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**Budget Reconciliation and Financing Act  
of 2011  
(HB 72/SB 87)**

**Budget Summary, Provisions, and  
Recommendations**

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**Department of Legislative Services  
Office of Policy Analysis  
Annapolis, Maryland**

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# Budget Summary

Fiscal 2011 and 2012

(\$ in Millions)

## General Fund

	<u>Admin. Proposal</u>	<u>Before BRFA</u>
<b><u>Fiscal 2011</u></b>		
Ending Balance Before Legislative Action	\$648.6	\$648.6
Revenues – Legislation – (BRFA)	23.3	0.0
Fund Transfers – Legislation – (BRFA)	7.7	0.0
<b>Adjusted Ending Balance</b>	<b>\$679.6</b>	<b>\$648.6</b>
<b><u>Fiscal 2012</u></b>		
Revenues –December BRE Estimate	\$13,597.8	\$13,597.8
Other Revenues	85.5	85.5
Revenues – Legislation – (BRFA)	163.8	0.0
Fund Transfers – Legislation – (BRFA)	12.9	0.0
Capital Transfers – Legislation – (BRFA)	191.3	0.0
<b>Total Revenues and Balance</b>	<b>\$14,730.9</b>	<b>\$14,331.8</b>
Expenditures – Before Hospital Assessment Offset	\$15,335.3	\$15,335.3
Hospital Assessment Funds Contingent on BRFA	-254.1	0.0
Expenditures – Governor’s Allowance	15,081.2	15,335.3
Expenditure Reductions – Contingent on BRFA	-442.8	0.0
Expenditure Reductions – Contingent on Other Legislation	-2.4	0.0
<b>Total Expenditures</b>	<b>\$14,636.0</b>	<b>\$15,335.3</b>
<b>Ending Balance (Revenues Less Expenditures)</b>	<b>\$94.8</b>	<b>-\$1,003.5</b>

## Cash Position

General Fund Balance	\$94.8	-\$1,003.5
Rainy Day Fund Balance – June 30, 2012	641.5	641.5
Transfer from TTF to Rainy Day Fund Contingent on BRFA	39.5	0.0
<b>Total</b>	<b>\$775.8</b>	<b>-\$362.0</b>
Cash and Rainy Day Fund Over 5%	\$95.4	-\$1,042.4

ARRA: American Recovery and Reinvestment Act

BRE: Board of Revenue Estimates

BRFA: Budget Reconciliation and Financing Act



# **Budget Reconciliation and Financing Act of 2011**

## **(HB 72/SB 87)**

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### **Mandate Relief**

- Maryland Agricultural and Resource-Based Industry Development Corporation – sets funding for fiscal 2012 at \$1.0 million, increasing annually to reach \$4.0 million for fiscal 2015 through 2020 (bill page 11; for more detail, see Fiscal and Policy Note (FPN) page 102)
- Education Aid – sets per pupil foundation amount at \$6,599 for fiscal 2012; inflationary increase up to 1% in effect for fiscal 2013 through 2015 (bill pages 11-12; FPN page 93)
  - Education Aid – the Department of Legislative Services (DLS) concurs with the reduction of \$93.7 million but notes that there are alternative methods to achieve this level of savings
- Community College Statewide and Health Manpower Grants – beginning in fiscal 2012, funding is limited to the amount provided in the annual State budget; colleges will be reimbursed on a pro-rata basis for qualifying out-of-county fees if annual appropriation is insufficient to cover the complete cost (bill pages 13-14; FPN page 100)
- Distinguished Scholar Program – prohibits the Maryland Higher Education Commission from awarding any new grants for the 2011-2012 academic year or any year thereafter; program is repealed effective July 1, 2015 (bill pages 14, 58, and 64; FPN page 104)
- Library Aid – sets per capita funding for local library grants at \$14 through fiscal 2016 and increases rate to reach \$15 in 2019; sets per capita funding for regional resource centers at \$6.75 through fiscal 2016 and increases rate to reach \$7.50 in 2019; sets per capita funding for the State Library Resource Center at \$1.67 through fiscal 2016 and increases rate to reach \$1.85 in 2019 (bill pages 14-15; FPN page 98)
- InterCounty Connector – extends until fiscal 2013 the requirement that the repayment to the Maryland Transportation Authority be fully met (bill page 53; FPN page 96)
- Jack F. Tolbert Private Career School Student Grant Program – program is repealed effective June 1, 2011 (bill page 58; FPN page 105)
- General Mandate Relief – except for specified education formulas, employee retirement, Maryland Agricultural and Resource-Based Industry Development Corporation, and reserve fund payments, the Governor is not required to provide more funds in fiscal 2013 through 2016 than appropriated in fiscal 2012 (bill page 62; FPN page 106)

