291,087
Baltimore County	17.0	685,890
Calvert	2.0	80,693
Caroline	1.0	40,346
Carroll	3.0	121,039
Cecil	3.0	121,039
Charles	4.0	161,386
Dorchester	1.0	40,346
Frederick	4.0	161,386
Garrett	1.0	40,346
Harford	5.0	201,732

<u>Jurisdiction</u>	<u>Positions</u>	<u>Estimated Salaries</u>
Howard	5.0	201,732
Kent	1.0	40,346
Montgomery	21.0	847,276
Prince George's	23.0	927,969
Queen Anne's	1.0	40,346
St. Mary's	3.0	121,039
Somerset	1.0	40,346
Talbot	1.0	40,346
Washington	5.0	201,732
Wicomico	3.0	121,039
Worcester	3.0	121,039
Total	153.0	\$6,173,010

Proposed Amendment to HB 101/SB 166

Program: Off-grounds Somatic Care for State-run Psychiatric Facility Clients Transferred from Local Correctional Facilities

Provision as Recommended by DLS: Establish cost-sharing for off-grounds somatic care for any individual client in a State-run psychiatric hospital transferred to that hospital from a local correctional facility. Specifically, cost-sharing would occur for all costs over \$25,000 for any one individual during the course of their hospitalization. This action is intended to limit instances when individuals are transferred from local correctional facilities to State-run psychiatric hospitals only at the point when significant medical interventions are needed. Currently, all of these costs are borne by the State.

Agency: DHMH – Mental Hygiene Administration

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law: The impact would be a small reduction in general fund expenditures and an increase in special fund revenue from local jurisdictions. Precise dollar amounts are unknown but less than \$1 million.

Background/Recent History: Under current law, while there is cost-sharing of medical costs for inmates in local correctional facilities, there is no cost-sharing provision if an individual from a local correctional facility is transferred to a State-run psychiatric hospital.

State Effect: Small potential reduction in general fund expenditures

Local Effect: Small potential increase in local expenditures.

Proposed Amendment to HB 101/SB 166

Program: Disparity Grants

Provision as Recommended by DLS: Delete funding for disparity grants due to the fiscal condition of the State. DLS recommends modifying the program to redistribute local income tax revenues, based on the prorated share of the adjusted local income tax revenues of jurisdictions in an amount equal to the 2010 grant.

Agency: Payments to Civil Divisions of the State

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$121.4)	(\$127.5)	(\$133.9)	(\$140.6)	(\$147.6)

Background/Recent History: Disparity grants address the difference in the abilities of counties to raise revenues from the local income tax, which for most counties is one of their larger revenue sources. Counties with per capita income tax revenues less than 75.0% of the statewide average receive grants, unless a county has an income tax rate below 2.4%. Aid received by a county equals the dollar amount necessary to raise the county’s per capita income tax revenues to 75.0% of the statewide average. In fiscal 2010, Baltimore City and seven counties (Allegany, Caroline, Dorchester, Garrett, Prince George’s, Somerset, and Wicomico) qualify for grants. The fiscal 2010 grant under statute is based on population estimates for July 2007 and calendar 2007 local income tax revenues raised from a 2.54% local income tax rate. A county may not receive this grant if the tax rate in that county is less than 2.4%.

State Effect: If repealed, the State would be relieved of an annual general fund mandate of \$121.4 million beginning in fiscal 2010, growing to an estimated savings of \$147.6 million by fiscal 2014. Out year estimates are based on the assumption of 5% annual growth.

Local Effect: Eight jurisdictions currently receive disparity grants, which increase their local income tax revenue to 75% of the statewide average. If the program is restructured so as to fund the program from the local income tax, all 24 jurisdictions would contribute funding totaling \$121.4 million in fiscal 2010 and the 8 recipient jurisdictions would receive the same grant amount, albeit adjusted for their contribution. The net effect by jurisdiction is shown below.

**Disparity Grant Calculations if Funded with Local Income Taxes
Fiscal 2010**

<u>County</u>	<u>FY 2010 Pro-rated Disparity Grant</u>	<u>FY 2010 Disparity Grant</u>	<u>Net Effect</u>
Allegany	-\$875,760	\$7,298,505	\$6,422,744
Anne Arundel	-13,068,250	0	-13,068,250
Baltimore City	-7,072,975	79,051,790	71,978,815
Baltimore	-18,074,189	0	-18,074,189
Calvert	-2,007,966	0	-2,007,966
Caroline	-445,565	2,131,782	1,686,218
Carroll	-3,820,703	0	-3,820,703
Cecil	-1,735,945	0	-1,735,945
Charles	-2,719,556	0	-2,719,556
Dorchester	-432,816	2,022,690	1,589,874
Frederick	-5,303,134	0	-5,303,134
Garrett	-392,366	2,131,271	1,738,905
Harford	-5,213,557	0	-5,213,557
Howard	-8,616,193	0	-8,616,193
Kent	-376,244	0	-376,244
Montgomery	-29,686,841	0	-29,686,841
Prince George's	-12,540,074	21,694,767	9,154,693
Queen Anne's	-1,071,020	0	-1,071,020
St. Mary's	-1,988,613	0	-1,988,613
Somerset	-219,293	4,908,167	4,688,874
Talbot	-1,006,211	0	-1,006,211
Washington	-2,371,501	0	-2,371,501
Wicomico	-1,426,697	2,197,041	770,343
Worcester	-970,544	0	-970,544
Total	-121,436,013	121,436,013	\$0

Proposed Amendment to HB 101/SB 166

Program: Retirement Contributions for Certain Local Employees

Provision as Recommended by DLS: Delete funding for retirement costs for certain local officials. Current fiscal conditions require the State to fund its obligations, whereas local obligations such as retirement for local employees ought to be funded by the local jurisdictions.

Agency: Payments to Civil Divisions of the State

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$2.5)	(\$2.7)	(\$2.9)	(\$3.2)	(\$3.5)

Background/Recent History: Under State law, appointed or elected officials of the State are eligible to be members of the State employees’ retirement systems. The statute specifies that this provision applies to State’s Attorneys and sheriffs. Over the years, judicial decisions and Attorney General opinions have interpreted these provisions to include County Treasurers, County Commissioners, Orphans’ Court Judges, Bingo Board members, and Liquor and License Board members.

State Effect: If repealed, the State would be relieved of an annual general fund mandate of \$2.5 million beginning in fiscal 2010, growing to an estimated savings of \$3.5 million by fiscal 2014. Out-year growth is based on roughly 9% annual growth in the program based on current assumptions of salary growth and projected increases in retirement contribution rates for each plan.

