Issue Papers
2023 Legislative Session



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Issue Papers

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Presentation to the

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

December 2022

The Honorable Bill Ferguson, President of the Senate
The Honorable Adrienne A. Jones, Speaker of the House of Delegates
Members of the General Assembly

Dear President Ferguson, Speaker Jones, and Members:

Each fall, the Office of Policy Analysis prepares an informational report on various issues to assist you in your deliberations during the upcoming legislative session. Once again, this document is a compilation of the issue papers arranged by major subject area topic. The information reflects the status of the topics as of November 2022.

We trust this report will be a useful source of information for you. Following each paper is an e-mail address for the staff who worked on a particular topic. If you should need additional information about a topic, please do not hesitate to contact us or the appropriate staff person.

Sincerely,

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Contents

Operating Budget

Economic and Revenue Outlook

Economic growth has been weaker than expected when calendar 2022 began. High inflation has resulted in aggressive interest rate increases by the Federal Reserve, and the odds of a recession have increased. Despite the weakening economic outlook, general fund revenue growth remains strong. Revenues were above expectations in fiscal 2022 by $1.6 billion, and the estimate for 2023 was revised upward by $1.2 billion.

Economic Outlook

The outbreak of the SARS-CoV-2 pandemic threw the U.S. economy into a deep but relatively brief contraction. With businesses and consumers sharply cutting spending, U.S. inflation-adjusted gross domestic product (GDP) fell 9.6% between the fourth quarter of calendar 2019 and the second quarter of calendar 2020. At that point, growth resumed, and GDP exceeded the pre-pandemic level by the first quarter of calendar 2021.

Employment contracted sharply at the start of the pandemic, falling 14.4%, or almost 22 million jobs between February and April of 2020. Job growth has progressed at a steady pace and in August 2022, U.S. employment exceeded the February 2020 level for the first time. With the recovering economy, wage growth resumed and managed a small 1.3% increase on average for all of calendar 2020. Wage income increased 9.5% in calendar 2021 and 9.8% in the first eight months of 2022. However, accelerating inflation has undercut wage growth as the Consumer Price Index (CPI) increased 4.7% in 2021, which is the highest annual growth since 1989. The average wage per worker (total wages divided by employment) was up 6.6% in 2021, but 1.8% when wages are adjusted for inflation. In the first eight months of 2022, the average wage per worker was down 2.9% adjusted for inflation.

In Maryland, the impact of the pandemic-induced recession was similar to the country as a whole. Maryland's inflation-adjusted gross state product (GSP) fell 9.4% between the fourth quarter of calendar 2019 and the second quarter of calendar 2020. Unlike the national economy, Maryland's GSP as of the second quarter of 2022 had not returned to its pre-pandemic level, falling short by 0.6%. Between February and April of 2020, the State saw employment fall by 402,800 jobs, or 14.5%, and the unemployment rate jumped from 4.2% to 9.5%. Employment growth resumed, but as of August 2022, total employment was below the pre-pandemic level by 45,000 jobs, or 1.6%. Wages grew strongly in Maryland for 2021, following the increase in employment. Total aggregate wages were up 6.6% in 2021 and 7.2% in the first half of calendar 2022. However, with accelerating inflation, real wages were up just 1.8% in calendar 2021 and fell 1.0% in the first half of 2022.

Economic growth in calendar 2022 has been weaker than expected when the year began. Inflation-adjusted GDP fell on a quarter-over-quarter basis in both the first and second quarters of 2022. The U.S. CPI was up 8.3% in the first nine months compared to the same period in 2021. Already weak economic growth combined with the Federal Reserve's efforts to lower inflation via aggressive interest rate increases has increased the odds of a recession over the next year to 50% or more. Some economic forecasters have already added a recession to their baseline forecast for the next three to six months.

In September 2022, the Board of Revenue Estimates (BRE) issued a revised economic forecast for Maryland, which is its first since March (**Exhibit 1**). BRE expects employment in Maryland to reach its pre-pandemic level by the first quarter of calendar 2024. The forecast assumes economic growth will slow but the economy will not experience a recession.

Exhibit 1
Maryland Economic Outlook
Year-over-year Percentage Change

	Employment		Wage and Salary Income	
Calendar Year	**March 2022**	**Sept. 2022**	**March 2022**	**Sept. 2022**
2019	0.6%	0.7%	3.7%	3.6%
2020	-6.8%	-6.8%	1.7%	1.4%
2021	2.8%	2.7%	7.1%	6.6%
2022 Est.	3.4%	3.2%	6.7%	7.6%
2023 Est.	1.6%	1.2%	4.5%	4.7%
2024 Est.	0.9%	0.8%	4.2%	4.4%
2025 Est.	0.5%	0.6%	3.9%	4.1%

Note: The figure for 2021 wage growth under the March 2022 column is an estimate. Wage growth for 2019 through 2021 under the Sept. 2022 column reflects data from the U.S. Bureau of Economic Analysis released on September 30, 2022.

Source: Board of Revenue Estimates

Revenue Outlook

Fiscal 2022 general fund revenues were above the estimate by $1.6 billion, or 7.0%. General fund revenues totaled $24.0 billion in fiscal 2022, which is an increase of 15.4% over fiscal 2021, while ongoing revenues grew 17.5% in fiscal 2022.

The top three revenues sources all exceeded the estimate by significant amounts: $1.0 billion for the personal income tax; $268.0 million for the sales tax; and $93.8 million for the corporate income tax. The fourth largest revenues source, the State lottery, was under the estimate in fiscal 2022 by $12.2 million. Among other sources, there was substantial overattainment for business franchise taxes, the tax on insurance premiums, and the estate/inheritance taxes, but the tobacco tax and revenue from the clerks of the courts were significantly below expectations. Combined, the smaller revenue sources were over the estimate in fiscal 2022 by $113.8 million.

The personal income tax performance was driven almost entirely by returns filed for tax year 2021. Refunds for tax year 2021 were below expectations by 6.3% while payments with returns were above the estimate by 45%. The net impact of lower refunds and higher payments accounted for roughly $890 million of the $1 billion general fund overattainment in fiscal 2022. Income tax withholding, by far the largest component of the personal income tax, was over the estimate slightly (0.4%) in fiscal 2022.

Sales tax growth in fiscal 2022 was unprecedented with gross receipts up 21% over fiscal 2021. Fiscal 2022 reflected the first full year of collections from digital goods; however, online sales contributed only marginally to the total increase. Higher inflation added to growth but likely a relatively small portion as the sectors that have been driving inflation are generally not subject to the sales tax, such as gasoline, cars, groceries, and housing. Ultimately, strong income growth combined with drawing down savings built up over the last two years provided consumers with ample resources to support spending. The impact of legislation relating the distribution of sales tax revenue to the Blueprint for Maryland’s Future Fund (Chapter 33 of 2022) accounted for about $65 million of the general fund overattainment.

In September 2022, BRE increased its estimate for fiscal 2023 general fund revenues by $1.2 billion, or 5.5% (see **Exhibit 2**). The personal income tax estimate was revised up by $966.1 million, or 7.4%, and revenues are expected to grow 4.0% over fiscal 2022. Total general fund revenues are projected to fall in fiscal 2023 compared to fiscal 2022 due to a transfer of $800 million to the Blueprint for Maryland’s Future Fund required by Chapter 33. Ongoing revenues are forecasted to grow 2.2% in fiscal 2023 and 3.2% in fiscal 2024.

Exhibit 2
Maryland General Fund Revenue Forecast
($ in Millions)

	Fiscal 2023				Fiscal 2024	
	BRE March 2022	**BRE Sept. 2022**	**$ Diff.**	**%Change 2023/2022**	**BRE Sept. 2022**	**% Change 2024/2023**
Personal Income Tax	$13,126	$14,092	$966	4.0%	$14,846	5.4%
Sales and Use Tax	5,782	6,150	367	3.1%	6,195	0.7%
Corporate Income Tax	1,661	1,477	-184	-13.1%	1,623	9.8%
Lottery	629	650	21	2.4%	650	0.0%
Other*	1,240	1,313	73	-40.1%	1,943	47.9%
Total	**$22,439**	**$23,683**	**$1,244**	**-1.5%**	**$25,257**	**6.6%**

* Includes nonrecurring items and the volatility adjustment.

BRE: Board of Revenue Estimates

Source: Board of Revenue Estimates

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Operating Budget

Budget Outlook

In fiscal 2022, the State realized extraordinarily large general fund revenue overattainment. Revenues exceeded estimates by $1.6 billion, more than half of which was attributable to nonwithholding income. This higher revenue base carries forward throughout the forecast period, giving the State a sizeable structural surplus. However, there are risks to both revenues and spending. The forecast does not assume a recession, which would reduce revenues and increase spending, especially for entitlements and employee pensions.

Fiscal 2022 Closeout

Fiscal 2022 closed with another year of extraordinary revenue generation, as final general fund revenues exceeded estimates by nearly $1.6 billion, or 7%. Although three of the four major revenue sources overperformed, as **Exhibit 1** shows, personal income tax revenues accounted for nearly two-thirds of the total overattainment. The Board of Revenue Estimates attributes the elevated revenues to the unprecedented federal stimulus provided in response to the COVID-19 pandemic. Higher inflation also contributed to increased sales and use tax revenues.

Exhibit 1
Fiscal 2022 General Fund Revenue Performance
($ in Millions)

	Estimated	Actual	$ Change	% Change
Personal Income Tax	$12,537.6	$13,548.0	$1,010.5	8.1%
Sales and Use Tax	5,698.8	5,966.8	268.0	4.7%
Corporate Income Tax	1,606.4	1,700.3	93.8	5.8%
State Lottery	647.3	635.1	-12.2	-1.9%
Other	2,094.1	2,208.0	113.8	5.4%
Subtotal Ongoing Revenues	***$22,584.3***	***$24,058.2***	***$1,474.0***	***6.5%***
Income Tax Revenues[1]	-$30.0	-$30.0	$0.0	
Extraordinary Revenues[2]	0.0	16.3	16.3	
Volatility Cap	-80.0	0.0	0.0	
Total Revenues[3]	**$22,474.3**	**$24,044.5**	**$1,570.3**	**7.0%**

[1] Chapters 336 and 337 of the 2022 legislative session diverted $30 million from individual income tax revenues to the Rental Housing Fund.
[2] Extraordinary revenues are attributable to the Maryland Technology Development Corporation.
[3] Includes $870.3 million of specified income tax revenues transferred to the Rainy Day Fund and Fiscal Responsibility Fund per the Revenue Volatility Cap calculation established in Chapters 4 and 550 of 2017.

Source: Department of Legislative Services

Nonwithholding income tax revenues (primarily capital gains) accounted for the majority of the overattainment within the personal income tax. Fiscal 2022 closeout was the first year of implementation for the revenue volatility cap calculation designed to protect the State against heavy reliance on inconsistent nonwage revenue sources that can fluctuate wildly from year to year. Over $870 million in nonwithholding overattainment in fiscal 2022 was redirected according to the statutory distributions detailed in **Exhibit 2**. The additional $500 million distribution to the Rainy Day Fund (RDF) increased the fiscal 2022 balance to approximately 7% of general fund revenues and provides an additional $310 million in supplemental pay-as-you-go funding expected with the fiscal 2024 budget submission.

Exhibit 2
Revenue Volatility Cap Implementation Distributions
Fiscal 2022
($ in Millions)

	Amount
Overattainment of Nonwithholding Income Tax Revenues	**$870.3**
Distributions	
1. FRF Set Aside for 4.5% Fiscal 2023 COLA for AFSCME Union Members	$60.0
2. Increase Rainy Day Fund (RDF) Balance to 6% of General Fund Revenues	190.2
3. Remaining Balance Distributed 50% to RDF; 50% to FRF	
RDF	310.0
FRF Allocation to Support Education-related PAYGO	310.0

AFSCME: American Federation of State, County, and Municipal Employees
COLA: cost-of-living adjustment
FRF: Fiscal Responsibility Fund
PAYGO: pay-as-you-go

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

Fiscal 2023 to 2028 Forecast

The upward revenue revision in fiscal 2022 and resulting impact on general fund balance is carried forward in the projections used to develop the fiscal 2023 through 2028 forecast. As **Exhibit 3** highlights, Maryland is expected to have a strong cash position throughout the duration of the forecast period, growing the balance of cash available in excess of the 10% of general fund revenues target by nearly $2 billion over the next six years. The State is also expected to maintain a positive, albeit diminishing, structural position throughout the forecast period. The shrinking structural surplus reflects projected spending increases outpacing forecasted revenue growth by about 1.1% annually from fiscal 2024 through 2028 due to rising retirement costs and the phase-in of enhancements to K-12 education funding.

Exhibit 3
General Fund Projections
Fiscal 2023-2028
($ in Millions)

	2023 Wrk. App.	2024 Baseline	2025 Est.	2026 Est.	2027 Est.	2028 Est.
Revenues						
Opening Fund Balance	$5,499	$2,571	$2,323	$4,543	$4,872	$5,049
Transfers and One-time Revenues	366	0	1,337	0	0	0
Subtotal One-time Revenue	***$5,865***	***$2,571***	***$3,660***	***$4,543***	***$4,872***	***$5,049***
Ongoing Revenues	$24,525	$25,317	$26,131	$26,588	$27,398	$28,651
Total Revenues and Fund Balance	**$30,390**	**$27,888**	**$29,791**	**$31,131**	**$32,270**	**$33,700**
Spending						
Ongoing Spending	$22,999	$23,787	$24,643	$25,632	$26,675	$28,049
PAYGO Capital/Other	$2,283	$667	$556	$561	$442	$442
Appropriation to Reserve Fund	2,537	1,111	50	67	104	146
Subtotal One-time Spending	***$4,820***	***$1,778***	***$606***	***$628***	***$546***	***$588***
Total Spending	**$27,819**	**$25,565**	**$25,249**	**$26,259**	**$27,221**	**$28,637**
Ending Balance	**$2,571**	**$2,323**	**$4,543**	**$4,872**	**$5,049**	**$5,063**
Rainy Day Fund Balance	$2,856	$3,931	$2,607	$2,650	$2,731	$2,856
As % of GF Revenues	11.7%	15.6%	10.0%	10.0%	10.0%	10.0%
Cash Balance Plus RDF Over 10% of GF Revenues	$3,074	$3,728	$4,544	$4,872	$5,049	$5,064
Structural Balance	**$1,526**	**$1,530**	**$1,488**	**$956**	**$723**	**$602**

GF: General Fund
PAYGO: pay-as-you-go
RDF: Rainy Day Fund

Source: Department of Legislative Services

Although the fiscal 2024 baseline and out-year forecast does account for some spending growth to acknowledge fiscal 2022 underperformance of the retirement system, State employee salary enhancements, and inflationary pressures on operating and capital expenses, the forecast in Exhibit 3 does not recognize the significant risk of a potential recession in the near-term, which would likely reduce general fund revenues and increase spending for certain entitlement programs. Continued adherence to the recent policy of maintaining at least a 10% balance in the RDF and targeting cash surplus toward one-time expenses and unfunded liabilities could assist in reducing the potential impact of these risks. In addition, decision makers may wish to set aside a larger than required amount of projected nonwithholding income tax revenues to recognize that revenue estimates have assumed they will account for an extraordinary share of State income tax revenues at a time when the stock market is performing poorly.

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Operating Budget

Transportation Trust Fund Overview

The fiscal 2023 to 2028 Transportation Trust Fund (TTF) forecast shows improved revenues that are projected to match or exceed pre-pandemic levels, resulting in an increase in total revenue for the six-year period of over $2.2 billion compared to the prior six-year forecast. Improved revenue attainment, along with statutory changes distributing more corporate income tax revenue to the TTF and increasing the local share of Highway User Revenues, results in a projected increase of $845 million in transportation aid over the six-year forecast compared to the prior forecast.

Fiscal 2022 Closeout

The Transportation Trust Fund (TTF) ended fiscal 2022 with a fund balance of $579 million, which is $129 million higher than the target closing balance of $450 million.

State-source revenues and federal operating assistance closed out $234 million higher than projected; however, absent the $725 million of COVID-19 relief/stimulus funding, revenues would have declined, and a reduction of $146 million in spending would have been needed to avoid closing with a negative fund balance. Corporate income tax revenue closed $57 million above the estimate, and motor fuel tax and titling tax revenues both closed approximately $30 million higher than expected.

Total expenditures were $105 million higher than projected. Operating expenses were $42 million above projections, and capital and State aid spending closed out $49 million and $14 million higher, respectively.

Fiscal 2023 to 2028 Transportation Trust Fund Forecast

Exhibit 1 shows the fiscal 2023 to 2028 TTF forecast by the Department of Legislative Services (DLS). The forecast details the expected trends in revenue attainment, debt issuance, and expenditures.

Revenues

Compared to the draft forecast released by the Maryland Department of Transportation (MDOT) on September 1, 2022, the DLS forecast projects a net increase of $621 million in revenues over the six-year period. The DLS forecast projects total revenue, including revenue going to other State agencies to cover transportation-related activities, of $28.5 billion. Strong growth of 6.2% and 8.9% is projected in tax and fee revenue in fiscal 2023 and 2024, respectively, as revenues recover from COVID-19-related declines and the TTF begins receiving an increased share in fiscal 2024 of the Corporate Income Tax due to Chapter 240 of 2022. Modest growth rates between -0.3% to 1.5% are assumed for the remaining years of the forecast resulting in a five-year average annual rate of growth of 2.4%.