## General and Special Fund Revenue Actions

- Payroll Garnishment Fee – authorizes the State and other public employers to deduct \$2 per payroll for processing an individual’s wage attachment (bill page 7; FPN page 80)
- Probation Supervisee Fee – permanently sets the monthly fee at \$50 for persons placed on probation or in the Drinking Driver Monitor Program by the courts (bill page 10; FPN page 46)
  - Supervisee Fee – DLS recommends expanding the application of \$50 fee to include persons committed to the Division of Parole and Probation by the Maryland Parole Commission (for more detail, see Alternative and Additional Recommendations, DLS page 1)
- Children in State-supervised Care – authorizes the Department of Juvenile Services and the Department of Human Resources to charge local school systems for a portion of the costs to educate certain children in State custody (bill pages 12-13; FPN page 65)
- Maryland Higher Education Commission – authorizes the commission to charge application fees from an institution of postsecondary education seeking approval of academic program actions (bill page 13; FPN page 78)
- Developmental Disabilities Administration – alters the schedule by which community providers are paid for the services provided to reduce the amount forward-funded and use a reimbursement method after the initial payment (bill page 16; FPN page 48)
  - DLS recommends striking this provision (DLS page 3)
- Medicaid Hospital Assessments – permanently establishes a new assessment of 2.5% of net patient revenue to be equitably shared among hospitals and purchasers of hospital services; modifies the existing assessment which supports the 2007 expansion of Medicaid to equal the greater of 1.5% of net patient revenues or the actual amount of averted uncompensated care and expands the base on which the assessment is calculated (bill pages 20-22; FPN page 54)
- Nursing Facility Quality Assessment – increases the assessment from 4.0 to 5.5% of nursing facility operating revenue (bill page 22; FPN page 61)
- Injured Workers’ Insurance Fund – includes the Injured Workers’ Insurance Fund among the entities required to pay the insurance premium tax (bill page 23; FPN page 47)
  - Injured Workers’ Insurance Fund – DLS recommends that \$6.0 million be transferred to the general fund and that any difference between the payment due under the application of the premium tax and \$6.0 million be considered a

business transaction that offsets past benefits from being part of the State's personnel system in conjunction with legislation that proposes to remove Injured Workers' Insurance Fund employees from the State Personnel Management System (DLS page 4)

- Telecommunications Recoveries – permanently directs money received as commissions, rebates, refunds, rate reductions, or telecommunication bypass agreements to the general fund instead of the Major Information Technology Development Project Fund (bill pages 27-28; FPN page 19)
- Special Fund Interest Earnings – permanently directs interest earnings on special fund accounts to the general fund; 62 specified accounts are exempted (bill pages 28-31; FPN page 17)
  - Special Fund Interest Earnings – DLS recommends adding the Transportation Trust Fund to the list of exempted funds (DLS page 6)
- Medicare Prescription Rebates – beginning in fiscal 2011, permanently directs subsidies received under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or similar federal subsidy to the general fund; current law directs the subsidies to the Postretirement Health Benefits Trust Fund beginning in fiscal 2013 (bill pages 32-33, 48, 60; FPN page 8)
- Admissions and Amusement Tax on Electronic Bingo and Tip Jars – for fiscal 2012, directs \$1.0 million to the Special Fund for the Preservation of Cultural Arts and the balance to the general fund (bill page 49; FPN page 18)
  - Admissions and Amusement Tax – DLS recommends that no funds be credited to the Special Fund for the Preservation of Cultural Arts in fiscal 2012 (DLS page 7)
- Chesapeake Bay 2010 Trust Fund – for fiscal 2012 through 2016, specifies that a portion of the motor fuel tax and the short-term vehicle rental tax that would otherwise go to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund is directed to the general fund (bill pages 49-51; FPN page 14)
  - Chesapeake Bay 2010 Trust Fund – DLS recommends that a special fund appropriation be established for the 2010 Trust Fund of revenues from the motor fuel tax and the short-term vehicle rental tax; sets the fiscal 2012 appropriation for the Trust Fund at \$22.0 million, increasing annually to reach \$25.0 million in fiscal 2015 and thereafter; the balance of the revenues are directed to the general fund (DLS page 9)
- Sales Tax Vendor Discount – permanently caps the annual vendor credit at \$500 (bill page 51; FPN page 40)