Local Effect: Seventeen jurisdictions currently participate in the program with 206 employees. About 88% of funds are granted to Baltimore City, which has 162 participating employees. The loss of funds in fiscal 2010 by jurisdiction is shown below.

**Retirement Contributions for Certain Local Employees
FY 2010**

<u>County</u>	<u>Allocation of State Aid</u>
Allegany	\$17,040
Anne Arundel	39,265
Baltimore City	2,171,743
Baltimore	28,734
Caroline	10,665
Carroll	45,587
Cecil	20,260
Dorchester	10,288
Garrett	11,451
Howard	23,214
Montgomery	13,523
Prince George's	13,147
Queen Anne's	13,459
St. Mary's	11,173
Talbot	18,679
Wicomico	11,574
Worcester	14,502
Total	\$2,474,304

Proposed Amendment to HB 101/SB 166

Program: Miscellaneous Grants

Provision as Recommended by DLS: Delete the grant to Baltimore City in recognition of the State’s fiscal condition, relieving the State of a mandated appropriation.

Agency: Payments to Civil Divisions of the State

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law:
(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$3.1)	(\$3.1)	(\$3.1)	(\$3.1)	(\$3.1)

Background/Recent History: Chapter 6 of the 2007 special session established a new mandated general fund grant of \$3,075,000 for Baltimore City, replacing an existing grant program that was based on a share of security interest filing fee revenue. Since fiscal 1998, Baltimore City has received a grant equal to \$5 of each security interest filing fee collected by the Motor Vehicle Administration pursuant to Chapter 163 of 1996 that revised the allocation of highway user revenues between Baltimore City and the other subdivisions.

State Effect: If repealed, the State would be relieved of an annual general fund mandate of \$3,075,000 beginning in fiscal 2010.

Local Effect: If repealed, Baltimore City would no longer receive \$3,075,000 in State aid.

Proposed Amendment to HB 101/SB 166

Program: Changing Sales Tax Distribution to the Transportation Trust Fund and Local Share of Highway User Revenues

Provision as Recommended by DLS: Under current law, 5.3% of sales tax receipts are distributed to the Transportation Trust Fund through fiscal 2013, with the distribution increasing to 6.5% in fiscal 2014. To relieve pressure on the general fund, this recommendation would lower the distribution to 3.25% permanently, beginning in fiscal 2010. To offset the loss of revenue to the Maryland Department of Transportation (MDOT), the local share of Highway User Revenues (HUR) would be reduced from 30 to 25%, and Baltimore City’s share would be set at 40% of the total local HUR share, the equivalent of its share in fiscal 2010.

Agency: Maryland Department of Transportation

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law: By reducing the sales tax distribution to transportation permanently, the general fund will gain approximately \$83.0 million in fiscal 2010. The amount to the general fund in fiscal 2014 increases because under current law the distribution increases to 6.5%. MDOT’s special fund revenues would decrease by a net of \$2.8 million in fiscal 2010. The revenue loss is minimized because the local distribution of HUR has been adjusted to 25.0%, providing more revenue to MDOT. The local loss of revenue in fiscal 2010 is \$80.0 million.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Rev		\$82.8	\$89.2	\$95.3	\$100.7	\$167.9
SF Rev		(\$82.8)	(\$89.2)	(\$95.3)	(\$100.7)	(\$167.9)
SF Local		(\$80.0)	(\$85.6)	(\$89.9)	(\$94.3)	(\$97.0)
SF MDOT		(\$2.8)	(\$3.6)	(\$5.4)	(\$6.4)	(\$70.9)

Background/Recent History: Chapter 6 of the 2007 special session dedicated 6.5% of the sales tax for transportation uses solely for MDOT. Chapter 10 of 2008 lowered the distribution rate from 6.5 to 5.3% through fiscal 2013 as part of the repeal of the computer services sales tax. Beginning in fiscal 2014, the distribution was to return to 6.5%.

Under current law, local counties and municipalities receive 30% of specified transportation revenues to support the construction and maintenance of local roads, otherwise known as Highway User Revenues. In fiscal 2010, it is estimated that the local share of HUR will be \$480 million.

State Effect: General funds will increase approximately \$83 million while transportation special fund revenues will decrease approximately \$83 million. Funds retained by MDOT for its expenditures will decline slightly from current levels.

Local Effect: Local jurisdictions share of HUR will decrease by \$80 million due to the change in the distribution of HUR in fiscal 2010, as shown.

**Local Highway User Revenues
Fiscal 2010**

County	Road Mileage Jan 1, 2008	Vehicle Registration Dec 1, 2007	Proposed Action	FY 2010 Allowance	Difference	Percent Difference
Allegany	725.94	63,369	\$5,329,155	\$6,394,986	-\$1,065,831	-16.7%
Anne Arundel	1,831.33	527,091	23,264,340	27,917,208	-4,652,868	-16.7%
Baltimore City	0.00	0	161,318,334	193,582,000	-32,263,666	-16.7%
Baltimore	2,640.81	675,824	31,294,526	37,553,431	-6,258,905	-16.7%
Calvert	548.12	90,753	5,171,201	6,205,441	-1,034,240	-16.7%
Caroline	539.29	37,442	3,701,348	4,441,617	-740,269	-16.7%
Carroll	1,143.41	176,716	10,450,425	12,540,510	-2,090,085	-16.7%
Cecil	661.67	92,683	5,791,324	6,949,589	-1,158,265	-16.7%
Charles	763.54	137,519	7,500,336	9,000,403	-1,500,067	-16.7%
Dorchester	645.06	32,265	4,092,444	4,910,933	-818,489	-16.7%
Frederick	1,557.36	223,914	13,785,104	16,542,125	-2,757,021	-16.7%
Garrett	746.23	33,573	4,633,977	5,560,772	-926,795	-16.7%
Harford	1,170.02	234,782	12,136,460	14,563,752	-2,427,292	-16.7%
Howard	986.87	246,112	11,522,451	13,826,941	-2,304,490	-16.7%
Kent	302.89	21,071	2,079,945	2,495,934	-415,989	-16.7%
Montgomery	2,631.19	729,670	32,686,323	39,223,587	-6,537,264	-16.7%
Prince George's	2,304.65	633,364	28,476,016	34,171,219	-5,695,203	-16.7%
Queen Anne's	566.34	54,130	4,283,032	5,139,638	-856,606	-16.7%
St. Mary's	612.21	100,678	5,757,464	6,908,957	-1,151,493	-16.7%
Somerset	380.96	21,131	2,472,458	2,966,950	-494,492	-16.7%
Talbot	454.04	42,459	3,408,653	4,090,384	-681,731	-16.7%
Washington	1,036.41	137,531	8,866,833	10,640,199	-1,773,366	-16.7%
Wicomico	887.56	92,269	6,911,179	8,293,415	-1,382,236	-16.7%
Worcester	701.47	58,574	5,078,423	6,094,108	-1,015,685	-16.7%
Total	23,837.35	4,462,920	\$400,011,752	\$480,014,099	-\$80,002,348	-16.7%