Exhibit 1
Transportation Trust Fund Forecast
Fiscal 2023-2028
($ in Millions)

	2023	2024	2025	2026	2027	2028	Total 2023-2028
Opening Fund Balance	**$579**	**$572**	**$200**	**$200**	**$200**	**$200**	
Closing Fund Balance	**$572**	**$200**	**$200**	**$200**	**$200**	**$200**	
Net Revenues							
Taxes and Fees	$3,289	$3,588	$3,574	$3,620	$3,674	$3,705	$21,450
Operating and Miscellaneous	944	679	622	633	661	684	4,223
Subtotal	***$4,233***	***$4,267***	***$4,196***	***$4,253***	***$4,335***	***$4,389***	***$25,673***
Bond Proceeds/Premiums	$0	$60	$420	$440	$490	$550	$1,960
Fund Balance (Increase)/Use	7	372	0	0	0	0	379
Total Net Revenues	**$4,240**	**$4,699**	**$4,616**	**$4,693**	**$4,825**	**$4,939**	**$28,012**
Expenditures							
Debt Service	$481	$430	$443	$441	$464	$498	$2,758
Operating Budget	2,364	2,494	2,568	2,644	2,760	2,857	15,687
State Capital (Including State Aid)	1,395	1,775	1,605	1,608	1,601	1,584	9,567
Total Expenditures	**$4,240**	**$4,699**	**$4,616**	**$4,693**	**$4,825**	**$4,939**	**$28,012**
Debt							
Debt Outstanding	$3,315	$3,080	$3,188	$3,318	$3,481	$3,674	
Debt Coverage – Net Income	4.1	4.2	3.8	3.3	3.1	2.8	
Capital Summary							
State Capital (Excluding Local Aid)	$1,119	$1,437	$1,206	$1,154	$1,140	$1,225	$7,281
Mandated Local Aid Capital Grants	277	337	399	454	461	359	2,286
Other Funds (Nonbudgeted)	367	448	358	221	128	128	1,650
Other State Funds	254	167	167	167	167	167	1,089
Net Federal Capital (Cash Flow)	1,471	1,303	1,178	1,366	1,298	1,128	7,744
Total Capital Expenditures	**$3,487**	**$3,693**	**$3,308**	**$3,362**	**$3,194**	**$3,007**	**$20,050**

Note: Numbers may not sum to totals due to rounding.

Source: Department of Legislative Services

Debt Service and Operating Expenditures

Debt service and operating expenses are the first draw on TTF revenues. Over the six-year period, debt service expenditures are projected to total almost $2.8 billion, and operating expenses are estimated to total nearly $15.7 billion, which is $445 million higher than assumed in the MDOT forecast. The increased estimates are largely attributable to (1) the November 2022 general salary increase of 4.5% not being included in MDOT's forecast, which was released before the salary increase was announced and (2) MDOT's use of operating expense growth rates for years beyond fiscal 2024 that are lower than the five-year average annual increase in operating expenses required in statute, again due to the release of MDOT's forecast before the fiscal 2022 closeout had been finalized.

Debt Financing

Debt issued by MDOT supports the capital program. Debt issuances are limited by a total debt outstanding cap of $4.5 billion and two coverage tests that require the prior year's pledged taxes and net income to be at least 2.0 times greater than the maximum debt service for all bonds outstanding in the current fiscal year. MDOT has an administrative goal of maintaining a minimum 2.5 times pledged taxes and net income to maximum debt service ratio. Total issuances are projected at just under $2.0 billion, and net income debt ratios gradually decline from 4.2 times maximum future debt service in fiscal 2024 to 2.8 times maximum future debt service in fiscal 2028.

Capital Expenditures

Improving revenue attainment and federal COVID-19/stimulus support of $373 million result in a six-year total of nearly $7.3 billion in special funds available for the capital program. This is $136 million more than assumed in the MDOT forecast and results from the slightly higher revenue attainment estimate offset partially by higher assumed operating expenses.

Local Transportation Aid

Local transportation aid in the form of mandated capital grants totals just under $2.3 billion over the six-year period, which is an increase of $845 million over the estimate from the January 2022 MDOT forecast. This increase is largely due to Chapter 240, which phases in temporary increases in the local share of Highway User Revenues between fiscal 2024 and 2027 and sets the permanent rate for fiscal 2028 onwards at the fiscal 2024 increased level. Local aid also increases under this legislation due to the TTF's increased share of the Corporate Income Tax, which is included in the aid calculation.

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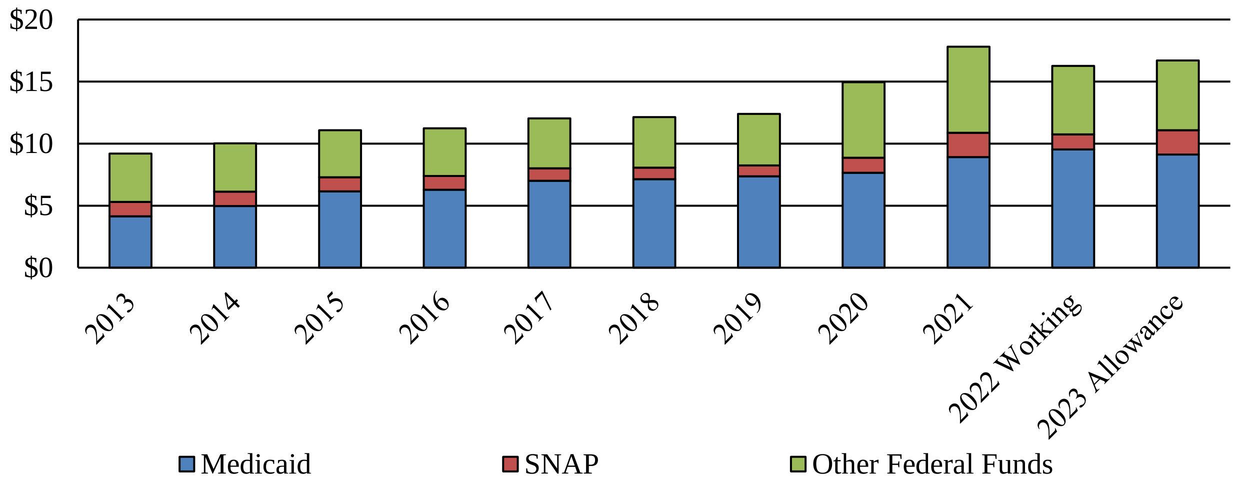
Federal Funds Outlook

The onset of the COVID-19 pandemic in fiscal 2020 significantly increased federal aid provided to the State. The fiscal 2023 budget anticipates over $16.7 billion in federal funds, which is a 35% increase compared to prepandemic levels. Funding from the two most recent pieces of federal stimulus legislation, the Infrastructure Investment and Jobs Act and the Inflation Reduction Act, has not yet been accounted for in the current federal aid estimates.

Federal Funds to the State of Maryland

Federal funds to the State have grown 6.2% annually from fiscal 2013 to 2023, with the fiscal 2023 allowance providing over $16.7 billion. Federal aid increased by 20.7% in fiscal 2020 and has remained elevated as a result of the COVID-19 pandemic and subsequent economic recovery funding. As shown in **Exhibit 1**, Medicaid accounts for $9.1 billion, or 54.6%, of total federal funds in fiscal 2023.

Exhibit 1
Medicaid, Supplemental Nutrition Assistance Program, and Other Federal Funds
Fiscal 2013-2023
($ in Billions)



SNAP: Supplemental Nutrition Assistance Program

Source: Department of Budget and Management; Department of Legislative Services

Anticipated Federal Fund Enhancements

In continued support for the economic recovery from the COVID-19 pandemic, two pieces of federal legislation were enacted that are expected to provide significant additional funding to Maryland but are not yet captured in the State budget – the Infrastructure Investment and Jobs Act of 2021 (IIJA) and the Inflation Reduction Act of 2022 (IRA).

Infrastructure Investment and Jobs Act of 2021

The IIJA, enacted in November 2021, authorizes $1.2 trillion for infrastructure investments across the country, including $550 billion in new or enhanced funding. Primary areas of targeted spending include transportation, water and environmental infrastructure improvements, and expanding broadband access. As shown in **Exhibit 2**, Maryland anticipates receiving approximately $8.1 billion over a five-year period from IIJA authorizations, with nearly 85% of the funding allocated toward transportation. Across all infrastructure types, new or enhanced funding accounts for approximately $2.7 billion, or 32.9%, of total anticipated funding.

Exhibit 2
Anticipated IIJA Funding to Maryland
Federal Fiscal 2022-2026
($ in Millions)

	2022	2023	2024	2025	2026	2022-2026
Transportation	$1,333	$1,318	$1,343	$1,367	$1,393	$6,753
Environment/Water	208	219	227	235	235	1,124
Broadband	52	25	25	25	25	151
Energy	61	4	4	4	4	78
Cybersecurity	3	6	5	2	0	16
Disaster Mitigation	3	2	2	2	2	9
Total	**$1,659**	**$1,574**	**$1,606**	**$1,634**	**$1,659**	**$8,132**

IIJA: Infrastructure Investment and Jobs Act of 2021

Source: Department of Legislative Services

The Maryland Department of Transportation (MDOT) draft *Fiscal 2023-2028 Consolidated Transportation Program* recognizes nearly $6.8 billion in funding authorized by the IIJA, including $1.3 billion in funding enhancements. **Exhibit 3** provides a summary of the additional funding by MDOT business unit.

Exhibit 3
Additional Infrastructure Investment and Jobs Act Funding – MDOT
Fiscal 2023-2028
($ in Millions)

	2023	2024	2025	2026	2027	2028	2023-2028*
State Highway Administration	$15.8	$114.6	$149.7	$184.6	$204.2	$234.3	$966.0
Maryland Transit Administration	25.1	59.3	28.0	26.0	7.1	30.3	166.0
Maryland Aviation Administration	0.6	20.6	42.7	38.7	34.9	40.8	178.3
Total	**$41.5**	**$194.5**	**$220.4**	**$249.2**	**$246.2**	**$305.5**	**$1,310.3**

MDOT: Maryland Department of Transportation

*2023-2028 total funding for the State Highway Administration includes $62.8 million in Infrastructure Investment and Jobs Act of 2021 funding not allocated to a specific fiscal year. 2023-2028 total funding for the Maryland Transit Administration reflects the reduction of $9.8 million from fiscal 2022 expenses for vehicle procurement based on revised federal guidance.

Source: Draft *Fiscal 2023-2028 Consolidated Transportation Program*, Maryland Department of Transportation

Maryland is anticipating over $151 million in additional broadband funding over the next five years through the IIJA. Digital equity grants are expected to provide $24.2 million, with $4.8 million anticipated in the first year of award. Authorization for the Broadband, Equity, Access, and Deployment (BEAD) program ensures each state receives a minimum of $100 million in funding over the next five years; however, no funding will be allocated until federal mapping efforts have been concluded. The Department of Housing and Community Development expects to have a five-year broadband plan complete by mid-calendar 2023, which will combine with the federal mapping to drive the implementation plan and timing for the BEAD funds. The Affordable Connectivity Program, which does not flow through the State budget but is reflected in the funding estimates in Exhibit 2 and authorized through the IIJA, provides a $30 monthly subsidy for broadband services for eligible consumers. Marylanders are currently estimated to receive over $27 million in support through this program.

To date, the State budget has recognized $159.4 million in IIJA funding in fiscal 2023, with all funds appropriated to the Maryland Department of the Environment to support the Water Quality Revolving Loan Fund ($45.7 million), Drinking Water Revolving Loan Fund ($109 million), and the Abandoned Mine Land reclamation projects ($4.7 million). Approximately $7.6 million in general funds was also appropriated to support the State match for the revolving loan funds. Additional IIJA funding is anticipated with the introduction of the fiscal 2024 budget in January 2023.

Inflation Reduction Act of 2022

Enacted in August 2022, the IRA provides significant federal investment to improve the affordability of health care and prescription drugs, amend several tax provisions, and provide over $34 billion in grant funding for States and local governments/other entities related to energy efficiency, reducing greenhouse gas air pollution, environmental and climate justice, climate resilience, tree planting, and neighborhood access and equity. Estimates of Maryland's grant allocation are not currently available as most grants are competitive and will take time to award. **Exhibit 4** provides a summary of the major potential areas of funding.

Exhibit 4
Inflation Reduction Act of 2022
Total Grant Funding Available for State and Local Governments
($ in Billions)

Grant Purpose	Funds
Greenhouse Gas Reduction Fund – enable low-income and disadvantaged communities to deploy or benefit from zero-emission technologies and other greenhouse gas emission strategies	$7.0
Greenhouse Gas Air Pollution Planning and Implementation – support reductions to greenhouse gas air pollution	5.0
Home Energy Performance-based Whole House Rebates – support whole-house energy saving retrofits	4.3
High-Efficiency Electric Home Rebate Program – rebate program for appliance and nonappliance upgrades to eligible entities	4.3
Environmental and Climate Justice Block Grant – invest in projects in disadvantaged communities to address disproportionate environmental and public health harms related to pollution and climate change	3.0
Investing in Coastal Communities and Climate Resilience – grants to protect coastal communities and coastal habitats	2.6
Grants to Reduce Air Pollution at Ports – rebates and grants for purchase and installation of zero-emission equipment and technology at ports	2.3
Neighborhood Access and Equity Grant Program – improve walkability, safety, and affordable transportation access, etc., to benefit disadvantaged communities	1.9

Grant Purpose	Funds
Urban and Community Forestry Assistance Program – grants for tree planting	1.5
Assistance for Latest and Zero Building Code Adoption – grants to assist States and local governments to adopt building codes that meet certain standards	1.0
Other – various grants to support the acquisition of land, analysis to facilitate the siting of interstate electricity transmission lines, and training for contractors to install home energy efficiency and electrification improvements	1.7

Source: Department of Legislative Services

For further information contact: Rebecca.Ruff@mlis.state.md.us

Capital Budget

Debt Affordability

The Capital Debt Affordability Committee recommends a general obligation debt limit of $600 million for fiscal 2024, which is about half of the level recommended by the Spending Affordability Committee in December 2021. This level of capital spending keeps debt service payments below 8% of revenues and debt outstanding below 4% of personal income through the capital planning period that ends in fiscal 2028. The Treasurer's Office estimates that total tax-supported outstanding debt will be $10.19 billion at the end of fiscal 2024, while debt service will be $1.46 billion in fiscal 2024.

Capital Debt Affordability Committee Process

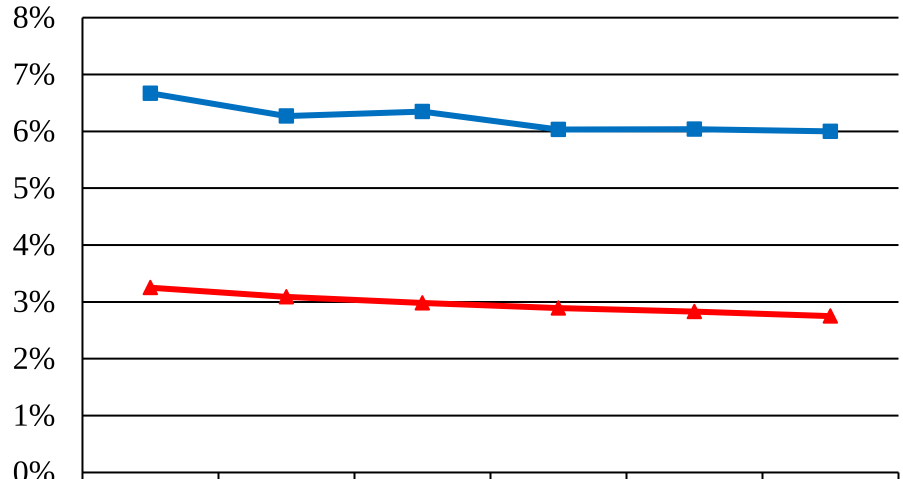
State law requires the Capital Debt Affordability Committee (CDAC) to review the size and condition of all tax-supported debt and to make annual nonbinding recommendations to the Governor and the General Assembly on the levels of general obligation (GO) and University System of Maryland (USM) academic revenue bond (ARB) debt. This process is intended to ensure that the State's tax-supported debt burden remains affordable and within the limits established by CDAC. State policy limits State debt outstanding to 4% of personal income and State debt service to 8% of State revenues. The committee is chaired by the Treasurer and includes the Comptroller, the Secretary of Transportation, the Secretary of Budget and Management, and a public member. The chairs of the capital budget subcommittees for the Senate Budget and Taxation Committee and the House Appropriations Committee serve as nonvoting members.

Affordability Ratios

In September 2022, the Board for Revenue Estimates (BRE) updated its general fund revenue and State personal income estimates. Using BRE's estimates, the Department of Legislative Services (DLS) prepares estimates of out-year GO bond debt service costs and debt outstanding that are presented to CDAC. DLS estimates that State debt is well below the self-imposed affordability limits. **Exhibit 1** shows that debt service to State revenues declines to 6.0% and debt outstanding to State personal income declines to 2.8% by the end of the forecast period. Declining rates are attributable to increasing revenues and limiting GO bond authorizations since the Great Recession. In most years over the last decade, annual increases in GO bond authorizations were just under 1%.

CDAC recommends that GO bond authorizations in fiscal 2024 be limited to $600 million. In addition, CDAC recommends that the current general fund surplus support the capital budget in fiscal 2024, instead of authorizing GO bonds in excess of that limit. The CDAC recommended limit is $605 million below the authorization level recommended by the Spending Affordability Committee in December 2021 for fiscal 2024.

Exhibit 1
Affordability Ratios
Fiscal 2023-2028



	2023	2024	2025	2026	2027	2028
Debt Service Ratio	6.7%	6.3%	6.4%	6.0%	6.0%	6.0%
Debt Outstanding Ratio	3.3%	3.1%	3.0%	2.9%	2.8%	2.8%

CDAC: Capital Debt Affordability Committee

Source: Capital Debt Affordability Committee; Department of Legislative Services

Components of Tax-supported Debt

GO bonds finance the State's capital program, which supports local public school construction, higher education, State facilities, and other capital projects. DLS projects that GO bond debt service payments will total $1.46 billion and debt outstanding will be $10.19 billion in fiscal 2024.

Transportation bonds are limited obligation instruments, the proceeds of which fund highway and other transportation-related projects. Debt service on these bonds is funded from the Transportation Trust Fund, which is supported by motor vehicle fuel taxes, titling and registration fees, a portion of the corporate income tax, and other Maryland Department of Transportation (MDOT) revenues. State law limits consolidated transportation bonds outstanding to $4.5 billion.

MDOT projects that total outstanding transportation debt will be $3.08 billion in fiscal 2024. Transportation bond debt service is projected to be $429 million in fiscal 2024.