- Property Valuation – requires the counties and Baltimore City to reimburse the State for 90% of the costs of real and business personal property valuation and related information technology expenditures (bill pages 52-53; FPN page 57)
  - Property Valuation – DLS recommends striking this provision (DLS page 12)
- Gasoline and Motor Vehicle Revenue Account – modifies for fiscal 2012 the percentage of revenues that are retained by the Maryland Department of Transportation and directs a larger share (\$60.0 million) to the general fund and a portion (\$40.0 million) to the Revenue Stabilization Account (Rainy Day Fund) (bill page 54; FPN page 12)
  - Transportation Trust Fund Revenues – DLS recommends that the proceeds of the sales tax which currently accrue to the Transportation Trust Fund be directed to the general fund; that the proportional share of the corporate income tax be modified; that the general fund share of Highway User Revenues be returned to the Transportation Trust Fund for the department; and that the fiscal 2012 transfers from the Trust Fund to the general fund and the Rainy Day Fund be repaid over the course of fiscal 2013-2016 (DLS page 13)
- Verification of Tax Payments (Tax Clearance) – prohibits the Maryland Department of Transportation from issuing or renewing a vehicle registration or drivers license if the applicant has not paid all undisputed taxes and unemployment insurance contributions due (bill pages 53-55; FPN page 41)
- Dangerous Driver Fees – requires the Motor Vehicle Administration to assess an annual \$100 fee against a holder of driver’s license who has amassed more than five points in a two-year period and \$500 for each conviction of driving under the influence or while impaired; fee is assessed annually for three years (bill pages 56-58, 64; FPN page 44)
- Maryland-mined Coal Tax Credit – repeals credit effective June 1, 2011 (bill page 58; FPN page 50)
  - DLS recommends a technical amendment to clarify that the repeal is effective beginning with tax year 2011

### **New or Expanded Uses of Existing Revenues**

- Authorizes that revenue generated from moving violation surcharges be used in lieu of general funds for the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program; after distribution to the Riley program, proceeds are evenly divided between the general fund and the Volunteer Company Assistance Fund until that fund receives \$20.0 million in surcharge revenues. Once the Volunteer Company Assistance Fund reaches \$20.0 million, all revenues are credited to the general fund (bill pages 9-10; FPN page 10)