Proposed Amendment to HB 101/SB 166

Program: Natural Resources – Fisheries Research and Development Fund

Provision as Recommended by DLS: Repeal a mandated, annual general fund appropriation of \$1,794,000 to the Fisheries Research and Development Fund. This action would involve amending Natural Resources Article §4-209(k) and is a prudent cost-saving measure.

Agency: Department of Natural Resources – Fisheries Service

Type of Action: Mandate Relief

Fiscal Impact of DLS Recommendation vs. Current Law: The action would reduce mandated general fund expenditures for the Fisheries Research and Development Fund by \$1,794,000 annually starting in fiscal 2010. As required, the full mandated amount is included in the proposed fiscal 2010 State budget. The proposed reduction would leave a \$1.6 million Fisheries Research and Development Fund balance at the end of fiscal 2010.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$1.8)	(\$1.8)	(\$1.8)	(\$1.8)	(\$1.8)

Background/Recent History: Chapter 6 of the 2007 special session (Transportation and State Investment Act) eliminated the allocation of motor fuel tax special fund revenue to the Fisheries Research and Development Fund and required the inclusion of at least \$1.8 million in general funds each year for the fund.

Chapter 217 of 2007 (Natural Resources – Fishery Management Reform Act) made the following changes: (1) increased the license fees for resident and nonresident non-tidal angler’s licenses and sport fishing licenses; (2) authorized the inclusion of general fund appropriations for the State Fisheries Management and Protection Fund and Fisheries Research and Development Fund; and (3) established the Task Force on Fishery Management with a report due on December 1, 2008, reviewing current fishery management processes and recommending methods to improve, modernize, and streamline fishery management.

The Department of Natural Resources (DNR) notes that it received \$1.4 million in fiscal 2008 from the license fee increase established by Chapter 217 of 2007, which is lower than the original \$2.3 million estimate. The Fisheries Management and Protection Fund (inland fisheries) received an increase of \$923,000 and the Fisheries Research and Development Fund received \$448,000 in fiscal 2008 from the license fee increase. DNR has assumed that this revenue will be available in fiscal 2009 as well and is added to \$750,000 in general funds from the Administration for \$2.1 million in Fisheries Service planned spending in fiscal 2009. The license fee revenue increase will sunset at the end of fiscal 2010 at which point a new negotiation about the license fee amounts will need to be initiated.

State Effect: Mandated general fund expenditures for the Fisheries Research and Development Fund decrease by \$1.8 million annually starting in fiscal 2010. DNR notes that reducing the \$1.8 million general fund appropriation to the Fisheries Research and Development Fund potentially would jeopardize the ability to re-negotiate an extension of the license fee increase and thus compromise the Fisheries Service's ability to manage Maryland's fisheries.

Local Effect: Local jurisdictions would be impacted to the degree that funding for replenishment of fisheries resources and related research is not available.

Proposed Amendment to HB 101/SB 166

Program: Maryland Trauma Physician Services Fund

Provision as Recommended by DLS: The State should (1) authorize the transfer of the biennial motor vehicle surcharge (\$5.00) collected for purposes of the Maryland Trauma Physician Services Fund (MTPSF) to the Maryland Emergency Medical System Operations Fund (MEMSOF); and (2) expand the permissible uses of MEMSOF to include uncompensated care provided by a trauma physician. This action will not only provide greater flexibility regarding the allocation of emergency services funding, but will also provide greater transparency regarding the nature of emergency trauma services funding in Maryland.

Agency: The Maryland Trauma Physician Fund/Maryland Emergency Medical System Operations Fund

Type of Action: Good Government

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

State Effect: The consolidation of the Maryland Trauma Physicians Fund into the MEMSOF would have a net impact of zero dollars. The Budget Reconciliation and Financing Act of 2009 authorizes the transfer of \$17.0 million from the MTPSF to the general fund in fiscal 2009. Subsequent to the transfer, the remaining balance will be \$3.7 million.

Local Effect: None.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Maryland Department of Transportation Special Fund PAYGO Transfers

Provision as Recommended by DLS: The Department of Legislative Services recommends that 7-210(b) of the State Finance and Procurement Article be amended to prohibit the transfer of special fund pay-as-you-go (PAYGO) funds to the operating budget by budget amendment. The Maryland Department of Transportation (MDOT) currently can process a budget amendment to transfer special funds between its operating and PAYGO capital budgets. Currently, PAYGO general funds cannot be transferred to the operating budget under statute; this recommendation would extend this prohibition to special funds.

Agency: Maryland Department of Transportation

Type of Action: Good Government

Background/Recent History: In closing out the fiscal 2008 Maryland Transit Administration's (MTA) operating budget, funds were transferred from the Motor Vehicle Administration's PAYGO capital budget to provide additional funding to close out the fiscal year. In addition, in fiscal 2009 and 2010, MTA intends to transfer funds from its PAYGO budget to the operating budget to provide additional funding totaling \$19 million and \$17 million, respectively. Following are the issues associated with transfers from the PAYGO to operating budget:

- ***Lack of Legislative Oversight:*** By transferring funds by budget amendment, the budget committees are not afforded the opportunity to evaluate what impact the increased level of spending will have on the operating budget.
- ***Impacts the Financial Forecast:*** To maintain as much of the capital program as possible in the short-term, MDOT has moved below the administrative level for its coverage ratios and is close to 2.0 times level agreed upon with bond holders. By increasing the level of operating budget spending, MDOT is moving closer to falling below the 2.0 level.
- ***Circumvents the Spending Affordability Committee's Calculation:*** By not fully accounting for its entire operating budget spending during the legislative process, MDOT is circumventing the Spending Affordability process.

State Effect: None.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Maryland Department of Transportation Reporting Requirement

Provision as Recommended by DLS: The Department of Legislative Services recommends that statute be amended to reflect annual budget bill language that requires the Maryland Department of Transportation to submit a report with the draft and final financial forecast on the level of non-traditional debt service and debt outstanding.