The Bay Restoration Fund was created by Chapter 428 of 2004 to provide grants for enhanced nutrient removal pollution reduction upgrades at the State's major wastewater treatment plants. The fund has several revenue sources and expends funds for both operating and capital program purposes. To date, the State has issued $330 million in bonds supported by the revenues deposited into the fund. The Maryland Department of the Environment (MDE) indicates that the final $100 million will be issued in fiscal 2025. Because the fund's revenues are reduced beginning in fiscal 2031, these bonds will be structured as five-year bonds retiring in fiscal 2030. MDE estimates that $140 million in bonds will be outstanding at the end of fiscal 2024. Debt service costs are projected to be $27 million in fiscal 2024, increasing to $49 million in fiscal 2026 after the final bonds have been issued.

Capital leases for real property and equipment are also considered State debt if the revenues supporting the debt are State tax revenues. Examples of capital leases include the MDOT Headquarters Office Building and the Prince George's County Justice Center. The State Treasurer's Office advises that debt outstanding for leases was $160 million at the end of fiscal 2022. Capital lease payments were $29 million in fiscal 2022.

The final category of State debt is Maryland Stadium Authority (MSA) debt. Some MSA debt is also limited obligation debt and represents bonds sold for the construction of the Camden Yards baseball and football stadiums, the Hagerstown multi-use sports and events facility, and Baltimore and Ocean City convention centers. The facilities' debt service is supported by lottery revenues and other general fund sources. MSA debt includes its capital leases. MSA debt outstanding is expected to be $129 million at the end of fiscal 2024. MSA advises that debt service payments are projected to be $19 million in fiscal 2024.

University Debt

USM, Morgan State University (MSU), St. Mary's College of Maryland (SMCM), and Baltimore City Community College (BCCC) have the authority to issue debt for academic facilities as well as auxiliary facilities. Unlike the other authorizations, ARBs are not considered to be State debt; instead, they are a debt of the institutions. Proceeds from academic debt issued are used for facilities that have an education-related function, such as classrooms. Debt service for these bonds is paid with tuition and fee revenues. For fiscal 2024, CDAC recommends $30 million for academic facilities on USM campuses. No issuances are anticipated for MSU, SMCM, or BCCC.

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Capital Budget

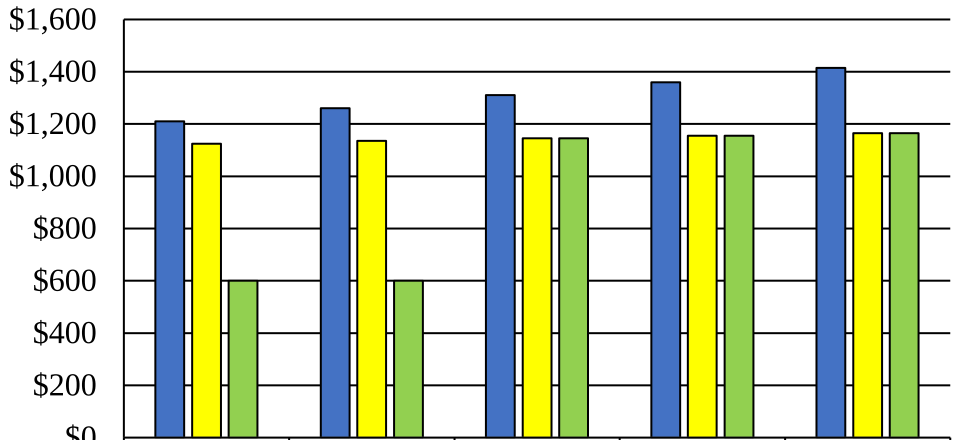
Capital Funding Requests

The Capital Debt Affordability Committee recommended reducing the level of new general obligation (GO) bond authorizations for fiscal 2024 from the planned $1.125 billion to $600 million. The committee cited the availability of general funds as a source of capital funding that allows for reduced GO bond authorizations. The State's strong fiscal outlook and general fund surplus should permit the State to make strategic one-time investments in capital infrastructure in fiscal 2024, as was the case in both fiscal 2022 and 2023. However, commitments made in the 2022 session and fiscal pressures would require upward of $2.422 billion of combined GO bond and general fund support for the fiscal 2024 capital program.

Capital Debt Affordability Committee Recommends Reduced General Obligation Bond Authorization Levels

As shown in **Exhibit 1**, the Capital Debt Affordability Committee (CDAC) recommended a level of general obligation (GO) bond authorizations for the five-year forecast period beginning in fiscal 2024 below the level recommended by the Spending Affordability Committee (SAC) in December 2021 and the amount programmed in the 2022 *Capital Improvement Program* (CIP). The CDAC recommendation reduces the fiscal 2024 authorization level by $525 million, from the $1.125 billion planned in the 2022 CIP to $600 million. The committee's recommendation maintains a $600 million debt level for fiscal 2025 before returning authorization levels to the amounts programmed in the 2022 CIP beginning in fiscal 2026.

Exhibit 1
CDAC Recommended and CIP Planned Authorization Levels
Fiscal 2024-2028
($ in Millions)



	2024	2025	2026	2027	2028
SAC	$1,210	$1,260	$1,310	$1,360	$1,415
2022 CIP	1,125	1,135	1,145	1,155	1,165
CDAC Recommendation	600	600	1,145	1,155	1,165

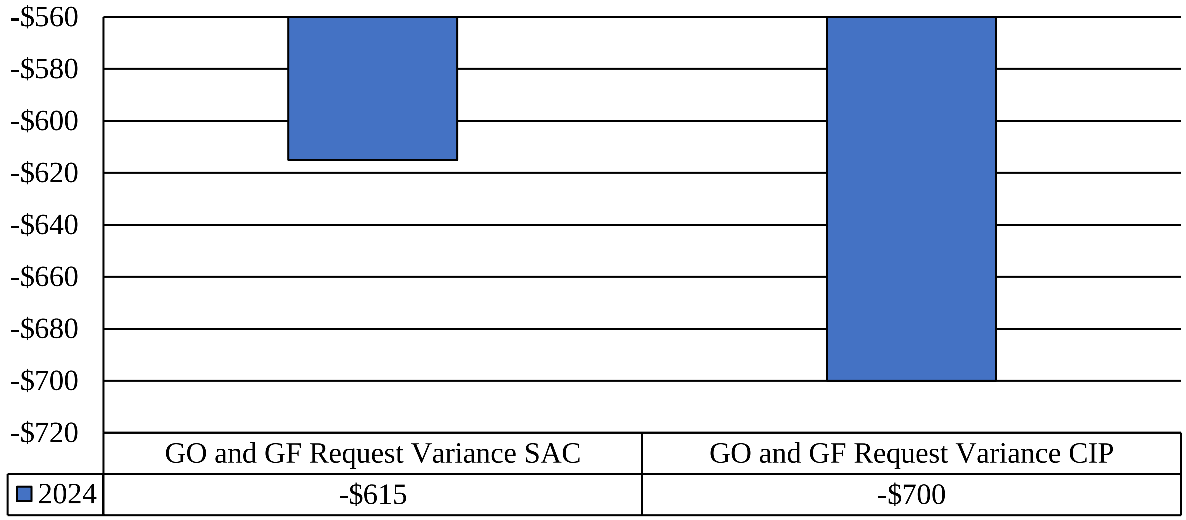
CDAC: Capital Debt Affordability Committee
CIP: *Capital Improvement Program*
SAC: Spending Affordability Committee

Source: Department of Budget and Management; Department of Legislative Services

Agency Requests Exceed Programmed and Recommended Authorization Levels

The amount of GO bonds and general funds currently programmed for fiscal 2024 are insufficient to accommodate all agency requests, and the lower GO bond authorization level recommended by CDAC would increase this disparity. **Exhibit 2** illustrates that requests far exceed the activity level contemplated in the CIP and the December 2021 SAC recommendation. Closing the gap will require increasing the authorization level, additional general funds, or both. The CDAC recommendation to reduce bond authorizations would require a substantial increase in general fund support to fund the requested projects.

Exhibit 2
GO Bond Requests Exceed Programmed Levels
Fiscal 2024
($ in Millions)



CIP: *Capital Improvement Program*
GF: general funds
GO: general obligation
SAC: Spending Affordability Committee

Source: Department of Budget and Management; Department of Legislative Services

Use of General Funds in Capital Program

The State's strong cash position and projected structural surplus permitted an expansion of the capital program in both fiscal 2022 and 2023. Before the dramatic shift in the State's fiscal outlook in March 2021, the State used just $166 million of general funds to support the capital program in fiscal 2021, but this increased to $509 million in fiscal 2022 and $2.057 billion in fiscal 2023. In September 2022, the Board of Revenue Estimates announced that the State closed fiscal 2022 with an unassigned general fund balance of $1.1 billion, a portion of which could be used to support one-time capital priorities in fiscal 2024. However, the commitments made in the 2022 session, which include new and expanded mandates and preauthorized projects for fiscal 2024, and fiscal pressures, which include a shortfall in bond premium proceeds authorized for the capital program and rising construction costs, would command approximately $2.422 billion of combined GO bond and general fund support for fiscal 2024. At the CIP programmed levels of combined GO bonds and general funds of $1.593 billion, approximately $829 million of additional general funds would be needed to address prior commitments. This amount increases to $1.4 billion of additional general funds at the lower GO bond authorization level recommended by CDAC.

Revenues and Taxes

Earned Income and Child Tax Credits

Legislation enacted during the 2021 legislative session temporarily expanded eligibility for and the amount of the State earned income credit and established a new State tax credit for certain taxpayers with dependent children with a disability. The child tax credit and alterations to the earned income credit sunset after tax year 2022, and legislation introduced during the 2023 legislative session may seek to extend and/or alter the credits.

Earned Income Tax Credit Expansion

Under the State earned income credit program, a taxpayer may be eligible for both a refundable and nonrefundable earned income credit against the State income tax and a nonrefundable credit against the local income tax. A nonrefundable tax credit is one by which the maximum value of the credit is capped at the taxpayer's tax liability, whereas a refundable tax credit is one by which a taxpayer may receive the full value of the credit through a refund if it exceeds the amount of taxes owed by the taxpayer. In general, a taxpayer who claims the federal earned income tax credit may claim the State credit. In addition to these benefits, taxpayers who claim the nonrefundable State earned income credit may be eligible to claim the State and local poverty level tax credits.

Legislation enacted during the 2021 session temporarily expanded the State earned income credit for tax years 2020 through 2022. Unless legislative action is taken, both of the expansions described below will sunset after tax year 2022.

Increased Value of the State Refundable Credit

Chapter 39 of 2021, the RELIEF Act, temporarily increased the value of the State refundable earned income tax credit for qualified taxpayers from 28% to 45% of the federal earned income tax credit, minus any pre-credit State income tax liability. For individuals without a qualifying child, the Act temporarily increased the value of the State earned income credit to 100% of the federal credit minus any pre-credit State income tax liability, subject to a maximum credit of $530. It was estimated that the alterations to the earned income credit would reduce general fund revenues by a total of $481.2 million over fiscal 2021 through 2023.

Expanded Eligibility for State and Local Credits

Chapter 40 of 2021 temporarily expanded eligibility for the State and local earned income credits and thereby the State and local poverty level credits. The Act allows taxpayers to claim the tax credits notwithstanding certain federal requirements, which generally limit eligibility to taxpayers and qualifying children who have a valid Social Security number. It was estimated that the changes would reduce State general fund revenues by a total of $199.1 million over fiscal 2021 through 2023 and local income tax revenues by a total of $26.6 million over the same time period.

Child Tax Credit

In addition to expanding eligibility for the State and local earned income credits, Chapter 40 of 2021 established, for tax years 2020 through 2022, a refundable credit against the State income tax for low-income taxpayers with dependent children with disabilities. Under the program, a taxpayer with a federal adjusted gross income of $6,000 or less may claim a credit equal to $500 for each dependent child who is a qualified dependent under Section 152 of the Internal Revenue Code and has a disability. The credit is reduced by the amount of any federal child tax credit claimed for the child in the year. It was estimated that the credit would decrease general fund revenues by a total of $3.0 million over fiscal 2021 through 2023.

Potential Legislation to Extend and Alter Tax Credits

During the 2022 legislative session, legislation was introduced to repeal the sunset of the alterations to the State earned income credit, extend the State child tax credit, and make additional alterations to both credits. House Bill 992 of 2022 would have made permanent the temporary expansions of the State earned income credit and expanded the credit that can be claimed by individuals without qualifying children. It was estimated that these alterations would have reduced State general fund revenues by $24.7 million in fiscal 2023 and by more than $180 million annually beginning in fiscal 2024 and local income tax revenues by about $7.5 million annually beginning in fiscal 2024.

In addition, Senate Bill 805 and House Bill 919 of 2022 would have extended the sunset of the State child tax credit and altered the credit by expanding eligibility and eliminating the requirement that a taxpayer reduce the value of the credit by the amount of the federal child tax credit claimed. It was estimated that these alterations would have reduced general fund revenues by $10.9 million in fiscal 2023 and by at least $12 million annually thereafter.

Although these bills did not pass, it is anticipated that similar legislation will be introduced during the 2023 legislative session to extend and, potentially, alter the expanded tax credits that are set to sunset after tax year 2022.

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Revenues and Taxes

Casino Gaming Revenue

In fiscal 2022, the six casinos operating in Maryland produced record-setting revenues totaling $2.0 billion. From fiscal 2021 to 2022, State revenues from video lottery terminals increased by 14.8%, and revenues from table games increased by 14.5%.

Video Lottery Terminals and Table Games in Maryland

There are six casinos operating in Baltimore City and Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties. The facility in Prince George's County is the newest casino in Maryland, having opened in December 2016. **Exhibit 1** shows the number of video lottery terminals (VLT) and table games in operation at each facility as of September 30, 2022.

Exhibit 1
VLTs and Table Games in Operation by Facility
As of September 30, 2022

Facility	VLTs	Table Games
Allegany	670	16
Anne Arundel	3,865	180
Baltimore City	1,789	130
Cecil	703	19
Prince George's	2,123	209
Worcester	847	19
Total	**9,997**	**573**

VLT: video lottery terminal

Source: State Lottery and Gaming Control Commission

Record-setting Gaming Revenues in Fiscal 2022

With the lifting of COVID-19 capacity restrictions, Maryland's casinos produced record-setting revenues in fiscal 2022 totaling $2.0 billion. Those gaming revenues were $256.1 million more than in fiscal 2021 and $241.2 million more than the previous record set in fiscal 2019. As of July 2022, 7 of the 10 best months in the history of the State's casino program occurred during fiscal 2022. Approximately two-thirds of total gaming revenues in fiscal 2022 were from video lottery terminals.

VLT and Table Game Revenues

Exhibit 2 shows actual and anticipated gross VLT and table game revenues in Maryland for fiscal 2016 through 2024 by facility. **Exhibit 3** shows the same revenues by fund.

Exhibit 2
Gross Gaming Revenues Generated by Facility
Fiscal 2016-2024 Est.
($ in Millions)

	2016	2017	2018	2019	2020	2021	2022	Est. 2023	Est. 2024
VLTs									
Allegany	$41.3	$45.1	$46.5	$48.9	$36.8	$53.4	$58.5	$57.3	$58.1
Anne Arundel	408.8	371.9	369.5	411.8	315.8	432.7	498.4	496.5	504.0
Baltimore City	168.3	168.7	156.3	144.6	96.4	137.4	137.1	132.8	130.9
Cecil	65.7	63.1	64.9	65.2	48.2	75.4	80.1	76.8	77.5
Prince George's		177.5	345.3	384.8	279.4	386.6	472.7	485.9	495.6
Worcester	57.6	59.6	64.1	69.8	52.6	75.0	85.0	87.4	88.7
Total VLTs	**$741.7**	**$885.9**	**$1,046.7**	**$1,125.1**	**$829.3**	**$1,160.4**	**$1,331.8**	**$1,336.7**	**$1,354.8**
Table Games									
Allegany	$6.6	$7.6	$7.6	$7.2	$5.6	$7.2	$7.1	$7.1	$7.1
Anne Arundel	242	219.8	190.1	177.6	133.7	189.8	215.6	210.2	213.3
Baltimore City	142.1	135.3	110.8	105.6	65.8	62.2	74.1	74.1	74.1
Cecil	11.6	11.3	10.4	9.6	7.6	11.1	12.8	13.7	14.0
Prince George's		160.9	310	326.6	231.5	305.6	350.4	383.7	395.6
Worcester			3.3	8.6	6.5	9.4	10.0	10.6	10.8
Total Table Games	**$402.3**	**$535.1**	**$632.3**	**$635.2**	**$450.7**	**$585.3**	**$670.0**	**$699.3**	**$714.8**
Total VLTs and Table Games	**$1,144.0**	**$1,420.9**	**$1,679.0**	**$1,760.4**	**$1,280.0**	**$1,745.7**	**$2,001.8**	**$2,036.0**	**$2,069.6**

VLT: video lottery terminal

Note: Figures may not sum due to rounding.

Source: Department of Legislative Services

Exhibit 3
Gross Gaming Revenues Generated by Fund
Fiscal 2016-2024 Est.
($ in Millions)

	2016	2017	2018	2019	2020	2021	2022	Est. 2023	Est. 2024
VLTs									
Education Trust Fund	$322.0	$361.7	$401.8	$447.4	$329.2	$443.6	$511.1	$511.4	$511.8
Lottery Operations	7.8	9.3	10.5	11.2	8.3	11.6	13.3	13.4	13.5
Purse Dedication Account	50.1	54.6	61.2	65.9	48.5	67.8	78.0	78.2	81.3
Racetrack Renewal Account	7	8.4	10	10.8	7.9	11.1	12.8	12.8	13.5
Local Impact Grants	39.7	47.5	56.8	61.1	45.0	62.9	72.4	72.5	74.5
Business Investment	10.8	12.9	0	0	0.0	17.0	19.6	19.6	20.3
General Fund	0	0	15.3	0	0	0.0	0.0	0.0	0.0
Licensees	304.3	391.3	491	528.8	390.3	546.5	624.6	628.8	639.8
Total VLTs	**$741.7**	**$885.9**	**$1,046.7**	**$1,125.2**	**$829.3**	**$1,160.4**	**$1,331.8**	**$1,336.7**	**$1,354.8**
Table Games									
Education Trust Fund	$80.5	$89.5	$94.8	$95.3	$67.6	$87.8	$100.5	$104.9	$107.2
Local Impact Grants	0	17.6	31.6	31.8	22.5	29.3	33.5	35.0	35.7
Licensees	321.8	428.1	505.8	508.2	360.6	468.3	536.0	559.4	571.9
Total Table Games	**$402.3**	**$535.1**	**$632.3**	**$635.2**	**$450.7**	**$585.3**	**$670.0**	**$699.3**	**$714.8**
Total VLTs and Table Games	**$1,143.9**	**$1,420.9**	**$1,679.0**	**$1,760.4**	**$1,280.0**	**$1,745.7**	**$2,001.8**	**$2,036.0**	**$2,069.6**
Total Education Trust Fund	**$402.5**	**$451.2**	**$496.7**	**$542.7**	**$396.8**	**$531.4**	**$611.6**	**$616.3**	**$619.0**

VLT: video lottery terminal

Note: Figures may not sum due to rounding.