- DLS recommends that statute be amended to indicate that the State's \$20.0 million obligation to the VCAF is satisfied after a transfer of \$2.1 million from the moving violation surcharge in fiscal 2012, when accounting for revenues from various sources; and that, after satisfying the requirements of the Riley Program, all remaining proceeds in fiscal 2012 and thereafter be directed to the general fund (DLS page 16)
- Aging Schools Program – permanently authorizes the use of general obligation bonds or general funds to support the grants to county boards of education (bill page 12; FPN page 63)
- Maryland Heritage Areas Authority – for fiscal 2012, authorizes that, of the Program Open Space funds already transferred to the Department of Planning, an additional \$500,000 of that transferred amount may be used to support operating expenses (bill page 15; FPN page 72)
- Authorizes that payments in lieu of premium tax paid by a nonprofit health service plan are directed to the Senior Prescription Drug Assistance Program, the Kidney Disease Program, and the Community Health Resources Commission; for fiscal 2012 and 2013, funding for the Community Health Resources Commission is not less than \$3.0 million (bill pages 23-24; FPN page 51)
- Authorizes use of funds in the Senior Prescription Drug Assistance Program in fiscal 2011, \$2.5 million for Medicaid; and in fiscal 2012 and 2013, \$3.0 million each year for the Kidney Disease Program (bill pages 60-61; FPN page 51)
- Repeals payment-in-lieu-of-taxes to local jurisdictions for park earnings, timber sales, and Deep Creek Lake revenues (bill pages 25-27; FPN page 67)
- Authorizes the use of \$1.0 million in fiscal 2012 revenue from the State 9-1-1 fee on wired lines for the State Police Computer Aided Dispatch/Records Management System (bill page 60; FPN page 70)
- For fiscal 2012 through 2014, modifies the distribution of proceeds from the Regional Greenhouse Gas Initiative so that up to 50.0% is directed to low income energy assistance; at least 20.0% is for efficiency and conservation programs (of which at least one-half is for low- and moderate-income programs); at least 20.0% is for renewable and clean energy programs; and up to 10% (to a maximum of \$4.0 million) is for administration (bill pages 61-62; FPN page 74)
- DLS recommends that the percentages be modified so that, in fiscal 2012 and 2013, 68.0% is available for low-income energy assistance; 17.5% for efficiency and conservation programs (of which at least one-half is for low- and moderate-income programs); 10.0% for renewable and clean energy programs; and 4.5% for administration (DLS page 18)

- Authorizes that \$124.4 million of the State’s fiscal 2012 payment to local school systems under the education foundation formula is to be paid on June 1, 2011; State funds are available due to distribution of federal Education Jobs Fund money to school systems during fiscal 2011 (bill page 62; FPN page 56)
- DLS recommends that a 50-50 cost share plan for teachers retirement be implemented beginning in fiscal 2012 and that fiscal 2011 funds made available due to the Education Jobs Fund be provided to local school systems to partially offset the fiscal 2012 payment of the local share (DLS page 22)

## Transfers to the General Fund

	<u>Fiscal 2011</u>	<u>Fiscal 2012</u>
Maryland Health Care Commission Fund	\$1,000,000	
State Used Tire Cleanup and Recycling Fund	500,000	
Forest or Park Reserve Fund	256,000	
Maryland Not-For-Profit Development Center Fund	250,000	\$125,000
Board of Veterinary Medical Examiners Fund	150,000	
Circuit Court Real Property Records Improvement Fund		10,000,000
State Insurance Trust Fund		2,000,000
Spinal Cord Injury Research Trust Fund		500,000
State Board of Pharmacy Fund		237,888
State Board of Examiners of Psychologists Fund		44,888
Bay Restoration Fund*		90,000,000
Special Loan Programs Fund (Department of Housing and Community Development)*		2,200,000
Neighborhood Business Development Fund*		2,050,000
Homeownership Programs Fund*		1,500,000
Waterway Improvement Fund*		1,090,000
Transfer Tax – Program Open Space*	5,591,172	94,491,115

\*Denotes pay-as-you-go capital programs for which general obligation bonds may be used instead of special funds.

- Fund balance transfers (bill pages 58-60; FPN pages 20-39)
  - DLS recommends striking the provision to transfer \$10.0 million from the Circuit Court Real Property Records Improvement Fund (DLS page 25)