Agency: Maryland Department of Transportation

Type of Action: Good Government

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

Background/Recent History: This recommendation would codify existing practice. Each year annual budget bill language is added to the Debt Service Requirements appropriation requiring the department to submit a report with the draft and final *Consolidated Transportation Program* that outlines the level of non-traditional debt outstanding and debt service for the current year and the following ten fiscal years.

State Effect: None.

Local Effect: None.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Motor Vehicle Administration Cost Recovery Requirement

Provision as Recommended by DLS: The Department of Legislative Services recommends that the Vehicle Emissions Inspection Program (VEIP) be included as part of the Motor Vehicle Administration's (MVA) cost recovery requirement. In addition, the statutory \$14 VEIP fee should be stricken from statute and set through regulation similar to other MVA miscellaneous fees. Finally, VEIP late fees should be considered a miscellaneous MVA fee instead of a Transportation Trust Fund Revenue.

Agency: Motor Vehicle Administration

Type of Action: Other

Fiscal Impact of DLS Recommendation vs. Current Law: Under current law the VEIP fee is collected and retained by the VEIP vendor. The recommendation would require the VEIP fee revenue to be recognized as a miscellaneous MVA fee. Therefore, there is no real fiscal impact; this action would bring into the budget revenue and spending that is already occurring.

Background/Recent History: MVA is required under statute to recover 95 to 100% of its operating and capital expenditures through the miscellaneous fees it assesses. The fees that it assesses are evaluated each fiscal year and set in statute. Currently, VEIP revenues and expenditures are not considered part of the statutory cost recovery calculation. Furthermore, the cost and revenues associated with VEIP are not included in the MVA budget or as a miscellaneous MVA fee.

A new VEIP contract has been negotiated that will result in significant savings. As a result, the statutory VEIP fee will be too high relative to expenditures in the short-term. In addition, the VEIP fee is the only MVA fee that is defined in statute. To provide greater legislative oversight of the program, the Department of Legislative Services recommends that the VEIP program, revenues and expenditures, be counted as part of MVA's statutory cost recovery calculation.

State Effect: Potential reduction in miscellaneous MVA fees.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Amend the Statutory Definition of Public Private Partnerships

Provision as Recommended by DLS: Revise Section 4-205 of the Transportation Article to alter the definition of a public-private partnership (P3) to include a port or airport facility or any facility owned by the Maryland Transportation Authority (MDTA) and to change references in the Section from “procurement” to “solicitation” to more accurately reflect P3 deals.

Agency: Maryland Department of Transportation and Maryland Transportation Authority

Type of Action: Good Government

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

Background/Recent History: Current statute defines a P3 as a lease agreement between the Maryland Transportation Authority and a private entity under which the private entity assumes control of the operation and maintenance of an existing or future revenue-producing highway, bridge, tunnel, or transit facility. This definition excludes port and airport facilities as well as other facilities owned by MDTA. MDTA is currently preparing a solicitation for a P3 redevelopment of its travel plazas along I-95. Under the current definition, this P3 would not require any legislative notice.

State Effect: None.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Amend the Statutory Definition of Major Capital Projects

Provision as Recommended by DLS: Revise Section 2-301 of the Transportation Article to alter the definition of a major capital project to include any project with a total cost greater than \$10 million. Only a minimal amount of information is currently provided about minor capital projects; however, these projects sometimes have a significant cost attached to them. This action would provide greater legislative oversight of projects with a cost greater than \$10 million.

Agency: Maryland Department of Transportation and Maryland Transportation Authority

Type of Action: Good Government

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

Background/Recent History: Current statute defines a major capital project as a project for a new, expanded, or significantly improved facility or service. Minor capital projects are defined as projects involving the preservation or rehabilitation of an existing facility or service and generally not requiring an environmental impact assessment. The level of detail provided for major capital projects in the *Consolidated Transportation Program (CTP)* is much greater than that for minor capital projects. For major capital projects, a full page is provided for each project showing a description; justification; status; significant change from the previous year's CTP; funding by year for the current year, budget year, and four successive planning years; and funding source for the project. For minor projects, only a one line description of the project and funding for the current year and budget year is provided.

State Effect: None.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Natural Resources – Program Open Space Contingency Fund

Provision as Recommended by DLS: Increase the Program Open Space Contingency Fund cap from \$250,000 to \$1,000,000 by amending Natural Resources Article § 5-903.1 (c).

Agency: Department of Natural Resources (DNR)

Type of Action: Good government

Fiscal Impact vs. Current Law: This action would increase the amount that can be budgeted in the Program Open Space Contingency Fund. There would be no fiscal impact because this change would just change how unencumbered funding is reflected. Currently, any funding for a project that is not needed is reflected off-budget if the POS Contingency Fund is at the \$250,000 cap. By increasing the POS Contingency Fund cap the unencumbered funds would be reflected in the budget and, therefore, unencumbered funding would be more easily recognized as being available for re-allocation to other projects. There would be no net fiscal impact relative to current law.

Background/Recent History: Chapter 73 of 1998 established a Program Open Space Contingency Fund within DNR. The amount of the fund cannot exceed \$250,000. The fund was intended to supplement an existing appropriation for a capital project and to undertake critical maintenance projects. DNR may request the Board of Public Works (BPW) to authorize an expenditure from the fund if (1) all reasonable attempts to reduce the cost of the capital project have been made; (2) no practical alternative exists for securing funding to complete the capital or critical maintenance project; and (3) the requested funding does not increase the scope of the capital project. DNR must provide written notice to the budget committees on the planned use of the funds prior to seeking approval from BPW and DNR must report annually to the General Assembly on the use of the fund.

House Bill 1415 (Natural Resources – Program Open Space Contingency Fund) is a departmental bill that has been introduced in the 2009 legislative session. The bill would increase the Program Open Space Contingency Fund to \$750,000.

DNR submitted the required Program Open Space Contingency Fund report on February 2, 2009. The report reflects the use of \$156,172 for the Somerset Forest Office Construction project and \$150,109 for the completion of the Sassafra Natural Resources Management Area entrance road. In addition, the report notes that funds were transferred into the Program Open Space Contingency Fund leaving the Fund with a balance of \$207,287 as of August 28, 2008.

State Effect: The recommended action provides additional construction reserve for capital projects that might not otherwise be completed.

Local Effect: No effect.