Source: Department of Legislative Services

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Revenues and Taxes

Implementation of Sports Wagering

During the 2021 session, the General Assembly established the operational and regulatory framework for the State's sports wagering program. The Sports Wagering Application Review Commission began awarding licenses to designated sports wagering facilities in fall 2021 and began accepting applications for competitive facility and mobile licenses in fall 2022.

Sports Wagering Legislation

Chapter 492 of 2020, a constitutional amendment approved by the voters at the November 2020 general election, authorized sports and event wagering contingent upon implementation legislation passed by the General Assembly. Chapter 356 of 2021 established the operational and regulatory framework for the State's sports wagering program.

Under Chapter 356, the State Lottery and Gaming Control Commission (SLGCC) is required to generally regulate sports wagering to the same extent that it regulates the operation of video lottery terminals and table games in the State. Sports wagering licenses are awarded by the Sports Wagering Application Review Commission (SWARC), the members of which were appointed by the Governor, the President of the Senate, and the Speaker of the House of Delegates.

SWARC is authorized to award sports wagering facility licenses to 17 designated entities. SWARC may also award an additional 30 sports wagering facility licenses and 60 mobile sports wagering licenses on a competitive basis. SLGCC must qualify an applicant before a license may be awarded by SWARC through a process that includes background investigations of the applicants and their principals. On award of a license by SWARC, SLGCC must issue a license to an applicant that meets the requirements for licensure.

Licensees retain 85% of sports wagering proceeds, with the remainder distributed to the Blueprint for Maryland's Future Fund. Certain other revenues are distributed to the Problem Gambling Fund and the Small, Minority-Owned, Women-Owned Business Sports Wagering Assistance Fund, a fund to provide grants or loans to small, minority, and women-owned businesses to facilitate participation in the sports wagering industry.

Designated Sports Wagering Facility Licensees

There are 10 Class A and 7 Class B sports wagering facility licensees designated under the law, all of which are identified in **Exhibit 1**. Class B-2 licenses are reserved for applicants with less than 25 employees or $3,000,000 in annual gross receipts. A sports wagering facility licensee may accept wagers made by an individual physically present on the licensee's property, including wagers on a self-service kiosk, device, or machine on the property.

Exhibit 1
Designated Sports Wagering Facility Licensees

License	Application Fee	Designated Licensees
Class A-1	$2,000,000	• Three video lottery facilities – Live! in Anne Arundel County, Horseshoe in Baltimore City, and MGM National Harbor in Prince George's County • Three professional sports stadiums/teams – M&T Bank Stadium and Oriole Park in Baltimore City and FedEx Field in Prince George's County[1]
Class A-2	$1,000,000	• Three video lottery facilities – Rocky Gap in Allegany County, Hollywood in Cecil County, and Ocean Downs in Worcester County • Maryland Jockey Club (operator of Laurel Park and Pimlico racecourses)
Class B	B-1: $250,000 B-2: $50,000	• Maryland State Fairgrounds • Four off-track betting locations – Greenmount Station in Carroll County, Riverboat on the Potomac in Charles County, Long Shot's in Frederick County, and Jockey Bar and Grille in Washington County • Two commercial bingo facilities with at least 200 machines – Bingo World in Anne Arundel County and Rod 'N' Reel in Calvert County

[1] In addition to Maryland's professional football and baseball teams, a Class A-1 license is reserved for a professional basketball, hockey, or soccer franchise that may lease a stadium in the State in the future.

Source: Department of Legislative Services

Award of Licenses and Launch of Sports Wagering Operations

On September 16, 2021, SLGCC began accepting applications from designated licensees for sports wagering facility licenses. SLGCC approved alternative licensing standards, effectively expediting the qualification process for applicants that currently hold Maryland gaming licenses. SWARC approved sports wagering facility licenses for these applicants, and all seven licensees have launched sports wagering operations at their facilities. **Exhibit 2** shows the revenues generated at these facilities and distributions to the Blueprint for Maryland's Future Fund. Applications from all but three of the remaining designated licensees (M&T Bank Stadium, Oriole Park, and Rocky Gap Casino) are in progress.

Exhibit 2
Maryland Sports Wagering Revenue
December 2021 to September 2022

Facility	First Bet Placed	Total Handle[1]	Revenue[2]	Blueprint for Maryland's Future Fund
MGM National Harbor	12/9/21	$70,525,647	$8,296,626	$1,245,065
Live! Casino and Hotel	12/10/21	105,029,804	13,922,903	2,088,435
Horseshoe Casino	12/10/21	38,400,055	5,182,896	777,434
Ocean Downs Casino	12/17/21	11,245,178	1,851,196	277,679
Hollywood Casino	12/23/21	14,177,496	1,446,288	216,943
Bingo World	8/1/22	883,524	242,839	36,426
Riverboat on the Potomac	9/8/22	18,947	9,379	1,407
Total		**$240,280,651**	**$30,952,126**	**$4,643,390**

[1] Handle is the total amount of all wagers.
[2] Revenue is gross gaming revenue (handle minus total win) minus various payouts (*e.g.*, promotional credits, excise taxes, losses carried forward.)

Note: Numbers may not sum to total due to rounding.

Source: State Lottery and Gaming Control Agency

Competitive Sports Wagering License Applications

Applicants may also compete for an additional 30 Class B-1 or B-2 facility licenses and 60 mobile sports wagering licenses. Mobile license applicants must pay a $500,000 application fee. Mobile wagers are restricted to individuals physically located in the State. SWARC may not award a license for a location within a specified distance of other sports wagering facilities.

Under Chapter 356, SWARC must also actively seek to achieve racial, ethnic, and gender diversity when awarding Class B facility and mobile licenses and encourage small, minority, and women-owned businesses to apply. Before SWARC could begin accepting applications for competitive Class B facility and mobile sports wagering licenses, SWARC was tasked with adopting emergency regulations governing the application process that are based on an evaluation of an industry analysis and disparity study, which was completed on August 17, 2022.

Based on available data from the industry analysis and disparity study, SWARC concluded that it cannot, consistent with the U.S. Constitution, apply race- and gender-conscious measures in connection with the award of sports wagering licenses. As a consequence, the emergency regulations instead require applicants to demonstrate at least 5% ownership by individuals with a net worth of no more than $1.847 million. In addition, before opening the application process, SWARC amended its applications to require that applicants submit a diversity plan to SWARC within 30 days of an award of a license to the applicant. The emergency regulations were approved by the Joint Committee on Administrative, Executive, and Legislative Review on September 2, 2022. SWARC opened the application process for competitive sports wagering licenses on September 6, 2022, and the application period closed on October 21, 2022.

Sports Wagering in Other States

Sports wagering operations are underway in the District of Columbia and 27 states, including all of Maryland’s surrounding states. In the District of Columbia and in Delaware, sports wagering handle from implementation to date has reached approximately $415.8 million and $501.6 million, respectively. Betting in the District of Columbia is limited to the DC Lottery’s mobile platform and four physical sportsbooks. In Delaware, betting is in-person only at its three racetracks. Pennsylvania, Virginia, and West Virginia offer mobile and in-person sports wagering and have reported handles from implementation to date totaling approximately $15.9 billion, $6.2 billion, and $1.6 billion, respectively.

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Personnel

State and Retiree Health Plan

Medical costs continue to rebound after the COVID-19 pandemic, putting upward pressure on employer and employee contributions to the State's health insurance account. Employee premiums will increase by 5% for health insurance and 10% for prescription drug plans in calendar 2023. Based on cost trends, it is likely that another increase will be necessary in calendar 2024. The implementation of legislation transitioning prescription drug coverage for Medicare-eligible retirees remains uncertain, as a court has ruled that certain groups of employees have a contractual right to retiree prescription drugs but that reasonable changes to the offerings can be made. It is unclear how the litigation or appeals will proceed.

Plan Offerings

The State offers an array of health benefits, including medical, behavioral, vision, prescription drug, dental, life, and accidental death and dismemberment insurance. State employees may choose among three types of medical plans: a Preferred Provider Organization (PPO) that utilizes a national network and provides both in- and out-of-network benefits; an Exclusive Provider Organization (EPO) that also utilizes a national network but provides in-network benefits only; and an Integrated Health Model that utilizes a regional network.

EPO plans have the most members as of June 2022 with 61,405 members, or 52.5%, of plan membership. Migration to EPO plans started when the State introduced coinsurance payments for PPO and point-of-service (POS) plans in 2012, requiring those members to pay a percentage of out-of-network costs and certain in-network costs.[1] EPO membership includes predominately active State employees (63% of membership), while PPO plan membership consists primarily of retirees (55% of membership). One reason active State employees may choose EPO plans is the attractiveness of lower premiums; the State's cost-share ratio for an EPO plan is 85/15, with the member paying 15% of the premium cost, while the cost-share ratio for a PPO plan is 80/20, reflecting the fact that EPO plans are less expensive due to the State not having to pay out-of-network claims. PPO plans may be more attractive to State retirees, who often have more health care needs and appreciate the flexibility of PPO plans for out-of-network services.

[1] POS plans were discontinued in fiscal 2015 except for State Law Enforcement Officer Labor Alliance members.

Medical Spending Trends

The State closed fiscal 2022 with a $58.3 million surplus in the health insurance account, which is lower than the $82.2 million in estimated incurred but not received (IBNR) claims. State practice has been to increase funding sufficiently to eliminate this deficit so that the fund balance is at least as much as IBNR. Overall, fiscal 2022 medical spending grew by 6.2%, after 6.7% growth in fiscal 2021. In fiscal 2022, prescription drug costs (including rebate revenue) increased by 15%. Costs grew by 8.1%, while prescription drug rebates declined due to the timing of payments. Dental spending increased by 3% in fiscal 2022.

Spending Outlook

While the COVID-19 pandemic dramatically reduced medical and dental spending in the last quarter of fiscal 2020, spending returned to prepandemic levels by the second quarter of fiscal 2021. Fiscal 2022 spending resulted in higher than anticipated costs, likely necessitating a deficiency appropriation in fiscal 2023, in addition to an $80 million general fund subsidy already included in the fiscal 2023 legislative appropriation, to maintain the health insurance account's balance. The Department of Legislative Services expects a 6.7% increase in health care spending in fiscal 2023 and 5.5% annual growth in fiscal 2024 and beyond. In addition to the deficiency appropriation, there will be a 5% increase in medical premium payments, a 10% increase in prescription drug premium payments, and a 5% increase in dental premium payments in calendar 2023. Based on cost trends, it is likely that another increase will be necessary in calendar 2024.

Continued Delay in Transition of State Retiree Prescription Drug Coverage to Medicare Part D

Chapter 397 of 2011 eliminated State prescription drug coverage for Medicare-eligible retirees beginning in fiscal 2020, with the intent of reducing the State's significant financial liabilities associated with Other Post Employment Benefits. In response to the federal Bipartisan Budget Act of 2018 that accelerated the closing of the Medicare Part D coverage gap (also known as the "donut hole") to January 1, 2019, the General Assembly passed legislation (Chapter 10 of 2018) to realign the transition of retirees to Medicare Part D to the new date, with the additional clarification of continuing coverage to non-Medicare-eligible spouses and dependents of Medicare-eligible retirees.

In September 2018, a lawsuit was filed in the Baltimore City Circuit Court to challenge the planned transition beginning in January 2019. In October 2018, a federal judge granted a temporary restraining order and preliminary injunction to delay the transition to Medicare Part D, pending a decision on the lawsuit. During the 2019 session, Chapter 767 was passed to establish prescription drug out-of-pocket reimbursement or catastrophic coverage programs for specified Medicare-eligible State retirees or dependents. However, Chapter 767 delays implementation of the three plans while the injunction is pending and requires that there be at least nine months before open enrollment before Chapter 767 is implemented. These provisions mean that the earliest date on which Chapter 767 would be implemented is January 1, 2024.

Groups of retirees and employees have sued the State to prevent the end of prescription drug coverage for Medicare-eligible retirees. The judge in the *Fitch v. Maryland* case released an opinion that stated that certain groups of employees have a contractual right to prescription drug benefits, but that others do not. The opinion further states that while employees who retired in 2018 or earlier have a contractual right to prescription drug coverage from the State, reasonable changes to the offerings could be made. Further court proceedings would determine whether or not the changes made by the enactment of Chapter 767 would be considered reasonable. Recent federal changes to Part D reduce the financial impact on retirees of a transfer from the State plan to Part D.

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State Retirement and Pension System Investment Performance and Contribution Rates

The pension fund's fiscal 2022 return on investment was -2.97%, with an assumed rate of return of 6.8%. The plan's funded status increased to 76.6%, compared to 76.2% at the end of fiscal 2021. State law requires that supplemental contributions of $75 million continue until the system is 85% funded and includes a pension sweeper provision that will direct up to $25.0 million of unspent State general fund balances to the system.

Fiscal 2022 Investment Performance

The State Retirement and Pension System's (SRPS) investment return for the fiscal year that ended on June 30, 2022, was -2.97%, which failed to meet the assumed rate of return of 6.8%. System assets decreased by $3.3 billion to a market value of $64.6 billion as of June 30, 2022. Investment returns have exceeded the assumed rate of return in 2 of the last 5 years. The system as a whole outperformed its policy benchmark by 0.51% (51 basis points). The 5-year weighted average annual return as of June 30, 2022, is 7.93%, which is 0.55% (55 basis points) above the plan return benchmark for that period. The weighted average annual return for the past 10 years is 7.79%, which is 0.65% (65 basis points) above its benchmark for that period. Both the 5-year and 10-year averages also exceed the system's assumed rates of return. The system's investment approach is cautious and when returns are compared to other pension funds, returns tend to underperform in years with strong asset growth and overperform in years in which assets decline. All returns are calculated net of management fees.

System's Financial Condition Driven by Investment Returns and Policy Changes

SRPS's funded status (the ratio of projected actuarial assets to projected actuarial liabilities) improved from 76.2% at the end of fiscal 2021 to 76.6% at the end of fiscal 2022. (These figures exclude funding for local governments that participate in the State plan.) In addition to the system's improved investment performance, the system has also benefited from reforms. The reformed benefit structure enacted in 2011 increased employee contributions, added additional caps to cost-of-living adjustments earned after 2011, increased the vesting period and reduced the multiplier for employees hired after 2011, and appropriated a share of savings as supplemental contributions. The State also eliminated the corridor funding method. From fiscal 2021 to 2022, the total State unfunded liability increased from $17.9 billion to $18.3 billion.

Fiscal 2024 Contribution Rates

Exhibit 1 shows that the fiscal 2024 employer contribution rates with reinvestment savings are relatively stable when compared with the fiscal 2023 rates. The aggregate contribution rate for all systems increases from 18.21% in fiscal 2023 to 18.52% in fiscal 2024. Based on projected payroll growth and other factors, the SRPS actuary estimates that total employer pension contributions will increase from $2.145 billion in fiscal 2023 to $2.256 billion in fiscal 2024. The funding levels and contribution amounts include the $75 million supplemental contribution required by Chapter 489 of 2015 but not the pension sweeper as required by Section 7-311 (j) of the State Finance and Procurement Article. The fiscal 2024 contribution rates are the actuarially determined contribution (ADC) rates and reflect an investment return assumption of 6.8% adopted by the SRPS board for the current fiscal year.

Exhibit 1
State Pension Contributions
Fiscal 2023 and 2024
($ in Millions)

	2023		2024	
Plan	**Rate**	**Contribution**	**Rate**	**Contribution**
Teachers' Combined	15.29%	$1,208.2	15.48%	$1,265.8
Employees' Combined	21.30%	759.9	21.73%	800,5
State Police	77.30%	95.9	79.49%	103.0
Judges	40.02%	21.7	43.00%	24.2
Law Enforcement Officers	45.62%	59.5	46.76%	62.4
Aggregate	**18.21%**	**$2,145.2**	**18.52%**	**$2,255.8**

Note: Except for the Teachers' Combined System (TCS), contribution rates and dollar amounts reflect State funds only, excluding municipal contributions. For TCS, they reflect the combined total of State and local contributions. Figures also reflect the $75 million supplemental contribution required by Chapter 489 of 2015.

Source: Gabriel, Roeder, Smith, & Co., Results of the June 30, 2022 Actuarial Valuation for Fiscal Year 2024

Employer contribution rates were subject to multiple influences this year, some exerting upward pressure, and others exerting downward pressure. The phased-in recognition of record fiscal 2021 investment returns mitigated, and largely offset, the substantial losses sustained in fiscal 2022, and increased payroll provides more funding to the system. Increased membership under the reformed benefit structure will continue to exert downward pressure on the rates. However, the system has nearly $1.5 billion in unrecognized investment losses that will place upward pressure on contribution rates in future years.

In addition to the ADC, the State also provides supplemental contributions. Chapter 489 provides for a supplemental reinvestment contribution of $75 million each year until the system is 85% funded. Additionally, Chapter 557 of 2017 altered a sweeper provision to direct a portion of unspent general funds to the system as an additional supplemental payment in fiscal 2021 and subsequent years. This sweeper provision requires the Administration to include up to $25 million of unspent funds as an additional appropriation for State pension contributions beginning in fiscal 2022.

Local School Board Contributions to the Teachers' Pension System

Local school boards are required to make contributions for members of the Teachers' Retirement and Pension systems (TRS/TPS). The contribution amounts are the amounts associated with the normal cost for local employees in TRS/TPS. The normal cost is the portion of the yearly contribution rate that reflects the amount needed to fund liabilities that will be accrued in the upcoming year. The local employer share normal cost rate for fiscal 2024 is 5.04%, and the system's actuary projects the local school board normal cost share for fiscal 2024 to be $380.2 million. As employees turn over and are replaced with individuals enrolled in the Reformed Contributory Pension Benefit, the normal cost rate should trend downward, consistent with prior experience.