## **Actions Affecting State Personnel and Retirees**

- Creates a separate prescription drug benefit program for existing and future retirees modeled on the federal Medicare Part D plan; authorizes the discontinuation of a State plan for Medicare-eligible retirees in fiscal 2020 (bill page 32; FPN page 87)
  - DLS also recommends extending the vesting period required for employees to qualify for the retiree health benefit from 5 to 15 years, extending the period before the maximum benefit is earned from 16 to 25 years, and requiring employees to retire directly from State service to qualify for a retiree health benefit, in addition to years of service requirements (DLS page 26)
- Restructures Teachers' and Employees' Pension System for current employees to adjust contribution rates, benefit multipliers, and calculation of final compensation; in addition, for new hires, sets the contribution rate at 7.0% and the benefit multiplier at 1.5%, alters the calculation of cost-of-living adjustments, and alters the years of service required for vesting and full benefits; alters the contribution rate for new judges from 6.0 to 8.0% (bill pages 33-49, 63; FPN page 81)
  - DLS recommends modifications that would also apply the change in final compensation calculation to all systems; increase vesting for new employees of all systems; revise the calculation of cost-of-living adjustments for all service earned after July 1, 2011; and alter the contribution rates for Law Enforcement Officers Pension System (DLS page 27)
- In the State Police and Law Enforcement Officers Pension System, closes the Deferred Retirement Option Program to new employees and current nonvested employees (bill pages 44-45; FPN page 81)
  - DLS recommends retaining the Deferred Retirement Option Program benefit but providing 2% compounded annual interest on account balances (DLS page 27)
- Establishes that the required payment to the State Retirement and Pension System is reduced by \$120 million in fiscal 2012 and by \$60 million in fiscal 2013 so that benefit from the plan changes accrue to the State budget; future savings all accrue to the system (bill page 63; FPN page 81)
  - DLS recommends that the reinvestment into the System be capped at \$300 million; that the required contribution be capped at 20.0%; that the

amortization period be extended; and that the actuarial rate of return be statutorily set at 7.75% (DLS page 27)

- Requires the Governor's Salary Commission and the General Assembly Salary Commission to make specific recommendations regarding benefit and member contribution levels (bill page 63; FPN page 110)
- Requires the State Retirement and Pension System to report annually on the funding progress of the several systems; requires the Secretary of Budget and Management to report biennially on the systems' financial health, to include recommendations concerning modifications to the funding methods or benefits structure (bill pages 63-64; FPN page 112)
- Prohibits State employees from receiving merit increases before April 1, 2014, except as necessary to retain faculty at the University System of Maryland, Morgan State University, and St. Mary's College of Maryland (bill pages 62-63; FPN page 85)
- Authorizes the payment of retention bonuses in fiscal 2011 and 2012 only to State employees employed by the Department of Health and Mental Hygiene at a facility that is scheduled to be closed (bill page 63; FPN page 107)

### **Cost Control and Miscellaneous Provisions**

- Repeals the requirement that the Comptroller publish, in newspapers of general circulation, notice of abandoned property; authorizes the establishment of an electronic database with access via an Internet website (bill pages 7-9; FPN page 49)
  - DLS recommends an amendment that would require publication in federally designated rural areas (DLS page 32)
- Requires that youth camps be accredited by a private accreditation organization that is certified by the Department of Health and Mental Hygiene (bill pages 16-19; FPN page 91)
  - DLS recommends striking this provision (DLS page 33)
- Authorizes the Health Services Cost Review Commission to establish an alternative method for financing, as part of hospital rates, the costs of Graduate Medical Education (bill pages 19-20; FPN page 59)
- Requires the transfer of \$3.6 million during fiscal 2011 from the Racetrack Facility Renewal Account of the video lottery terminals program to the Maryland Economic Development Corporation; if fiscal 2011 revenues are insufficient, proceeds from fiscal 2012 may also be used; authorizes payment in fiscal 2012 of up to \$400,000 to the

Maryland Economic Development Corporation for interest expense, fees, and administrative costs (bill page 61; FPN page 108)

- DLS recommends that payment be made immediately after all appeals by Laurel Racing Association, Inc. relating to the rejection of its proposal for a Video Lottery Operation license are withdrawn or exhausted (DLS page 34)
- Prohibits, for fiscal 2012, the payment of rates in excess of those in effect on January 21, 2011, to group homes and nonpublic placements (bill page 62; FPN page 89)