Subcommittee Assignments: T&E/PSTE

DLS-14

Proposed Amendment to HB 101/SB 166

Program: Nurse Support II Program (NSP II)

Provision as Recommended by DLS: The Department of Legislative Services recommends that administration of NSP II be transferred to the State Board of Nursing.

Agency: Maryland Higher Education Commission (MHEC); Maryland Department of Health and Mental Hygiene

Type of Action: Good Government

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

Background/Recent History: In the first two rounds of competitive institutional NSP II grants, a small proportion of the proposals received were funded. In the third round, only four proposals were received, three of which were funded. As a result of the decline in proposals and a tendency to award conservatively in prior rounds to ensure funding for multi-year proposals, MHEC has not been able to adequately spend down the NSP II fund balance to increase the number of nurses in Maryland. Effective February 1, 2009, the Maryland Health Services Cost Review Commission suspended the 0.1% hospital assessment supporting the program, to allow MHEC to spend down the fund balance. At the end of fiscal 2009, NSP II is expected to have a \$26.8 million fund balance. The Board of Nursing is keenly aware of the shortage of nurses and nursing faculty and would be focused on this particular workforce shortage.

State Effect: No fiscal impact.

Proposed Amendment to HB 101/SB 166

Program: Merge Office of the Deaf and Hard of Hearing

Provision as Recommended by DLS: Merge the Office of the Deaf and Hard of Hearing into the Department of Disabilities to streamline provision of services.

Agency: Office of the Deaf and Hard of Hearing; Department of Disabilities

Type of Action: Good Government

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

Background/Recent History: In December 2003, the report of the commission on the Structure and Efficiency of State Government included a recommendation to consolidate the Office of the Deaf and Hard of Hearing (ODHH) into the Governor's Office for Individuals with Disabilities which it recommended to be raised to a cabinet level agency. Although the Governor's Office for Individuals with Disabilities was raised to a cabinet level agency, ODHH was not merged into the department. ODHH currently has two authorized regular positions, one of which is currently vacant. ODHH also has one full-time-equivalent contractual position, currently comprised of one 0.8 administrative assistant position and a 0.2 special projects coordinator. Section 23 of the budget bill would reduce the contractual services payroll, and potentially reduce capacity in some of the areas served by the contractual positions. ODHH and the Department of Disabilities currently co-locate, which ODHH reports has led to shared costs in certain operating expenses including rent, utilities, printing, and communications. Although no additional savings are expected with a merger, a combined organization may be better suited to maintain constituent services as budgets are constrained.

Proposed Amendment to HB 101/SB 166

Program: Maryland Renewable Energy Fund – Audit Requirements

Provision as Recommended by DLS: Strike an uncodified provision of Chapter 487 of 2004 which requires an audit of the Maryland Renewable Energy Fund, which has been repealed.

Agency: Maryland Energy Administration

Type of Action: Good Government

Background/Recent History: Chapter 487 of 2004 created the Maryland Renewable Energy Fund (MREF), and Section 6 of that Act required an annual audit by the Office of Legislative Audits on the amounts, uses, and administrative expenses of the fund. Chapter 127 of 2008 repealed the Maryland Renewable Energy Fund and created the Strategic Energy Investment Fund (SEIF). Section 2 of the Act names SEIF as successor to the MREF, and funds remaining in the MREF on June 1, 2008, are transferred to SEIF. This technical amendment would remove an out-dated provision.

Proposed Amendment to HB 101/SB 166

Program: Electric Universal Service Program – Audit Requirements

Provision as Recommended by DLS: Amend the legislative audit requirements of the Electric Universal Service Program (EUSP) to replace “performance audit” with “audit” and clarify the frequency.

Agency: Department of Human Resources (DHR)

Type of Action: Good Government

Background/Recent History: Currently, statute calls for a performance audit of the EUSP by the Office of Legislative Audits (OLA) and as such it is not evaluated as part of the periodic fiscal compliance audits of DHR. OLA advises that the nature of the EUSP activities does not support the need for a separate performance audit. Clarifying the language (*i.e.*, striking the word “performance”) would allow EUSP to be included in the scope of the periodic fiscal compliance audits of the applicable unit of DHR (presently, the Family Investment Administration). The frequency of the audit should also reflect OLA’s normal three-year audit cycle. This amendment would allow OLA to continue auditing EUSP within the scope of a regular fiscal compliance audit of DHR, which would increase audit efficiency without sacrificing audit coverage.

Proposed Amendment to HB 101/SB 166

Program: School Facilities Assessment Survey

Provision as Recommended by DLS: Require the Maryland State Department of Education (MSDE) and the local school systems to conduct the School Facility Assessment Survey every four years regardless of State funds specifically designated for that purpose.

Agency: MSDE/Interagency Committee on School Construction

Type of Action: Good Government

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$1.4)	(\$1.4)	(\$1.4)	(\$1.4)	(\$1.4)

Background/Recent History: The Public Schools Facilities Act of 2004 (Chapters 306 and 307 of 2004) requires MSDE to conduct periodic surveys of the condition of public school facilities in Maryland, at least every four years. The surveys must be similar to the Facility Assessment Survey that MSDE conducted at the direction of the Task Force to Study Public School Facilities in 2003. Current law requires the State to provide the funds necessary to conduct the survey, however, since the passage of the Public School Facilities Act of 2004, no funds have been appropriated for the surveys, and no surveys have been conducted.

MSDE estimates that the cost to survey one-quarter of school facilities in fiscal 2010 would be \$1.4 million. The agency believes these funds are necessary to provide technical support to the local school systems, which ultimately bear the responsibility of completing the surveys. However; MSDE conducted the original survey, including developing survey criteria, for the task force in 2003 within existing resources. Local school systems also completed the self-reported surveys within existing resources. Updating the survey could be done within current resources allocated to MSDE and the local school systems through the Bridge to Excellence in Public Schools funding formulas.

State Effect: \$1.4 million annual reduction in mandated State spending.

Local Effect: The State would have benefit of the survey results at no additional cost.