The system's actuary projects that the total State contribution to the Teachers' Combined System for fiscal 2024 will be $885.6 million, which consists of $31.9 million of normal cost,[2] $802.9 million for unfunded liabilities, and $50.8 million in supplemental contributions.

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[2] The State continues to be responsible for paying the normal cost for certain TRS/TPS covered employees, such as library employees and employees of educational institutions supported and/or operated by the State (generally State universities and local community colleges).

Personnel

State Agency Position Vacancies

The current vacancy rate among Executive Branch State agencies excluding higher education is above 13%, higher than it has ever been. This extraordinary level of vacant positions in the Executive Branch exists despite the fact that there are fewer authorized positions compared to a decade ago. This trend in State employment is happening amidst larger changes in the national labor force and widespread compensation challenges in the public sector.

National Labor Force Trends

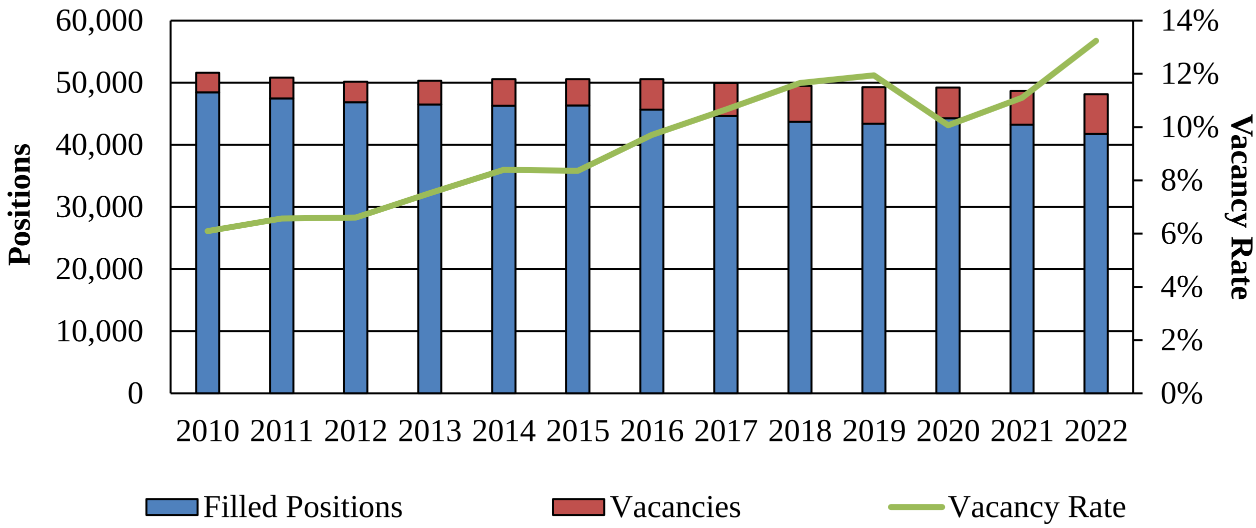
The U.S. labor force has grown modestly in recent decades and is expected to continue along that path over the next decade. The number of workers in the labor force without college degrees was essentially unchanged from calendar 1995 to 2021. The increase in labor force participation is entirely among college-educated workers. The U.S. Bureau of Labor Statistics (BLS) reports that 29 million more workers were employed in professional, management, and related occupations in 2021 than in 1995, suggesting that the competition for educated workers is robust. It seems that employers have taken advantage of this more educated labor force and hired many of those workers into occupations that require more education.

From 1995 to 2021, the share of the labor force that is 55 and older almost doubled (increasing from 11.9% in 1995 to 23.4%). Over the same period, the share of the labor force between 25 and 54 years old declined from 71.9% to 63.8%. Self-reported data from the BLS Current Population Survey suggest that the most common reason for women not to be in the labor force is caregiving requirements and the most common reason for men is illness or disability.

Vacancies in State Agencies

Vacancy rates in Executive Branch State agencies excluding higher education are at historically high levels, as shown in **Exhibit 1**. The vacancy rate in July 2022 was 13.2%, with nearly all State agencies having vacancy rates above 10%. There are 6,376 vacant State positions in the Executive Branch excluding higher education, which is more than double the number of vacancies in 2010; in the same time period, there has been a decline of nearly 3,500 authorized positions.

Exhibit 1
Filled and Vacant Positions and Vacancy Rates in Executive Branch State Agencies
Calendar 2010-2022



Note: Values exclude higher education institutions and are for June/July of the calendar year.

Source: Department of Legislative Services

Nationwide Public Sector Employment Challenges

Maryland is not unique in the challenges it faces with recruiting and retaining state workers. Public sector job openings for nurses, engineers, police, and information technology workers routinely outnumber the number of qualified applicants who apply for those positions. From February 2020 to June 2020, public sector employment declined by 8.5% for local governments and 4.4% for state government. Though net employment losses have improved, they have still not fully recovered, with net employment losses at 4.4% for local governments and 1.1% for state government through August 2022. Meanwhile, private sector employment has fully recovered, with 885,000 more private sector jobs in August 2022 than in February 2020. From December 2021 to February 2022, the state and local government job opening rate was the highest it has been in over 20 years.

Uncompetitive pay is one reason why state and local governments are struggling to hire and retain employees. A 2022 survey of state and local governments found that only 44% of survey respondents thought the wage compensation offered to their workers was competitive with the labor market.

Issues and Recommendations for Improving State Employee Vacancies

Historically high vacancy rates are challenging State agencies. To address these high vacancies, the Department of Legislative Services (DLS) has a number of recommendations including increasing salaries of State employees, as low pay is the biggest factor influencing vacancy rates. In addition, DLS has recommends the following:

- **Issue:** Older workers have become a larger share of the labor force, and the fastest growing segment of the labor force is workers over 54. **Recommendation:** Consider policies, such as work-sharing arrangements, to attract and retain older workers. Advertise vacant positions so that older workers who are retiring from other organizations are aware of State jobs.

- **Issue:** Many workers have family responsibilities that limit labor force participation. Caregiving is the most common reason that women give for not participating in the labor force. **Recommendation:** Expand flexible working hours and increase the availability of affordable child care and elder care.

- **Issue:** Despite recent changes, the State has a slow and stringent hiring process. **Recommendation:** Review the process to identify improvements, including better use of technology and eliminating long timeframes for job postings. Increase State agencies' flexibility in recruitment/hiring and salary decisions to facilitate the State in hiring the most qualified job candidates.

- **Issue:** Vacancy rates vary depending on the position. Different agencies have different needs. **Recommendation:** Formalize the Annual Salary Review (ASR) process to identify and target positions with high vacancies. Expand the process to evaluate whether specific enhanced benefits could help with recruitment and retention. ASRs should be more comprehensive and responsive to agency needs, so additional resources may be needed at the Department of Budget and Management.

- **Issue:** State employees gain experience but then leave State service for higher pay. **Recommendation:** Offer additional increments based on job tenure.

- **Issue:** Many employees prefer working virtually and many employers provide this benefit. A common concern about telework is how to effectively integrate new employees. **Recommendation:** Continue to offer telework and improve telework, such as improving the integration of new employees and improving data on the number of State employees who telework and the share of their working time spent teleworking.

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Education

State Education Aid and Blueprint for Maryland's Future Fund

State education aid is projected to increase significantly in fiscal 2024, primarily due to projected enrollment increases and higher per pupil funding amounts set by the Blueprint for Maryland's Future (Blueprint). However, aid for full-day prekindergarten decreases due to challenges in targeting funding to specific students in the first year. The Blueprint for Maryland's Future Fund is projected to have sufficient revenues to cover both State and non-State aid expenditures attributable to the Blueprint through fiscal 2027, with a substantial fund balance for fiscal 2028. As of October 2022, all 24 local jurisdictions have met or exceeded the fiscal 2023 local education effort requirement.

Direct Aid for Public Schools Projected to Increase by $381 Million

In fiscal 2024, public schools are expected to receive an estimated total of $8.3 billion in State aid, which represents a 4.9% increase over fiscal 2023. Of this amount, $7.6 billion will flow directly to local school systems. Total funding changes can be attributed to projected increases in K-12 student enrollment, higher per pupil funding amounts for major aid programs, and an expected decrease in the count of students that receive funding through the Full-day Prekindergarten program, as discussed below.

Exhibit 1 provides estimated State aid for education in fiscal 2023 and 2024. In fiscal 2024, foundation formula funding is estimated to increase by $102.2 million (2.8%). This increase is largely due to projected enrollment increases and the increase in the per pupil foundation amount from $8,310 per student in fiscal 2023 to $8,642 per student in fiscal 2024 as required under Chapters 36 and 55 of 2021, which implement the Blueprint for Maryland's Future (Blueprint). Fall 2022 full-time equivalent (FTE) enrollment is estimated to increase by 1.1% over fall 2021. The legislation implementing the Blueprint altered the student count funded under the Foundation Program to use either the greater of FTE enrollment or the three-year moving average FTE enrollment, though fall 2020 FTE enrollment, which was suppressed by the COVID-19 pandemic, is excluded from that average.

Exhibit 1
Estimated State Aid for Education
Fiscal 2023-2024
($ in Millions)

Program	2023	2024	$ Change	% Change
Foundation Program	$3,659.5	$3,761.6	$102.2	2.8%
Cost of Education Index[1]	157.9	155.9	-2.0	-1.3%
Compensatory Education Program[2]	1,295.2	1,367.0	71.8	5.5%
Special Education – Formula Aid	401.3	450.1	48.8	12.2%
Special Education – Nonpublic Placements	141.4	137.4	-4.0	-2.8%
English Language Learners	422.5	469.5	47.0	11.1%
Guaranteed Tax Base	45.8	48.7	2.9	6.3%
Student Transportation	336.0	364.9	29.0	8.6%
Head Start/Prekindergarten Expansion	29.6	29.6	0.0	0.0%
Blueprint Programs[3]	595.4	665.6	70.3	11.8%
Concentration of Poverty Grants	*190.3*	*258.2*	*67.9*	*35.7%*
Transitional Supplemental Instruction	*50.0*	*51.1*	*1.1*	*2.3%*
Full-day Prekindergarten	*144.1*	*97.9*	*-46.1*	*-32.0%*
Career Ladder	*9.0*	*14.8*	*5.8*	*63.9%*
College and Career Ready	*18.7*	*21.1*	*2.5*	*13.1%*
Education Effort Adjustment	*125.7*	*164.8*	*39.1*	*31.1%*
Transition Grants	*57.7*	*57.7*	*0.0*	*0.0%*
School Safety	20.6	20.6	0.0	0.0%
Other Education Programs	123.7	124.4	0.7	0.6%
Direct Aid Subtotal	***$7,228.8***	***$7,595.5***	***$366.7***	***5.1%***
Teachers' Retirement	$724.6	$746.1	$21.5	3.0%
Grand Total	**$7,953.5**	**$8,341.6**	**$388.1**	**4.9%**

[1] Cost of Education Index shows Geographic Cost of Education Index in fiscal 2023 and Comparable Wage Index in fiscal 2024.
[2] Fiscal 2023 includes $56.7 million in discretionary hold harmless grants.
[3] The Blueprint for Maryland's Future Fund covers funding for these programs and for portions of additional State aid and non-State aid programs.

Source: Department of Legislative Services

Formula funding for compensatory education, special education, and English language learners also increases in fiscal 2024. Blueprint per pupil formula increases result in significant increases in per student funding under the special education and English language learners formulas. Special education formula funding is estimated to increase by $48.8 million (12.2%), from $401.3 million to $450.1 million. English learner funding increases by $47.0 million (11.1%), which reflects a $332 per pupil funding increase and enrollment growth of 6.9%. Compensatory aid is estimated to increase by $71.8 million (5.5%) after accounting for $56.7 million in hold harmless grants in fiscal 2023. This funding increase is primarily due to projected growth in free and reduced-price meal student enrollment as well as a $123 increase in per pupil funding.

Student transportation funding is expected to increase by $29.0 million, or 8.6%, to $364.9 million in fiscal 2024. This amount reflects a high level of inflation (assumed to be equivalent to the 8% cap in statute), increased FTE enrollment, and a 2.0% increase in the student count for special transportation.

Overall funding for Blueprint programs, which includes Concentration of Poverty Grants, Transitional Supplemental Instruction, Full-day Prekindergarten, Career Ladder, College and Career Readiness, Education Effort Adjustment, and Transition Grants, totals $665.6 million in fiscal 2024, an increase of 11.8% over fiscal 2023. This overall increase in Blueprint program funding is somewhat mitigated by an estimated decrease of $46.1 million in full-day prekindergarten funding.

Under the Blueprint, the largest expansion of any early childhood program is publicly funded full-day prekindergarten. This is due to the establishment of a new funding formula for voluntary prekindergarten for three- and four-year-old children from low-income families. The formula is jointly funded by the State and local governments and phases in through fiscal 2030, with per pupil funding levels gradually increasing over time. Prekindergarten programs receive the full per pupil award for children with family incomes at or below 300% of federal poverty guidelines. The estimated $97.9 million in prekindergarten funding in fiscal 2024 is a substantial decline from the fiscal 2023 funding level of $144.1 million. Due to data collection issues preventing the Maryland State Department of Education (MSDE) from collecting fiscal 2023 enrollment data for children with family incomes at or below 300% of the federal poverty guidelines, the prekindergarten formula for fiscal 2023 was budgeted to support all children served in public prekindergarten programs regardless of income. However, starting in fiscal 2024, annual funding is assumed to align with intended income thresholds, resulting in the $46.1 million decrease in prekindergarten funding.

Fiscal 2023 marked the final year of funding through the Geographic Cost of Education Index (GCEI). Fiscal 2024 funding for the Comparable Wage Index, the effective successor to GCEI, is estimated to total $155.9 million, a 1.3% decrease compared to fiscal 2023 GCEI funding.

State Retirement Costs Increase; Local Contributions Decrease

In fiscal 2024, State retirement costs for public school teachers and other professional personnel will total an estimated $746.1 million, which is a $21.5 million (3.0%) increase from fiscal 2023. This increase is attributed to an increase in the State employer pension contribution rate due primarily to higher inflation causing cost-of-living adjustments (COLA) for retirees to increase more than expected. The normal cost rate, which determines the local share of costs, decreased from 5.12% to 5.04%. The higher COLAs result in an increase in the overall employer pension contribution rate, from 15.29% in fiscal 2023 to 15.48% in fiscal 2024. Because local school systems are responsible for paying the normal cost, which is the cost of pension benefits accrued in the current year, local pension contributions decrease from an estimated $373.0 million in fiscal 2023 to $368.2 million in fiscal 2024. Local school systems will also contribute approximately $16.6 million toward State Retirement Agency administrative costs. With total employer contributions for the Teachers' Combined System (TCS) projected to increase, the decrease in local contributions means that the State contribution for TCS increases. Employer contribution rates are expected to continue to increase substantially in the out-years due to persistent inflationary pressure and significant investment losses.

Blueprint for Maryland's Future Fund

The Blueprint for Maryland's Future Fund (Blueprint Fund) is a special fund established to hold revenues dedicated to implementing the Blueprint. Since fiscal 2021, contributions to the fund have included gaming revenues deposited in the Education Trust Fund (ETF); sports betting revenues; sales tax revenues from marketplace facilitators, out-of-state vendors above $100 million, and digital downloads; federal funds for COVID-19 relief swapped with Blueprint special funds; and some one-time revenues.

Chapter 33 of 2022 requires the Comptroller to make in fiscal 2023 a distribution of $800 million in income tax revenues to the fund as well as 9.2% of remaining sales and use tax revenues (increasing to 11.0% in fiscal 2024) after certain other distributions. It also repealed sales and use tax distributions from marketplace facilitators, certain out-of-state vendors, and revenues from digital downloads. In fiscal 2023, Blueprint Fund revenues total $3.36 billion, including a starting balance of approximately $1.24 billion and the $800 million in income tax revenues. In fiscal 2024, revenues are projected to total approximately $3.76 billion.

In addition to State aid programs (discussed above and shown in Exhibit 1) funded by the Blueprint Fund, some non-State aid categorical programs also receive Blueprint funds. In fiscal 2023, these non-State aid programs receive Blueprint funds totaling $87.5 million. In fiscal 2024, non-State aid programs funded with Blueprint funds receive approximately $123.8 million and continue to focus primarily on programs needed to facilitate Blueprint implementation, including the Accountability and Implementation Board ($4.8 million), the behavioral health community support consortium ($85.0 million), early childhood programs ($17.8 million), teacher scholarships ($12.0 million), and other Blueprint programs ($4.1 million).

As shown in **Exhibit 2**, in fiscal 2023, the Blueprint Fund covers approximately $963 million in State aid and non-State aid expenditures with an ending fund balance of $2.4 billion. In fiscal 2024, approximately $1.42 billion in expenditures is covered by the fund with an ending fund balance of $2.34 billion. Based on current projections, the fund will have sufficient revenues to cover expenditures through fiscal 2027 with a substantial fund balance in the fund for fiscal 2028.

Exhibit 2
Blueprint for Maryland's Future Fund
Fiscal 2023-2024
($ in Millions)

	2023	2024
Total Revenues Available	**$3,359**	**$3,758**
Blueprint for Maryland's Future – State aid	$875	$1,297
Blueprint for Maryland's Future – Non-State aid	87	124
Total Expenditures	**$963**	**$1,421**
Ending Fund Balance	**$2,396**	**$2,336**

Note: Figures may not sum to total due to rounding.

Source: Department of Legislative Services

Local Funding Requirements

The maintenance of effort (MOE) law requires each county government, including Baltimore City, to provide as much per pupil funding for the local school board as was provided in the prior fiscal year. The per pupil MOE level each year is based upon the greater of the prior year FTE enrollment and the three-year moving average of FTE enrollment. Under Chapter 55, fall 2020 enrollment is excluded from this calculation to account for the effects of the COVID-19 pandemic on public school enrollment. Under the Blueprint, beginning in fiscal 2023, counties must provide the *greater of* the per pupil MOE and the combined local share of multiple major aid programs. Furthermore, Chapter 33 specified the local MOE funding total that must be compared to the local share in fiscal 2023.