## **Additional Recommendations to HB 72/SB 87**

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### **Mandate Relief**

- Maryland Legal Services Corporation – repeal requirement to appropriate \$500,000 from abandoned property funds (DLS page 36)
- Sellinger Formula for Nonpublic Institutions of Higher Education – reduce percentage of public four-year per student funding by 0.5% in fiscal 2013 through 2016; resume current law percentages in fiscal 2017 to reach 15.5% in fiscal 2021 (DLS page 37)
- Cade Formula for Community College Aid – modify percentage of public four-year per student funding beginning in fiscal 2013; formula reaches 29.0% in fiscal 2023 (DLS page 38)
- Urban Enterprise Zone Tax Credit – for new credits, modify value of credit to 50.0% for the first 6 years, declining annually to reach 10.0% in year 10; State would continue to reimburse local government for 50.0% of the credit granted; a county-only option would be authorized to provide 80.0% for the full 10 years (DLS page 39)
- Education Aid Adequacy Study – delay until fiscal 2016 (instead of fiscal 2012) the adequacy study as required under the Bridge to Excellence Act of 2002 (DLS page 40)

### **General and Special Fund Revenue Actions**

- Disciplinary Fund – establish, within the Judiciary, a special fund to account for the fees currently collected from attorneys to support the activities of the Attorney Grievance Commission and transfer \$8.0 million from the balance of this fund to the general fund (DLS page 41)
- State Retirement Agency – beginning in fiscal 2013, charge State agencies and local employers that receive State funding for their retirement costs a per-employee administrative fee (DLS page 42)
- Vital Records – increase the fee for a birth or death certificate to \$24 (from current level of \$12) and for a file search to \$20 (from \$10) (DLS page 43)
- Cigarette Restitution Funds – for fiscal 2012, authorize the transfer by budget amendment of up to \$444,000 in Cigarette Restitution Fund revenues for Medicaid (DLS page 44)

- Parole Hearings – require local jurisdictions to reimburse the Maryland Parole Commission for the costs of conducting parole hearings for inmates held in local jails (DLS page 45)
- Transfer Tax – beginning in fiscal 2013, direct all proceeds from the transfer tax to the general fund; enact specific appropriation amounts for Program Open Space and other programs formerly funded by the transfer tax (DLS page 46)
- Use of Program Open Space Funds – for fiscal 2012 only, continue previous Budget Reconciliation and Financing Act action to allow the use of \$1.2 million of State land acquisition funds for administration in the Department of Natural Resources (DLS page 50)
- BWI Fire and Rescue Department – require the Maryland Aviation Administration to levy a fee on ambulance transports conducted by the BWI Fire and Rescue Department (DLS page 51)
- Maryland Transit Administration – require that a one-way fare of \$2 be charged, which is estimated to be sufficient to generate the required 35% farebox recovery (DLS page 52)
- Use of Proceeds from Sale of Helicopters – require that proceeds be deposited into the State Police Helicopter Replacement Fund for the purchase of a full motion flight simulator; the remaining proceeds to be deposited into the Annuity Bond Fund to pay the debt service associated with the procurement of the new fleet (DLS page 53)

### **Transfers to the General Fund**

- Senior Prescription Drug Assistance Program – \$1.0 million in fiscal 2012 (DLS page 55)
- Baltimore City Community College – \$2.3 million in fiscal 2012 (DLS page 56)

### **Cost Control and Miscellaneous Provisions**

- Voluntary Separation Program at Institutions of Higher Education – to the extent that the University System of Maryland, Morgan State University, and St. Mary’s College of Maryland implement a Voluntary Separation Program, they are prohibited from recreating the abolished positions and shall transfer the State-supported portion of the savings from abolished positions to the general fund (DLS page 57)
- Abolish the Maryland Aviation Commission and the Maryland Port Commission (DLS page 58)

- Food Service Facility Fees – authorize all county boards of health to establish fees for food service facilities based on the actual cost of licensing and conducting related food safety inspections (DLS page 59)
- Accounting for Scholarship Funds – create a special fund to receive unexpended funds in certain scholarship programs so that the funds may be used in the following fiscal year for need-based aid, as required by current statute (DLS page 60)
- Information Technology Project Planning and Budgeting – create two programs for major IT projects, planning and implementation, to improve project planning, cost estimation, and budgeting; legislative approval is required before a project can be placed in the implementation program (DLS page 61)
- Downpayment and Settlement Expense Loan Program – limit the amount that may be loaned through this program to the amount of the matching fund provided by the borrower for settlement expenses at the time of mortgage settlement (DLS page 62)