Proposed Amendment to HB 101/SB 166

Program: Capital Debt Affordability Committee

Provision as Recommended by DLS: Repeal requirement that the Capital Debt Affordability (CDAC) recommend the amount of general obligation (GO) bond debt supporting public school construction

Type of Action: Good Government

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

Background/Recent History: Section 11 of the Public School Facilities Act of 2004 directs CDAC to review school construction funding needs and make specific recommendations regarding additional funding for school construction when recommending the State's annual debt limit and GO bond authorization level. Concerns about the requirement are that:

- the distribution of GF bond authorization has historically been the responsibility of the Governor and General Assembly;
- the committee does not set spending limits for other capital programs; and
- factors influencing project costs (such as inflation) affect all capital programs and projects

Proposed Amendment to HB 101/SB 166

Program: Amend the State Medicaid Plan to Include Certain Evidence-Based Practices

Provision as Recommended by DLS: Require the Medical Care Programs Administration to apply to the federal Centers for Medicare and Medicaid Services to amend the State Medicaid Plan to make certain Evidence-Based Practices (EBPs) eligible for federal fund participation. Maryland is increasingly making use of a variety of evidence-based practices serving troubled youth and their families (for example, Multi-Systemic Therapy and Family Functional Therapy). These EBP slots are funded in a variety of State agencies. Numerous other states have sought, and received, federal approval to obtain Medicaid reimbursement for these services.

Agency: Department of Juvenile Services; Subcabinet Fund; DHR

Type of Action: Revenue Maximization

Fiscal Impact of DLS Recommendation vs. Current Law: Potentially significant federal fund attainment. For example, the Department of Juvenile Services alone has \$5.2 million for EBPs in its fiscal 2010 budget.

Background/Recent History: Although it is generally acknowledged that the State should be seeking federal fund reimbursement for these EBPs, there was a reluctance to move ahead with the necessary State Plan amendment under the prior federal administration.

State Effect: Potentially significant reduction in general fund expenditures.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Department of Juvenile Services Federal Title IV-E Attainment

Provision as Recommended by DLS: Amend statute to clarify that the Department of Human Resources (DHR) may supervise the Department of Juvenile Services' (DJS) determination of IV-E eligibility and claims. The federal Department of Health and Human Services has concluded that current State law precludes DHR supervision of DJS' IV-E activities. Thus, Maryland is operating two separate IV-E programs which is prohibited by federal rules. Federal fund reimbursement under the program has been disallowed since the third quarter of fiscal 2008.

Also add uncodified language requiring any federal fund IV-E recoveries from fiscal 2008 and 2009, for which general funds have been appropriated to support expenditures originally intended to be supported by those IV-E funds, be paid to the general fund.

Agency: Department of Juvenile Services

Type of Action: Revenue Maximization

Fiscal Impact of DLS Recommendation vs. Current Law: Without the change, DJS stands to have a deficit of \$2.2 million in fiscal 2008, \$5.0 million in fiscal 2009, and \$6.8 million in fiscal 2010.

Background/Recent History: Although IV-E attainment has been declining in recent years, it still represents a significant federal fund source for DJS.

State Effect: The change could reduce the need for deficiency appropriations of as much as \$14 million.

Further, general funds have already been used to back-fill for federal fund-supported salaries in fiscal 2008 and 2009. To the extent that federal claims are allowed, additional language would direct any recoveries of IV-E funds, for which general funds have been used to cover expenditures supported by those recovered IV-E funds, to be paid to the general fund. For example, \$2.8 million of DJS' proposed fiscal 2009 deficiency appropriation relates to this lack of federal fund attainment.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Program Open Space – Capital Projects Eligibility

Provision as Recommended by DLS: Incorporate the Maryland Historical Trust’s Jefferson Patterson Park and Museum and the Historic St. Mary’s City Commission into the category of eligible recipients of Program Open Space (POS) capital improvement funding by amending Natural Resources Article §5-903(g). The Maryland Historical Trust’s Jefferson Patterson Park and Museum and the Historic St. Mary’s City Commission have projects ready to proceed which require funding. For instance, in fiscal 2010, \$1.9 million is requested for the Riverside Interpretive Trails and Exhibit Stations project at Jefferson Patterson Park and Museum and \$0.8 million is requested for the Maryland Heritage Interpretive Center at Historic St. Mary’s City Commission. The inclusion of these two entities in the category of eligible recipients of POS capital improvements funding is consistent with the intent to provide recreation and open space opportunities on State land.

Agency: Department of Natural Resources

Type of Action: Use of Special Funds

Fiscal Impact of DLS Recommendation vs. Current Law: The net impact would be to reduce the need for general funds and general obligation bond authorizations for projects at the Jefferson Patterson Park and Museum and at the Historic St. Mary’s City Commission. As shown below, the average fiscal 2000-2009 spending was \$227,500 in general funds and \$1,560,300 in general obligation bonds and the total spending over the 10-year period was \$17.9 million.

Historic St. Mary’s City Commission and Jefferson Patterson Park and Museum Capital Project Funding Fiscal 2000-2009

<u>Agency</u>	<u>Fund Type</u>	<u>Fiscal 2000-2009 Total</u>
Historic St. Mary’s City Commission	General Funds	\$2,275,000
	General Obligation Bonds	11,697,000
Jefferson Patterson Park and Museum	General Obligation bonds	3,906,000
	Total	\$17,878,000

Source: Department of Legislative Services

Background/Recent History: The State transfer tax of 0.5% on transfer of real property from one owner to another has been used to fund several programs in DNR and MDA. However, before any program-specific allocations are made, 3% of the transfer tax revenue is distributed to the agencies involved in POS for their administration of the program. Approximately 75% of the remaining transfer tax revenue has historically been allocated to POS, which has two components: a State share and a local share. Of the State share amount, up to 25% may be used for capital improvements on land owned by the State for the use of the Department if the improvements are (1) approved in the State budget and (2) compatible with any master plan developed for the land and the natural features of the land. In addition, up to \$1,200,000 of the State's share for capital improvements may be used to operate State forests and parks.

State Effect: General funds and general obligation bond funding for capital development projects at Historic St. Mary's City Commission and Jefferson Patterson Park and Museum would be supplemented or, perhaps, supplanted by the Program Open Space State share capital development project funding.

Local Effect: No effect because the funding would come out of the Program Open Space State share.

Proposed Amendment to HB 101/SB 166

Program: Central Collection Fund

Provision as Recommended by DLS: Under current law, excess funds accumulated in the Central Collection Fund (CCF) remain in the fund until they are transferred in an act of the General Assembly other than the budget bill. The amendment proposes that the CCF retain 10% of the upcoming year’s budget at the end of the fiscal year and that excess revenues be transferred to the general fund. The amendment provides that excess CCF revenues are consistently transferred to the general fund. Should there be an unanticipated decline in revenues or increase in expenditures, the Central Collection Unit would be required to submit a deficiency appropriation.

Agency: Department of Budget and Management (DBM)

Type of Action: Use of Special Funds

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Rev	\$0	\$0	\$19.5	\$7.2	\$7.4	\$7.6

Background/Recent History: This recommendation was proposed in 2008.