As of October 2022, MSDE has certified that the school appropriations of all counties and Baltimore City have met or exceeded the fiscal 2023 local effort requirement. In total, 14 counties (Anne Arundel, Baltimore, Calvert, Carroll, Charles, Frederick, Harford, Howard, Montgomery, Queen Anne's, St. Mary's, Talbot, Washington, and Worcester) exceeded their local effort requirement by 2.0% or more.

Education

Blueprint for Maryland's Future

Implementation of the Blueprint for Maryland's Future (Blueprint) has ramped-up in 2021 and 2022. Chapter 33 of 2022 made revisions to funding requirements and timeline adjustments for adoption of implementation plans. The Maryland State Department of Education has made progress on implementing Blueprint programs and submitting required reports, and Blueprint committees tasked to address career and technical education and student behavioral health needs have begun to meet.

Blueprint for Maryland's Future

Overview and Status of Implementation

The Blueprint for Maryland's Future (Blueprint) is a set of policies and dedicated funding intended to transform Maryland's early childhood, elementary, and secondary education system to the levels of high-performing systems around the world. The Blueprint is based on the recommendations of the Commission on Innovation and Excellence in Education (commonly referred to as the Kirwan Commission). From 2018 through 2021, the General Assembly passed legislation each year to implement the Kirwan Commission's recommendations, make modifications to the enacted recommendations, and incorporate additional priorities and funding provisions, including dedicated funding to support Blueprint implementation. The Governor vetoed the 2020 legislation, and the Governor's veto was overridden during the 2021 session (Chapter 36). Subsequent legislation, Chapter 55 of 2021 and Chapter 33 of 2022, were enacted to adjust implementation timelines. Overall, the State will invest an additional $3.9 billion (45% increase) in Maryland's public schools by fiscal 2034, and local governments will invest at least $700 million (8% increase) over pre-Blueprint levels.

Chapter 36 established an Accountability and Implementation Board (AIB) to oversee the implementation of the Blueprint by State and local entities and to achieve the Blueprint's goals and expected outcomes. The seven-member board was appointed in November 2021. Under Chapter 36, a specified share of major education aid provided under the Blueprint is automatically withheld from a school system or public school each year, and AIB must release the funds if certain implementation requirements are met by the system or school.

Revisions to Funding and Implementation Requirements

Funding Revisions

The Blueprint for Maryland's Future Fund is a special fund established to hold revenues dedicated to implementing the Blueprint. Since fiscal 2021, contributions to the fund have included gaming revenues deposited in the Education Trust Fund; sports betting revenues; sales tax revenues from marketplace facilitators, certain out-of-state vendors, and digital downloads; federal funds for COVID-19 relief swapped with Blueprint special funds; and some one-time revenues.

Chapter 33 made changes to Blueprint funding requirements. The Act requires the Comptroller to make in fiscal 2023 a distribution of $800 million in income tax revenues to the fund as well as 9.2% of remaining sales and use tax revenues (increasing to 11.0% in fiscal 2024), after certain other distributions. It also repealed sales and use tax distributions from marketplace facilitators, certain out-of-state vendors, and revenues from digital downloads.

In addition, Chapter 33 clarified that, beginning in fiscal 2023, 25% of the increase in the State share of major education aid over the amount provided in the prior fiscal year (as opposed to the current year) must be automatically withheld from a local school system for the next fiscal year. AIB must release withheld funds if it finds that a local school system has met the minimum guidelines for the submission of its initial implementation plan. In fiscal 2024 and fiscal 2025, AIB must release funds withheld each year if it finds that a local school system or public school has developed and received initial approval for its initial implementation plan and for any subsequent modifications.

Revisions to Implementation Plan Requirements

Under the Blueprint, AIB must develop a Comprehensive Implementation Plan to guide implementation over a 10-year period. Chapter 33 adjusted the deadline for adoption of the plan from February 15, 2022, to December 1, 2022. AIB held a series of working sessions in summer and fall 2022 to receive stakeholder input on development of the plan.

Under Chapter 36, State and local entities required to implement an element of the Blueprint must submit to AIB for approval implementation plans based on criteria developed by the Maryland State Department of Education (MSDE). Chapter 33 extended the deadline for adoption of the MSDE criteria by five months to September 1, 2022. The deadline for submission of local school system implementation plans was also adjusted by one year to March 15, 2023. Based on a recommendation of MSDE, AIB then adjusted the deadline further, requiring submission of local school system implementation plans in three phases, beginning in March 2023 and ending in March 2024.

Status of Select Blueprint Programs, Studies, and Reports

Expert Review Teams

Under the Blueprint, MSDE must establish, administer, and supervise an Expert Review Team (ERT) program to collaborate with schools and school systems to provide feedback and recommendations with a focus on improving student outcomes. In 2022, MSDE submitted to AIB for approval an initial ERT deployment plan, including procedures, resources, and rubric for a school review process; training for ERT members; and a proposed methodology for selection of schools. The ERT pilot process began in spring 2022, and ERT members will visit approximately 50 schools across the State during the 2022-2023 school year. As of November 2022, MSDE has hired 140 ERT members.

College and Career Readiness Standard

Chapter 36 requires that a college and career readiness (CCR) standard and a system of assessments be established to ensure students are reaching their goals and receiving the support needed. For the 2021-2022 school year, MSDE has adopted a policy stating that students are considered college and career ready when they have met or exceeded specified scores on certain State assessments in English and mathematics. MSDE must contract with an external research organization to conduct an empirical study of the skills, knowledge, and abilities needed to succeed in the first year of Maryland community college coursework to determine whether to revise the CCR standard. MSDE is in the process of contracting for two studies: (1) a short-term quantitative study to explore the relationship between high school State and national standardized tests, and other potential predictors of success measured in high school (such as course grades), and actual success in postsecondary coursework and/or workforce outcomes; and (2) a long-term deep content analysis to determine the skills and knowledge necessary to succeed in the first year at a community college or four-year college or university in Maryland. MSDE is partnering with the University of Maryland for the short-term study and is evaluating responses to a request for proposals for the long-term study.

Early Childhood

Beginning in fiscal 2023, MSDE must establish and implement high-quality prekindergarten programming by expanding voluntary prekindergarten for all three- and four-year-old children from families with specified incomes. In November 2021, MSDE submitted to AIB and the General Assembly a report on the planning associated with operationalizing specific early childhood components of the Blueprint.

Neighborhood Indicators of Poverty

On October 1, 2022, MSDE submitted to AIB a final report on its recommended methodology for neighborhood indicators of poverty, known as Maryland Neighborhood Tiers (MNT), and options for using MNTs in compensatory education and concentration of poverty grant funding formulas. Chapter 33 requires MSDE to submit a report to the General Assembly, AIB, and the Department of Budget and Management by December 1, 2022.

Other Blueprint Entities

Career and Technical Education

The Career and Technical Education (CTE) Committee, a unit of the Governor's Workforce Development Board, is an 11-member committee operating under the oversight of AIB. The CTE committee was appointed on August 25, 2022, and had its first meeting on October 4, 2022. During summer and fall 2022, the CTE committee began hiring staff and meeting with local workforce development boards. It must submit a Blueprint implantation plan to AIB by March 15, 2023.

Maryland Consortium on Coordinated Community Supports

The Maryland Consortium on Coordinated Community Supports is responsible for aiding and expanding student behavioral health needs and providing technical assistance to schools. Chapter 713 of 2022 expanded the Consortium membership, added two additional staff members, designated the Maryland Community Health Resources Commission (MCHRC) as fiscal agent for consortium activities, and clarified the roles of the consortium and MCHRC with respect to grantmaking. The majority of consortium members were appointed by August 2022, and it held its first meeting on August 17, 2022.

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Education

School Staffing Shortages

Maryland's local school systems are experiencing a shortage of both teachers and noninstructional staff. An insufficient number of new teachers and a high number of teachers exiting the profession has resulted in nearly 2,000 open teaching positions as of May 2022, accounting for 3.2% of teacher positions statewide. Local school systems are also struggling to hire noninstructional staff. Through the Blueprint for Maryland's Future and other State and local initiatives, resources are being allocated to recruit and retain educational personnel. But additional actions may be needed to address the sizable number of vacancies.

Staffing Shortages Persist Both Nationwide and in Maryland

As in other states, Maryland's local school systems are currently experiencing a shortage of both teachers and noninstructional staff. Teacher preparation, recruitment, retention, and retirement are all reasons for teacher shortages; for noninstructional staff, low wages and high turnover are the primary factors. Although Maryland is investing in long-term solutions to address teacher shortages through the Blueprint for Maryland's Future (Blueprint), and local school systems have offered incentives to encourage staff retention, vacancies persist.

Shortage of Teachers and Noninstructional Staff

In Maryland, an insufficient supply of new teachers and a high number of teachers exiting the profession has resulted in a significant number of teacher vacancies. Over the past 10 years, Maryland experienced a 33% decrease in total enrollment in teacher preparation programs. Due to this decrease, the supply of teachers is not keeping pace with local school system demand, a trend seen across the United States. Since the 2017-2018 school year, approximately 9% of Maryland teachers have not returned to teach in Maryland in the following year, excluding teachers who moved between local school systems or schools. This pattern continued in the 2021-2022 school year, with 5,516 Maryland teachers (8.8%) exiting teaching at the end of the school year. Of that amount, 2,163 (39%) voluntarily resigned; 1,406 (26%) left for education-related employment; 1,132 (21%) retired; and 815 (14%) exited for other reasons or were terminated.

Exhibit 1 shows Maryland teacher vacancies by local school system as of May 2022. At that time, almost 2,000 positions remained open, accounting for 3.2% of teacher positions across the State. According to the Maryland State Department of Education (MSDE), 11 local school systems experienced an increase in vacancies during the 2021-2022 school year, with nearly all starting the school year with more vacancies compared to the previous two years.

Exhibit 1
Teacher Vacancies by Local School System
May 2022

Local School System	Teachers	Vacancies	% Vacant
Charles	1,805	194	10.7%
Dorchester	342	30	8.8%
Prince George's	9,274	714	7.7%
Baltimore City	5,020	325	6.5%
Queen Anne's	519	32	6.2%
Kent	171	9	5.3%
Somerset	241	10	4.1%
Baltimore County	7,685	270	3.5%
St. Mary's	1,100	24	2.2%
Calvert	987	22	2.2%
Allegany	607	10	1.6%
Howard	4,258	67	1.6%
Wicomico	1,178	17	1.4%
Montgomery	11,606	161	1.4%
Frederick	2,889	35	1.2%
Talbot	333	4	1.2%
Caroline	417	4	1.0%
Anne Arundel	6,013	51	0.8%
Cecil	1,131	7	0.6%
Washington	1,494	7	0.5%
Harford	2,586	6	0.2%
Garrett	287	0	0.0%
Worcester	592	0	0.0%
Carroll	1,784	*	*
Total	**62,319**	**1,999**	**3.2%**

* Incomplete data; does not include School for Educational Evolution and Development.

Source: Maryland State Department of Education

Teacher shortages also varied by certification area with secondary single subjects, special education, early childhood and elementary, and instructional specialty areas experiencing the highest number of vacancies across the State. Special education is a critical shortage area, with approximately 400 vacancies at the end of the 2021-2022 school year.

Local school systems also report difficulty hiring noninstructional staff for the 2022-2023 school year. Job openings posted on local school system websites advertise positions for classroom and library aides, bus drivers and other transportation personnel, administrative staff, and other support staff. These websites also advertise job fairs, wage increases, and hiring bonuses for noninstructional staff.

State and Local Actions to Address the Staffing Shortage

Chapters 36 and 55 of 2021, legislation enacted to implement the Blueprint, included provisions that aim to address the shortage of teachers, including a mandated minimum base salary of $60,000 by July 1, 2026, salary increases for National Board Certification teachers, and programs for teacher development and career ladders. Additionally, federal funds in the Maryland Leads program (made available through the American Rescue Plan Act) and loan assistance through the Maryland Higher Education Commission provide local school systems and prospective teachers with other incentives. **Exhibit 2** shows that in fiscal 2023 and 2024, the State will distribute approximately $101.8 million for teacher preparation, recruitment, and retention through seven different programs.

Exhibit 2
State Programs to Address Teacher Shortages
Fiscal 2023 and 2024
($ in Thousands)

Program	2023	2024	Total
Career Ladder	$9,034	$14,800	$23,834
Teaching Fellows for Maryland	8,000	12,000	20,000
National Board Certification	2,600	2,600	5,200
Teacher Quality and Diversity	1,000	1,000	2,000
Janet L. Hoffman Loan Assistance	1,400	1,400	2,800
Teacher Recruitment and Outreach	250	250	500
Grow Your Own Staff (Maryland Leads)	47,500	0	47,500
Total	**$69,784**	**$32,050**	**$101,834**

Note: Federal stimulus funds for Maryland Leads are from the American Rescue Plan Act and are available for local school systems to use through September 2024.

Sources: Maryland State Department of Education; Department of Legislative Services

In addition to these programs, the State waived regulations for conditional and resident teacher certificates to allow more time for and provide multiple alternate pathways to certification. MSDE and local school systems have also invested in professional development, leadership programs, financial incentives for early career teachers, teacher apprenticeship programs, and alternative certificate pathways.

Actions Taken in Other States

Other states experiencing teacher shortages have adopted a variety of strategies to attract and retain qualified personnel. Some programs provide financial incentives for teacher preparation in high-need disciplines; others aim to distribute teachers more equitably. Some of these programs include:

- in Arizona, full tuition scholarships for students who enroll in a state teacher education program and commit to working in Arizona schools;
- in Connecticut, mortgage assistance for teachers to enable them to afford houses in the communities where they work; and
- in New Mexico, federal loan repayment for teachers certified in high-need disciplines such as special and bilingual education that are willing to work at low-performing schools.

In addition, states are considering entry into a new Interstate Teacher Mobility Compact, a legally binding agreement between member states to ensure that eligible licenses will be equivalent across states and disciplines. For the compact to become effective, two or more states must enact legislation containing identical compact language.

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Education

Child Care

The child care industry is one of the few industries both nationally and statewide continuing to operate at below prepandemic workforce levels. With the workforce shortage, decreased provider capacity, and availability of affordable child care options continuing to present challenges for families seeking quality child care, legislation was enacted during the 2022 legislative session to provide financial support to child care providers.

Ongoing Child Care Industry Workforce and Capacity Shortage

The child care industry workforce shortage has persisted both nationwide and in Maryland throughout 2022, a trend that existed even prior to the COVID-19 pandemic. The public health emergency required many child care providers to temporarily close, reduce staff, and serve fewer children once reopened. Though the emergency measures have now ended, staffing challenges have continued. This has caused child care programs to limit their capacity or close, leaving families with fewer and costlier child care options. As a result, parents may choose to reduce their work hours to care for their children or leave the labor force. This has disproportionately impacted women, who are more likely to leave the labor force to care for children.

According to the Maryland State Department of Education (MSDE), the number of licensed child care providers in the State decreased from approximately 8,300 in July 2018 to just under 7,100 in July 2022, a decrease of nearly 15%. Closures among family child care programs drove this decline as the number of registered family child care providers fell from 5,494 to 4,349, or 21%, over the same period. The capacity of those providers (measured as the number of licensed slots) has similarly decreased. In July 2018, licensed child care providers in the State had a total capacity of about 201,700 slots. By July 2022, that figure had decreased to approximately 190,700 slots (a decline of about 9%). This statewide capacity measure may understate the loss in childcare availability as child care providers may offer fewer slots than their licensed capacity due to staff vacancies and other reasons.

By summer 2022, the U.S. economy had fully recovered the jobs that were lost in the aftermath of the COVID-19 pandemic. The strong labor market has led to upward pressure on wages, and many workers have chosen to change jobs in search of higher wages. However, the child care industry has struggled to retain and hire new workers during this time; in fact, the child care industry was one of the few industries continuing to operate well below prepandemic workforce levels through most of calendar 2022.

Although numerous factors have led to the current child care labor shortage, one of the most significant factors is the level of pay in the industry. A September 2021 report published by the U.S. Department of the Treasury indicated that the average child care worker was in the second percentile of all U.S. workers in terms of salary in 2020, earning about $24,000 annually. Child care providers struggle to offer higher wages due to low profit margins. Personnel costs, which account for about 50% to 60% of total child care program operating costs, impact the small, single-establishment providers that make up much of the industry and make it difficult to raise wages.

Chapter 36 of 2021, the Blueprint for Maryland's Future (Blueprint), seeks to expand access to high-quality early childhood education and care for all families by setting high standards for child care providers and expanding access to prekindergarten through a mixed public/private delivery system. Provisions in the Blueprint and other recent legislation aim to build the capacity of child care providers outside of prekindergarten expansion efforts. The Blueprint established several early childhood accreditation programs in statute that previously existed in MSDE regulations, such as the Maryland Child Care Credential Program, and required increased funding for workforce programs beginning in fiscal 2023. The fiscal 2023 budget included $6.3 million to support early childhood workforce program expansion. Chapters 437 and 438 of 2021 created the Growing Family Child Care Opportunities Pilot Program to provide grants to establish and support local pilot programs that increase the supply and ensure the sustainability of family child care providers. These programs will provide technical assistance and financial incentives for recruited individuals navigating MSDE's process to become a registered family child care provider.

Child Care Scholarship Program Expansion

Though child care providers have low profit margins and struggle to offer competitive wages to recruit and retain staff, affordability is nonetheless a growing concern as child care costs remain one of the largest household expenses for families. To provide financial assistance with increasing costs of tuition, MSDE administers the federally subsidized Child Care Scholarship Program (CCSP). Under CCSP, eligible families receive vouchers indicating a subsidy rate and a copayment amount to purchase child care services. The State pays the subsidy to the provider selected by the family, and the parent pays the copayment and any remaining balance between the rate charged by the provider and the voucher amount. Recent legislative and regulatory changes have expanded CCSP by increasing benefits and streamlining application and payment processes.

Income Eligibility and Provider Reimbursement Rates

To be eligible for CCSP, a family must have a household income below a certain threshold or be categorically eligible by receiving Temporary Cash Assistance or Supplemental Security Income. Beginning August 1, 2018, MSDE raised by regulation CCSP income eligibility levels from approximately 32% to 65% of the 2018 State median income. Income eligibility levels were raised further to 75% of the 2022 State median income, effective May 23, 2022, using financial assistance for child care authorized in the federal American Rescue Plan Act (ARPA) of 2021. These changes greatly expanded access to subsidized child care. For example, a family of three could only receive CCSP benefits if its annual income was less than $29,990 prior to

August 1, 2018, or $60,081 between August 1, 2018, and May 22, 2022. A family of three can now make up to $75,627 per year and receive a scholarship.

In recent years, the value of CCSP benefits has been enhanced through increased CCSP provider reimbursement rates. As of July 1, 2017, Maryland's CCSP rates were only at the twelfth percentile of market rates, below the seventy-fifth percentile set by the federal government as the benchmark for ensuring that children receiving CCSP benefits have equal access to services. Chapters 563 and 564 of 2018 required an appropriation of funding to adjust CCSP rates beginning in fiscal 2020, and Chapters 595 and 596 of 2019 then accelerated the mandated increase so that CCSP rates were set to at least the sixtieth percentile in fiscal 2021. Using available ARPA funding, MSDE increased CCSP rates to the seventieth percentile effective May 23, 2022.

Efforts to Streamline Application and Payment Processing

Child care providers have encountered challenges in receiving CCSP payments, including a slow application process and outdated systems that delay reimbursement. MSDE is working to implement the following measures to shorten payment processing timeframes and increase CCSP benefits and eligibility.

- ***Presumptive Eligibility:*** Chapters 525 and 526 of 2022 require MSDE to establish, by July 1, 2023, a process for granting presumptive eligibility to individuals who attest to their eligibility (allowing applicants to begin receiving scholarships and providers to be reimbursed for at least a 60-day period while MSDE reviews the application).

- ***Elimination of Child Support Requirements:*** CCSP eligibility has been extended to more families due to Chapters 525 and 526 eliminating the requirement that an individual pursue or receive child support payments or apply for services from a child support agency to be eligible for CCSP.

- ***Reducing Copayments:*** MSDE is covering copay costs of individuals participating in certain public benefits programs, as required by Chapters 525 and 526, and is using ARPA funds to reduce the copay amount to $1 per week for other individuals.

- ***Payment Processing Standards:*** As required by Chapters 525 and 526, MSDE must notify the Comptroller within 10 days after receiving an invoice from a provider, and the Comptroller must pay the provider within 5 days after receiving notification.

MSDE has taken additional short-term actions to support child care providers, streamline the reimbursement process, and improve customer service. During summer and fall 2022, MSDE has been paying providers based on CCSP enrollment (regardless of attendance), issuing one-time payments to offset processing delays and continued COVID-19 impacts, and distributing one-time retention payments to CCSP providers. MSDE is also implementing ongoing changes to CCSP, such as transitioning from retroactive, attendance-based payments to an advanced, enrollment-based payment structure and transitioning application, payment, and attendance processing to an online provider and parent portal beginning in January 2023.

New Financial Assistance for Child Care Providers

Building on the State's receipt of $502 million in federal ARPA funding distributed for states to address the child care crisis caused by the COVID-19 pandemic, legislation enacted during the 2022 session established the following new programs to provide financial assistance for child care providers.

- ***Child Care Stabilization Grants:*** Chapters 206 and 207 of 2022 required MSDE, in fiscal 2022 and 2023, to administer child care stabilization grants to provide financial support to child care providers that have faced a financial hardship or suffered an operational burden during the COVID-19 pandemic. MSDE must give priority to certain providers, including those with the most need or who participate in certain programs, or provider services to specified high priority populations. The fiscal 2023 budget allocated $50 million in fiscal 2022 and $3.2 million in fiscal 2023 for this purpose.

- ***Employee Bonuses:*** Chapter 594 of 2022 mandated that $16 million be distributed in fiscal 2023 for child care provider and employee bonuses as a means of improving retention and recruitment of child care workers. Of this funding, $10 million must support retention bonuses, $4 million must be used for new hire bonuses, and $2 million must be awarded as hiring assistance bonuses.

- ***Therapeutic Child Care Grant Program:*** Other legislation specifically assisted providers that serve young children with special needs. Chapters 498 and 499 of 2022 established a Therapeutic Child Care Grant Program within MSDE to support certain providers that provide specialized child care and early education to children under the age of six who have delays in development; physical disabilities; or delays in social, emotional, or behavioral functioning. The fiscal 2023 budget appropriated $3.7 million to increase grants for therapeutic child care programs.

- ***Child Care Capital Support Revolving Loan Fund:*** Chapter 466 of 2022 established a Child Care Capital Support Revolving Loan Fund to provide no-interest loans for capital expenses to child care providers who participate in CCSP. The Department of Commerce was allocated $15 million in fiscal 2023 for the loan program and is working with MSDE to prioritize certain child care providers in underserved areas.

Higher Education

College Affordability

Actions are being taken at the federal and State levels to reduce student loan debt and simplify the student financial aid process. These actions include modifying scholarship eligibility; increasing State scholarship funds; developing a unified application for State scholarships; encouraging students to apply for financial aid; and providing various forms of student loan relief. Even if these modifications are successful, due to the magnitude of the issues involved, additional actions may be needed to make college more affordable and ensure that students have an opportunity to attend college.

Implementation of Legislative Changes to State Scholarships

The Maryland Student Investment Act (Chapter 23 of 2022) and Chapters 639 and 640 of 2022 made a variety of changes to student financial assistance programs in the State. While the increases in mandated State funding provided in Chapter 23 will be available beginning in fiscal 2024, a number of eligibility and award notification changes are not effective until this upcoming award year.

Beginning this award year, a Guaranteed Access (GA) grant recipient who otherwise would become ineligible because of a change in family income is still eligible to receive the full award if the recipient remains eligible to receive a federal Pell Grant. Additionally, the GA grant eligibility for a student who prequalified under the Next Generation Scholars of Maryland Program must be based on the annual family income determination used when the student prequalified. Chapter 23 also expanded eligibility for the Veterans of the Afghanistan and Iraq Conflict Scholarship.

The Maryland Higher Education Commission (MHEC) must notify each individual who applied for a Delegate Howard P. Rawlings Education Excellence Award by April 15 whether the student is a recipient of an award and, if applicable, the amount awarded to the student. An earlier award date will allow students to make enrollment decisions with the full knowledge of financial aid funding available to them before institution enrollment confirmation deadlines.

Chapters 639 and 640 also required MHEC to design a unified scholarship application that would, on completion, allow an applicant to apply for all of the centralized scholarship programs available in the State. The fiscal 2023 operating budget included funding for a unified financial aid system. MHEC is currently in the planning stage for the project with the Department of Information Technology and is on pace to complete the new system by the legislatively required July 1, 2025 implementation date.

Federal Student Loan Forgiveness

On August 24, 2022, President Joseph R. Biden, Jr. announced that the U.S. Department of Education would provide up to $20,000 in debt cancellation to federal Pell Grant recipients with loans held by the U.S. Department of Education, and up to $10,000 in debt cancellation to non-Pell Grant recipients. Borrowers are eligible for this relief if their individual income is less than $125,000 ($250,000 for married couples). In October 2022, the application became available, and individuals will have until the end of 2023 to apply.

On September 29, 2022, six states – Arkansas, Iowa, Kansas, Missouri, Nebraska, and South Carolina – filed suit arguing that the Administration's student debt relief plan was a misuse of emergency power under the Administrative Procedures Act and the Higher Education Relief Opportunities for Students Act of 2003 and asked the court for an immediate injunction to pause the plan. While the Eastern District of Missouri held that the plaintiffs lacked standing to sue, on October 21, 2022, the U.S. Court of Appeals for the Eighth Circuit issued a stay prohibiting the Administration from acting on the program pending the appeal. It is unclear when, if the court allows the program to proceed, debt relief will begin. Federal student loan repayments have been on pause since March 2020; the pause was extended for one final time through December 31, 2022.

The American Rescue Plan Act of 2021 modified the treatment of student loan forgiveness for discharges in 2021 through 2025. Generally, if a taxpayer is responsible for making loan payments, and the loan is canceled or repaid by someone else, the taxpayer must include the amount that was canceled or paid on the taxpayer's behalf in the taxpayer's gross income for tax purposes. However, under certain circumstances, a taxpayer may be able to exclude this amount from gross income if the loan was one of the following:

- a loan for postsecondary educational expenses;
- a private education loan;
- a loan from an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body in attendance where it regularly carries on its educational activities, as specified; or
- a loan from an organization exempt from tax under § 501(a) of the Internal Revenue Code to refinance a student loan.

In addition, to the degree included in federal adjusted gross income, taxpayers may subtract the amount of any forgiven student loan from their Maryland taxable income under § 10-207(aa) of the Tax – General Article. For a history of that subtraction modification, please see Chapters 320 and 321 of 2014 and Chapter 685 of 2017.

State Student Loan Assistance

The Student Loan Debt Relief Tax Credit (Chapters 689 and 690 of 2016) established a refundable tax credit of up to $5,000 for qualified undergraduate student loan debt to Maryland residents beginning in tax year 2017. Chapter 382 of 2018 expanded the types of qualifying debt to include debt incurred for graduate school. MHEC was initially authorized to approve $5.0 million of tax credits annually, but Chapter 419 of 2018 increased the total amount of credits that can be awarded to $9.0 million annually.

Between tax year 2017 (the first year available) and 2019, the number of applications increased by 239.4% to 16,929 applications. MHEC attributes the increase in applications to expanding qualifying loan debt to include graduate debt for tax year 2018 and the first year of online application submission in 2019. Between tax year 2019 and 2021, the number of applications has fallen by 35.9%, or 6,079 applications. According to MHEC, the decrease is due to the federal suspension of student loan payments since the onset of the pandemic in 2020.

In addition to the tax credit, the State provides a number of loan assistance repayment programs for specialty populations, including loan assistance repayment programs for individuals working in certain government or nonprofit entities in a priority field, teachers, primary care physicians and physician assistants, nurses, police officers, and farmers.

Free Application for Federal Student Aid Changes

The Free Application for Federal Student Aid (FAFSA) form for the 2023-2024 school year was released in October 2022 and had a number of changes. Some of the larger changes to the application included the application being reduced from 108 questions to 36 questions. Additionally, drug convictions of applicants will no longer affect student eligibility to receive student financial aid. However, students will still be asked whether they had a drug conviction for an offense that occurred while they were receiving federal student aid as part of the application. Male applicants who fill out the FAFSA can also qualify for federal student aid even if they do not register for Selective Service.

In Maryland, MHEC and the Financial Assistance Advisory Council (FAAC) are still in the process of implementing Chapter 577 of 2021, which requires each local board of education to encourage and assist as many high school seniors as possible to complete and submit a FAFSA or Maryland State Financial Aid Application (MSFAA) by the deadline for State financial aid. Chapter 577 required FAAC to submit a report to the General Assembly by April 2022 on ways to assist county boards with connecting students to financial aid opportunities. Each county board was required to develop a FAFSA/MSFAA outreach plan and was required to submit a copy of the outreach plan to MHEC, FAAC, and the General Assembly by October 1, 2022. Each county board, except Baltimore County, submitted a copy of their outreach plan. By December 1, 2022, FAAC will review each outreach plan, collect data from the Maryland Longitudinal Data System, and publish the first annual report including recommendations for county boards to update their outreach plans to help increase the number of students completing a FAFSA.

Higher Education

Maryland's Historically Black Colleges and Universities

In 2021, the General Assembly passed legislation mandating an additional $577 million for Maryland's historically black colleges and universities (HBCUs) over a 9-year period if certain conditions are met. By agreeing to the terms of the legislation, the State and the coalition of current and former students of HBCUs settled a 14-year lawsuit. The District Court determined that the settlement legally cured the State's higher education system's policies that were found by the court to be in violation of federal law.

Settlement of Litigation

From 2006 until 2021, the State of Maryland was a defendant in *The Coalition for Equity and Excellence in Maryland Higher Education, et al. v. Maryland Higher Education Commission* (MHEC), *et al.* (06-CV-02773-CCB), which was a federal lawsuit filed in the U.S. District Court for the District of Maryland. Former and current students of Maryland's HBCUs, which include Morgan State University (MSU) and the University System of Maryland (USM) institutions of Bowie State University (BSU), Coppin State University (CSU), and the University of Maryland Eastern Shore (UMES), alleged that the State violated the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment through ongoing policies and practices within the State's system of higher education. In May 2021, the parties agreed to a settlement by accepting the terms passed by the General Assembly in Chapters 41 and 42 of 2021, and the District Court dismissed the suit with prejudice.

De Jure Segregation and Unnecessary Program Duplication

The lawsuit alleged three policies of the Maryland system of higher education were traceable to the prior *de jure* (as a matter of law) system of segregation that existed before 1969: (1) limited institutional missions; (2) operational funding deficiencies; and (3) unnecessary program duplication. The District Court rejected the first two claims but found that the State failed to eliminate a traceable *de jure* era policy of unnecessary program duplication that has exacerbated the racial identifiability of Maryland's HBCUs. The District Court defined unnecessary program duplication as the offering by two or more institutions of the same nonessential or noncore programs, nonbasic liberal arts and sciences course work at the bachelor's level, and all duplication at the master's level and above – the standard set in 1992 by the U.S. Supreme Court in *United States v. Fordice*. The court cited as an example MHEC's decision to approve a joint University of Baltimore (UBalt)/Towson University Master of Business Administration (MBA) program over the objections of MSU in 2005. Of note, the MBA program was not renewed when it expired in October 2015, resulting in the program reverting back to UBalt.

After years of litigation and settlement attempts in the federal court system, the lawsuit was settled and dismissed with prejudice by the District Court in May 2021. Chapters 41 and 42 (discussed below) were enacted to provide remedies and support to the HBCUs on the condition that the lawsuit settle. The parties subsequently reached agreement and petitioned the court to dismiss the action. The court granted the request and found in its final judgment and order that Maryland had cured any policy of unnecessary program duplication traceable to Maryland's *de jure* system of racially segregated higher education.

The HBCU Legislation

During the 2020 legislative session, the General Assembly passed House Bill 1260, which aimed to settle the lawsuit by mandating funding to HBCUs, in addition to other initiatives. On May 7, 2020, the Governor vetoed the bill due to economic challenges resulting from the COVID-19 pandemic. When the General Assembly convened for the 2021 regular session, it reintroduced and passed the previous legislation as House Bill 1 and Senate Bill 1, which were signed by the Governor and enacted as Chapters 41 and 42, respectively.

HBCU Funding

As the primary remedy, Chapters 41 and 42 require that, for fiscal 2023 through 2032, the HBCUs receive supplemental State funding in the amount of $57.7 million annually for a total of $577 million. Each institution is to receive funding proportional to their individual student enrollment as compared to all students enrolled at the HBCUs collectively. However, each institution must receive at least $9 million each year if its share of student enrollment would result in a lower amount; the appropriation for fiscal 2032 is then adjusted downward to account for any prior annual appropriations that exceed $57.7 million. The funding is supplied through general funds but may potentially also come from the Cigarette Restitution Fund.

For fiscal 2023, the legislation required a total appropriation of $59.5 million to the HBCUs to be distributed as (1) $24 million for MSU; (2) $16.8 million for BSU; (3) $9 million for CSU; and (4) $9.7 million for UMES. Under the law, the first distribution of funds is reduced proportionally to pay for approximately $22 million in attorneys' fees and expenses as agreed to by the parties. As a result, the actual fiscal 2023 distribution is $15.1 million for MSU and $22.3 million to USM, apportioned as $10.6 million to BSU, $5.6 million to CSU, and $6.1 million to UMES. The funds are authorized to be used for scholarships and financial aid support services, faculty recruitment and development, expanding and improving existing academic programs, developing and implementing new academic programs, academic support, and marketing. By December 1 each year beginning in 2023 and continuing through 2033, each HBCU is required to submit a report to various entities of the General Assembly on the uses of the funds and any new academic programs developed.

Academic Program Review

Another provision of Chapters 41 and 42 sought to address the academic program review policies and practices of MHEC. Under the law, funding is annually provided to MHEC to establish and staff a program evaluation unit with 10 new members to assist in evaluating new programs and substantial modifications to existing programs. The legislation also required the Maryland Department of Legislative Services to contract with a consultant to conduct a capacity and capability study of MHEC's current program review processes. The department contracted with the National Center for Higher Education Management Systems (NCHEMS) and the findings and recommendations of the report were submitted in September 2022.

The report proposed 13 recommendations for consideration by the General Assembly and other higher education stakeholders as a remedy for several major issues uncovered during the review process relating to MHEC's policies and procedures for reviewing academic program proposals. The NCHEMS review raised concerns about MHEC's lack of efficiency, consistency, and transparency in the performance of its program approval function; the lack of objective criteria in program approval decision making; MHEC's lack of capacity to compile and analyze workforce data; the overall structure and purpose of the program approval process; and the culture of distrust as to the MHEC process and between institutions as a result of the program proposal objection process.

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Health and Health Insurance

Behavioral Health

The increase in reported anxiety and depression among Americans caused by the COVID-19 pandemic has highlighted the need for available and accessible behavioral health services. Mental health services in Maryland are delivered through facility and community-based care and through crisis response. Several initiatives are underway in the State to address behavioral health needs, including mobile crisis response and the national 988 hotline. The State continues to rank poorly nationally in drug use overdose and is addressing the opioid epidemic through the Opioid Operational Command Center and Opioid Intervention Teams.

Effect of COVID-19 on Mental Health

As the COVID-19 pandemic persisted in January 2021, 41% of American adults reported symptoms of anxiety disorder and or depressive disorder, compared with 11% from January to June 2019. While the proportion of adults receiving mental health treatment during a prior 12-month period also increased from 19.2% in 2019 to 21.6% in 2021, the number of individuals experiencing mental health symptoms outpaced this growth. In fact, among adults reporting symptoms of anxiety and/or depressive disorder, more than 20% reported needing, but not receiving, mental health counseling or therapy. Before the pandemic, approximately 16% of adolescents (ages 12 to 17) had anxiety and/or depression. While data on adolescents experiencing symptoms of anxiety and/or depression during the pandemic is not readily available, it is likely that disruption in routines, loss of social contact, and stress in the household has had a negative impact on the mental health of adolescents.