State Effect: The amendment provides that excess CCF revenues are consistently transferred to the general fund.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Environment – Allowed Use of State Used Tire Fund

Provision as Recommended by DLS: Authorize permanently the Maryland Department of the Environment’s (MDE) Waste Management Administration to use 50% of State Used Tire Cleanup and Recycling Fund revenue to fund operations by amending Environment Article §9-275(a).

Agency: Maryland Department of the Environment

Type of Action: Use of Special Funds

Fiscal Impact of DLS Recommendation vs. Current Law: The proposed action would reduce by approximately \$1.9 million the amount of general funds needed for operations in MDE’s Waste Management Administration. This action assumes that State Used Tire Cleanup and Recycling Fund revenue will continue to be approximately \$3.8 million annually as projected by MDE for fiscal 2009 and 2010. This action would be an additional action taken with the State Used Tire Cleanup and Recycling Fund since the Budget Reconciliation and Financing Act of 2009 proposes to transfer \$1.0 million from fund balance to the general fund. The existing proposed Budget Reconciliation and Financing Act of 2009 action is not reflected below.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp			(\$1.9)	(\$1.9)	(\$1.9)	(\$1.9)

Background/Recent History: The State Used Tire Cleanup and Recycling Fund provides funds for removal, restoration, inspection, and monitoring in response to illegal disposal or storage of scrap tires. The primary revenue to the fund is the recycling fee of \$0.80 on the first sale of a new tire in the State by a tire dealer and the fund balance is capped at \$10 million.

MDE has expressed concern about one of the revenue sources for the fund due to the enactment of Chapter 597 of 2005. Chapter 597 exempts owners of sites where scrap tires are found from cost recovery if the illegal tire activities occurred before July 1, 1989, the owner was not involved in the activities, and the owner obtained the site by inheritance prior to January 1, 2000. The sites meeting these requirements are not subject to cost recovery, which may increase future expenditures by MDE and reduce cost recovery revenue.

From fiscal 2007 to 2009, the opening fund balance for the State Used Tire Cleanup and Recycling Fund increased by 24.2% to \$13.1 million. The opening fund balance for fiscal 2010 is estimated to decline by 19.1% to \$10.6 million.

State Effect: The effect would be to reduce general fund expenditures in the Waste Management Administration by approximately \$1.9 million annually.

Local Effect: No effect except there may be fewer local tire cleanup projects if a larger proportion of the special funds is needed for administration.

Subcommittee Assignments: T&E/PSTE

DLS-25

Proposed Amendment to HB 101/SB 166

Program: Bay Restoration Fund – Septic Account Fund Balance Transfer

Provision as Recommended by DLS: Transfer \$5.0 million of the septic system upgrade portion of the Bay Restoration Fund Septic Account fund balance to the cover crop program portion of the Bay Restoration Fund Septic Account in order to allow for an increased fiscal 2010 appropriation for the cover crop program. This transfer would allow for an overall \$12.8 million cover crop program appropriation in fiscal 2010 as a result of partially backfilling a \$10.0 million reduction in cover crop program funding from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

Agency: Maryland Department of the Environment and Maryland Department of Agriculture

Type of Action: Fund Transfer

Fiscal Impact of DLS Recommendation vs. Current Law: The Bay Restoration Fund Septic Account component for septic system upgrades has an estimated fiscal 2010 closing balance of \$14.0 million. Therefore, \$5.0 million may be transferred to the cover crop program without impacting the amount of septic system upgrades scheduled to be performed in fiscal 2010.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
SF Exp		\$5.0				

Background/Recent History: Chapter 428 of 2004 established the Bay Restoration Fund to be administered by the Maryland Water Quality Financing Administration within the Maryland Department of the Environment. The main goal of the fund is to provide grants to owners of wastewater treatment plants to reduce nutrient pollution to the Chesapeake Bay. As a revenue source for the fund, the bill established a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks. Of the revenue collected from users of septic systems and sewage holding tanks, 60% is deposited into a separate account within the fund for upgrades of failing septic systems, while 40% is transferred to the Maryland Agricultural Water Quality Cost Share Program within the Maryland Department of Agriculture to provide financial assistance to farmers for cover crops.

State Effect: The transfer would allow for a \$12.8 million overall cover crop appropriation in fiscal 2010 based on \$1.9 million of remaining Chesapeake and Atlantic Coastal Bays 2010 Trust Fund special funds, \$5.0 million of Bay Restoration Fund Septic Account funding transferred from septic system upgrades and \$5.8 million in Bay Restoration Fund special funds. The fund balance for the septic system upgrade portion of the Bay Restoration Fund – Septic Account would have a closing fiscal 2010 balance of \$9.0 million after the \$5.0 million transfer.

Local Effect: No effect.

Subcommittee Assignments: T&E/PSTE

DLS-26

Proposed Amendment to HB 101/SB 166

Program: Maryland State Department of Education Expansion into the Department of Juvenile Services Facilities

Provision as Recommended by DLS: Extend the deadline for the Maryland State Department of Education (MSDE) to expand into the Department of Juvenile Services (DJS) facilities from fiscal 2012 to 2014. Due to the declining fiscal situation, no funds have been appropriated for this transfer since fiscal 2008.

Agency: MSDE Headquarters

Type of Action: Other

Background/Recent History: Chapter 535 of 2004 requires that MSDE assume responsibility for education at all DJS-operated facilities by 2012. MSDE is currently providing services in 5 of 14 DJS facilities: the J. DeWeese Carter Youth facility; the Victor Cullen Center; the Charles H. Hickey School; the Lower Eastern Shore Center; and the Baltimore City Juvenile Justice Center. In order to meet the deadline, MSDE would have to expand services into the 9 remaining facilities in fiscal 2011 and 2012. In four years, MSDE has been appropriated funds to expand into 5 facilities, or about 1 per year.

Proposed Amendment to HB 101/SB 166

Program: Alterations to the Overtime Calculation and Adjustment to a 12-hour Shift

Provision as Recommended by DLS: Authorize the Department of Public Safety and Correctional Services through uncodified language in the BRFA to implement a pilot program for the 12-hour shift in one Division of Correction facility for 12 months. Participating employees would be awarded a monetary participation bonus funded through overtime savings generated from the transfer to a 12-hour shift and the calculation of overtime according to the federal Fair Labor Standards Act.

Agency: Department of Public Safety and Correctional Services – Division of Correction

Type of Action: Other

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

Background/Recent History: The fiscal 2010 budget bill includes an \$8.0 million reduction to overtime expenses contingent on both the enactment of legislation which would alter the overtime calculation to be consistent with the federal Fair Labor Standards Act and also the successful negotiation with AFSCME-IBT for approval in changing the length of shifts from 8 to 12 hours. This action was proposed during the 2008 session but was unsuccessful. Enactment of the proposed law change would increase the number of days a correctional officer has off each year, but reduces the amount of overtime earnings a correctional officer receives. To date, negotiations with the union have stalled and the resolution of issues surrounding the logistics for implementing a 12-hour shift and the impact it would have on correctional staff are unknown.

The Department of Legislative Services recommendation would authorize the department to implement a 12-hour shift pilot program at one Division of Correction (DOC) facility for a total of 12 months. Participating employees would receive participation bonuses from any overtime savings generated by transferring to a 12-hour shift and the DOC would submit a report analyzing the fiscal and operational impact for the agency and for the employees.

Proposed Amendment to HB 101/SB 166

Program: Court of Appeals

Provision as Recommended by DLS: Prohibits the Judiciary from expending any funds on renovations to the Court of Appeals building in Annapolis.

Agency: Judiciary

Type of Action: Other

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp		(\$2.8)				

Background/Recent History: In a letter dated June 11, 2008, the Chief Judge of the Court of Appeals advised the Board of Public Works (BPW) that the Court of Appeals building was in need of repairs and modifications to make the building compliant with the American with Disabilities Act. The letter indicated that the repairs had been integrated with a separate plan to enhance security measures for the facility, and that such changes would be funded through operating efficiencies indentified in the Judiciary’s fiscal 2009, 2010, and 2011 budgets.

A memorandum from the Department of Legislative Services to BPW expressed concerns that the project was clearly capital in nature and appeared to have circumvented the capital process. Section 3-602(d)(3) of the State Finance and Procurement Article requires submission of a detailed program plan to the Departments of Budget and Management (DBM) and General Services (DGS) with their ultimate approval.

DGS has subsequently approved a contract for design of the project, which has an estimated construction cost of \$800,000 to conduct a portion of the work. Estimated costs for the entire scope of the project may exceed \$2.8 million based on Cost Estimate Worksheets provided to DBM. The Chief Judge of the Court of Appeals reiterated in a letter to the budget committees dated October 9, 2008, that he had directed cost containment measure in the fiscal 2009, 2010, and 2011 budgets to fund the project.

State Effect: This may result in an additional \$2.8 million general fund (total) reversion from the Judiciary for fiscal 2009, 2010, and 2011.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Fiscal 2009 Cost-of-living Adjustment

Provision as Recommended by DLS: The Department of Legislative Services recommends that \$1,598,760 be withdrawn from the Department of Budget and Management's (DBM) fiscal 2009 working appropriation.

Agency: Department of Budget and Management

Type of Action: Other. Withdraw the appropriation for unspent cost-of-living adjustment (COLA) funds to increase general fund balance.

Fiscal Impact of DLS Recommendation vs. Current Law:

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	(\$1.6)					

Background/Recent History: DBM's statewide fiscal 2009 general fund working appropriation currently has \$1,598,760 in unspent COLA monies. Some funds are undistributed because DBM estimates the total amount required to fund the COLA through the budget process, well before final payroll levels are set. Moreover, position deletions throughout the year reduce the amount of COLA funds required.

State Effect: These funds will become part of the fiscal 2009 general fund carryover balance.

Local Effect: None.

Proposed Amendment to HB 101/SB 166

Program: Maryland Department of Transportation

Provision as Recommended by DLS: The Department of Legislative Services recommends that the fiscal 2009 appropriation for the Maryland Department of Transportation (MDOT) be reduced by \$18,579,906 to reflect cost containment identified by MDOT. This reduction is to be allocated across all the modes as identified by MDOT except for the Maryland Transit Administration.

Agency: Maryland Department of Transportation

Type of Action: Other

Fiscal Impact of DLS Recommendation vs. Current Law: The fiscal 2009 working appropriation would be reduced by \$18,579,906 to reflect the cost containment identified by the department.

(\$ in Millions)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
SF Exp	(\$18.6)					

Background/Recent History: In describing its fiscal 2010 allowance, MDOT indicated that \$23.2 million had been identified as cost containment in fiscal 2009; however, MDOT has not had appropriations withdrawn by the Board of Public Works. The department’s financial forecast does assume that the cost containment will be taken. This action would bring the fiscal 2009 working appropriation in line with the financial forecast. Furthermore, in fiscal 2008, MDOT indicated that it intended to undertake cost containment of approximately \$18.0 million and that the funding would be cancelled at the end of the year. When reviewing the year-end cancellations, only \$13.0 million of the \$18.0 million identified was cancelled.

Approximately \$4.7 million of the cost containment identified in fiscal 2009 will be needed by the Maryland Transit Administration to fund its budget.

State Effect: MDOT’s fiscal 2009 appropriation will be reduced by \$18.6 million to recognize the cost containment identified. This reduction aligns the fiscal working appropriation to the level of funding provided in the department’s financial forecast.

Local Effect: None.

Proposed Amendment to HB 101/SB 166 as Introduced

Program: Loaned Educator Program

Provision as Recommended by DLS: Require loaned educators at the Maryland State Department of Education (MSDE) to take a furlough in fiscal 2009 in accordance with the furlough plan for State employees, and withdraw the funds from the 2009 budget. Since loaned educators are not on State payroll they are not subject to the same reductions as regular State employees. DLS further recommends adding language to the BRFA to require that loaned educators be subject to the same cost-of-living adjustments and merit increases as State employees rather than their local county pay plans for the duration of their tenure with the State.

Agency: Maryland State Department of Education

Type of Action: Other

Fiscal Impact of DLS Recommendation vs. Current Law:

(Dollars)

	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
GF Exp	(\$41,942)					
SF Exp	(\$3,218)					
FF Exp	(\$90,711)					

Background/Recent History: The Loaned Educator program at MSDE allows local school systems to enter into a contract with the State so that a local school system employee can work for MSDE for a finite period of time, gain knowledge from working at the State level, and bring that knowledge back to the school system. These loaned educators were not subject to the statewide furlough since they remain on county payrolls.

State Effect: State general fund expenditures will be reduced by \$41,942 million, and expenditures from all funds will be reduced \$135 871.

Local Effect: Payments to local education agencies for these contracts will be reduced.