Mental Health Service Delivery in Maryland

Mental health services in Maryland are provided through a system of community-based programs and public and private psychiatric hospitals with the goal of service delivery in the least restrictive setting. Mental health crisis services are also available through Maryland's crisis hotline and mobile crisis teams (MCT), both of which provide services 24 hours a day, 7 days a week.

Psychiatric Hospitals

State psychiatric hospitals provide inpatient care to individuals with severe mental illness. The State operates seven psychiatric hospital centers (five for adults and two for children and adolescents). Historically, public psychiatric care in Maryland has been provided almost exclusively in State mental hospitals. The trend over the last few decades has been to expand community services and downsize institutions. In the past several years, the mix of admissions to

State facilities has shifted, with forensic cases (patients with court involvement) accounting for a higher percentage of admissions. In 2019, nearly all patients admitted to State psychiatric hospitals were forensic patients.

With the increasing percentage of forensic patient admissions and the downsizing of State institutions, private psychiatric hospitals and psychiatric units of acute-general hospitals have become the point of entry for most inpatient psychiatric care. There are three private psychiatric hospitals in the State. The lack of available and appropriate inpatient psychiatric beds in the State has led to instances of excessive and lengthy hospital stays in emergency departments of acute-general hospitals as the patient waits for an inpatient admission.

Community-based Programs

Core service agencies, which are agents of local government, are responsible for planning, coordinating, and monitoring publicly funded community-based mental health services. Some core service agencies also act as direct mental health service providers. These community-based programs provide a range of behavioral health services in every jurisdiction across the State. Some community-based services are operated through regional systems to best accommodate the needs of Maryland residents. The Greater Baltimore Regional Integrated Crisis System began in 2021 as a partnership focused on providing crisis services to Baltimore City, as well as Baltimore, Carroll, and Howard counties. The goal of the partnership is to expand the capacity of MCTs and community-based providers to reduce police interaction and overreliance on emergency departments throughout the region.

Mobile Crisis Teams

An MCT is a team established by a local behavioral health authority that (1) operates 24 hours a day, 7 days a week to provide assessments, crisis intervention, stabilization, follow-up, and referral to urgent care and to arrange appointments for individuals to obtain behavioral health services; (2) incorporates nationally recognized standards and best practices; and (3) prioritizes providing connection to services and coordinating patient follow-up and serving all members of the immediate community with cultural competency and appropriate language access. There are currently 14 MCTs statewide serving 12 counties and Baltimore City.

Maryland’s Crisis Hotline: Transitioning from 2-1-1 press 1, to 9-8-8

Maryland’s Crisis Hotline, formerly 2-1-1 press 1, transitioned to the nationwide three-digit number 9-8-8, in July 2022 in accordance with the federal Suicide Hotline Designation Act of 2020. The Act established 9-8-8 as the universal telephone number within the United States for suicide prevention and substance use and mental health crisis response. Calls to 9-8-8 are routed to local call centers based on the area code from which the call originates, connecting a person to a trained crisis counselor 24 hours a day, 7 days a week. 9-8-8 crisis counselors also have the ability to dispatch available MCTs if the caller agrees and provides location information. There are over 200 crisis centers nationwide answering 9-8-8 contacts (*i.e.*, calls, texts, and chats). In

August 2021, Maryland answered 2,534 contacts, which increased by approximately 41.5% in August 2022 when Maryland answered 3,585 contacts.

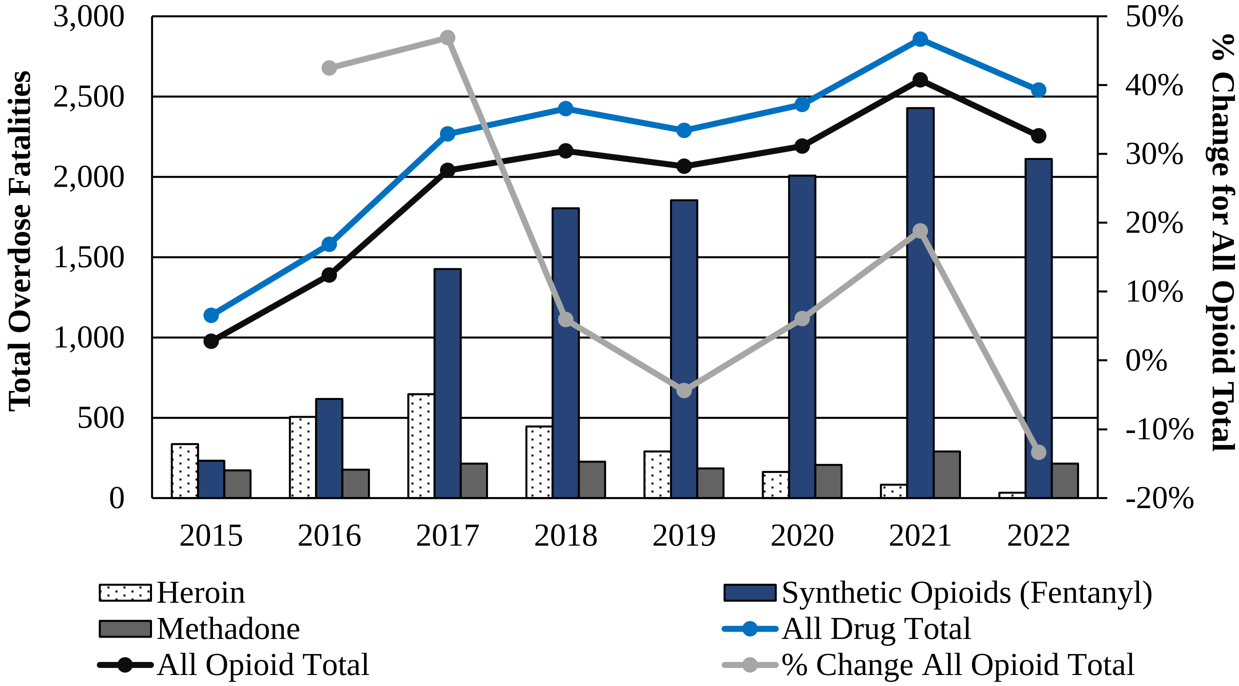
Baltimore City 911 Diversion Pilot Program

In June 2021, Baltimore City launched the Behavioral Health 9-1-1 Diversion Pilot Program with the goal of diverting certain behavioral health related 9-1-1 calls from law enforcement to experienced mental health counselors through the Here2Help hotline (which has transitioned to 9-8-8 as of July 2022). 9-1-1 dispatchers were instructed to divert two call types: (1) behavioral health concerns not involving violence, such as substance use or mental health crises; and (2) suicidal ideation without violence, for situations where a caller was considering suicide, but had not yet developed a plan. In April 2022, the criteria for diversion was expanded to include suicidal ideation with a specific threat and/or plan. As of September 19, 2022, 643 callers to 9-1-1 have been connected with a mental health counselor through a helpline. Of those calls, 221 were resolved by 9-8-8 only; 261 were connected with 9-8-8 and required a first responder dispatch; and the remaining 161 were returned to 9-1-1. In addition, 62 of the 221 calls that were resolved by 9-8-8 included an MCT response.

Opioid Overdose Trends

Opioid overdose and use continues to be an epidemic in the United States and in Maryland. The Commonwealth Fund's *2022 Scorecard on State Health System Performance* ranks Maryland as forty-fifth among states for drug overdose deaths per 100,000 population. **Exhibit 1** shows yearly total overdose deaths and specific opioid overdose deaths for each year ending in May of the year specified. It also shows the percentage change in opioid overdose deaths for each year. Following the previous highwater mark for opioid overdose deaths in 2018, there was a marked decrease for 2019. Data during the COVID-19 pandemic shows a new highwater mark for opioid overdose deaths in 2021, with 2,857 deaths reported that year. However, preliminary data through May 2022 indicates that there were 2,540 overdose fatalities, a promising 14% decrease over the prior year.

Exhibit 1
Overdose Fatalities for Each Year Ending in May



Source: Centers for Disease Control and Prevention, National Center for Health Statistics; Department of Legislative Services

Opioid Operational Command Center and Opioid Intervention Teams

The Opioid Operational Command Center (OOCC) serves as the primary coordinating office for the State's response to the opioid and overdose crisis. OOCC is responsible for coordinating with all State agencies engaged in opioid crisis response efforts and all 24 local jurisdictions and Opioid Intervention Teams (OITs). OITs are multi-agency coordinating bodies that bring together representatives from different local agencies to advance programming, identify gaps and opportunities, and coordinate resources. OITs are led jointly by each jurisdiction's health officer and emergency manager and include governmental and community partners from local agencies, providers, and community groups. OITs are responsible for developing a community strategy to address opioid addiction and substance use disorder in their community, identifying priority areas for programming, and allocating OIT grant funding.

Health and Health Insurance

Legal Developments in Reproductive Health Care

In June 2022, the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* overturned federal precedent that granted a constitutional right to an abortion prior to viability. The decision lets states regulate abortion, yielding a patchwork of abortion laws ranging from complete bans to varying degrees of access. Since *Dobbs*, the Biden Administration has taken action to protect access to reproductive care and several bills have been introduced in the U.S. Congress to either restrict or protect access. Although Maryland's abortion law is not automatically impacted, the *Dobbs* decision authorizes States to pass more restrictive laws in the future.

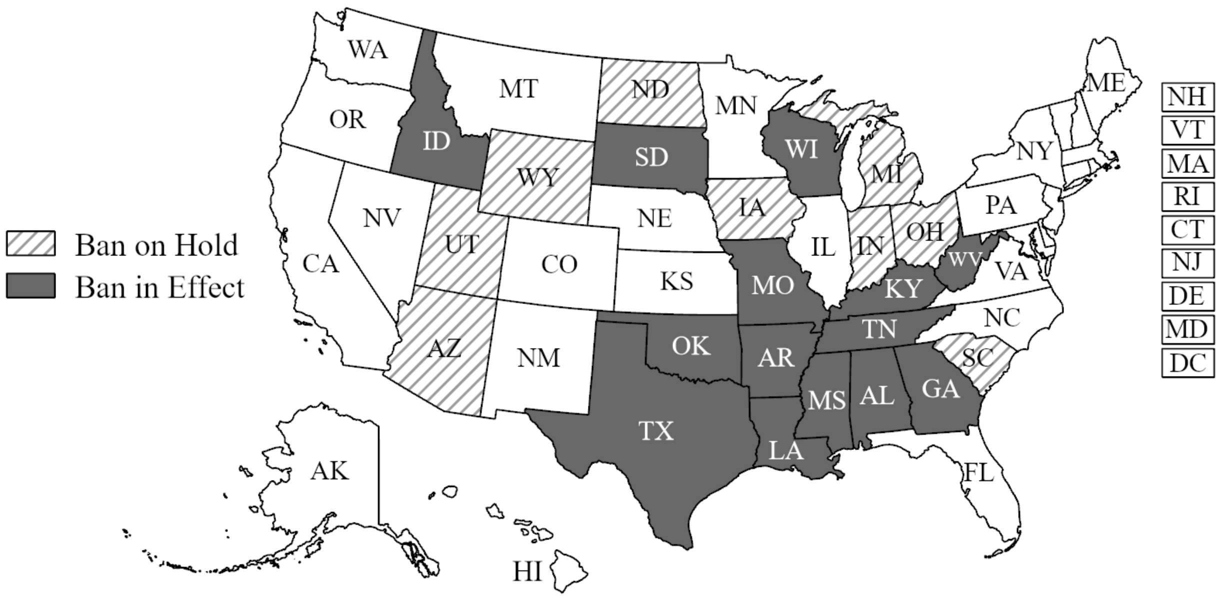
Dobbs v. Jackson Women's Health Organization

In June 2022, the U.S. Supreme Court overturned precedent regarding abortion access in *Dobbs v. Jackson Women's Health Organization*. Before this decision, abortions prior to viability were constitutionally protected based on *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*. The petitioners in *Dobbs* sought to overturn the invalidation of Mississippi's Gestational Age Act, which prohibited abortions after 15 weeks gestation except for medical emergencies or severe fetal abnormalities. The U.S. Supreme Court upheld the Mississippi law by overturning *Roe* and *Casey*, holding that there is no constitutionally protected right to an abortion as it is not a right explicitly granted by the Constitution or a right "deeply rooted" in the country's history and tradition. The *Dobbs* decision leaves states to decide how to regulate abortion access, resulting in a patchwork of state laws with varying degrees of access to abortion care.

State Actions Following *Dobbs* Decision

Exhibit 1 indicates which states have banned abortion or have an abortion ban on hold. As of November 2022, 14 states have banned abortion and 9 states have bans on hold. In states such as Louisiana, Texas, and Utah, laws restricting abortion access took effect immediately following the *Dobbs* decision (the Utah ban is currently blocked by the courts). Seven states passed laws restricting abortion access prior to *Roe* but never repealed the laws following *Roe*. Those states may be able to enforce these laws post-*Dobbs* but parties in several states have sought injunctions to prevent enforcement. Other states, such as Florida, Idaho, and Kentucky, passed laws restricting abortion, but specified that the laws would only take effect if existing precedent protecting the right to an abortion was overturned. These laws are also being challenged in state courts, with many challenges alleging that restrictions violate provisions of state constitutions.

Exhibit 1
States with Abortion Bans in Effect or on Hold
As of November 2022



Note: State laws with bans include near-total bans on abortion and bans after the detection of a fetal heartbeat or six weeks gestational age. Although Michigan is included as having a "Ban on Hold," Michigan voters approved an amendment to its state constitution including the right to an abortion. This will impact the court's decision on the validity of the pre-*Roe* law banning abortion as the law will now be considered unconstitutional.

Source: Guttmacher Institute; Center for Reproductive Rights; National Public Radio; Department of Legislative Services

Sixteen states and the District of Columbia currently have laws that protect the right to abortion, mostly before the point of fetal viability. Several states are seeking to establish the right to an abortion, either in statute or the state constitution. In November 2022, voters in California, Michigan, and Vermont approved ballot initiatives establishing the right to an abortion in their state constitutions. In some states where abortions are accessible, there have been efforts to limit liability and prevent enforcement of any judgment against an individual performing or obtaining an abortion in the state. This is in response to laws similar to Texas' law allowing civil actions against individuals who assist an individual in obtaining an abortion. Other states have taken additional measures to expand abortion access. For example, several states (including Maryland) require health insurance plans to cover abortions without imposing cost-sharing on beneficiaries, and several other states (also including Maryland) permit providers other than licensed physicians to perform abortions. Several states have introduced or passed laws to weaken or prohibit investigation of in-state providers by out-of-state officials to counteract laws in states that subject abortion providers to criminal penalties.

Maryland Abortion Law

The *Dobbs* decision does not impact Maryland law as § 20-209 of the Health-General Article codifies the protections of *Roe* and *Casey* by prohibiting the State from interfering with an abortion conducted (1) before viability or (2) at any point, if the procedure is necessary to protect the health or life of the woman in cases of fetal defect, deformity, or abnormality. During the 2022 legislative session, the General Assembly increased access to abortion. Chapter 56 of 2022 expanded beyond physicians the types of health care providers who may provide abortions to include nurse practitioners, nurse-midwives, licensed certified midwives, physician assistants, and other qualified licensed health care providers. The Act established the Abortion Care Clinical Training Program to (1) ensure there are a sufficient number of health care professionals to provide abortion services in the State and (2) require health insurers and Maryland Medicaid to cover abortion services without a deductible, coinsurance, copayment, or other cost-sharing requirement.

Twenty-one bills were introduced during the 2022 legislative session that sought to expand or restrict access to abortion. House Bill 1171 of 2022 would have proposed a referendum on the question of whether the Maryland Constitution should be amended to (1) establish the fundamental right to reproductive liberty, which includes the right to make and effectuate decisions regarding an individual's own reproduction, including but not limited to the ability to prevent, continue, or end their pregnancy and (2) prohibit the State from directly or indirectly denying, burdening, or abridging a person's right to reproductive liberty unless justified by a compelling State interest achieved by the least restrictive means. After *Dobbs*, Maryland is authorized to enact additional State laws protecting access to abortion or enact restrictions on abortion access that were unconstitutional under *Roe* and *Casey*.

Federal Activity After *Dobbs*

Executive Branch Actions

Following the *Dobbs* decision, President Biden issued two executive orders. Issued in July 2022, Executive Order No. 14076 addressed the protection of access to reproductive health care services; patient privacy, safety, and security; and coordination of federal implementation efforts through the creation of an Interagency Task Force on Reproductive Health Care Access. In August 2022, Executive Order No. 14079 directed the U.S. Department of Health and Human Services (HHS) to assist in advancing the ability to obtain reproductive health care services, promoting compliance with nondiscrimination laws in obtaining medical care, and collecting relevant data.

HHS has launched a "Know Your Rights" website, reproductiverights.gov, to inform Americans of their options to access reproductive health care. HHS has also issued guidance on health information privacy, the obligation of health insurers under the federal Patient Protection and Affordable Care Act to cover birth control and contraceptive counseling, and the duty of pharmacies to fill prescriptions for medication abortions and contraception drugs without discriminating against specific patients. In June 2022, HHS announced the award of nearly

$3 million to support training and technical assistance for Title X family planning providers. In July 2022, the Centers for Medicare and Medicaid Services issued clarifying guidance on the Emergency Medical Treatment and Labor Act stating that if a provider determines that an abortion is necessary to stabilize a pregnant individual's emergency medical condition, it must be performed even if there is contrary state law. In August 2022, HHS issued the report "Health Care Under Attack: An Action Plan to Protect and Strengthen Reproductive Care" that makes recommendations on access to medication abortion and contraception; legal access to care; protecting patient privacy; improving awareness, education, and access to accurate information; and improving data and research.

The U.S. Department of Justice (DOJ) has stated its commitment to uphold the right to travel to seek reproductive care; the Freedom of Access to Clinic Entrances Act, which prohibits intentional interference with a person's right to obtain or provide reproductive health care services; and accessibility of mifepristone, an abortion medication approved by the U.S. Food and Drug Administration (FDA). In July 2022, DOJ established a Reproductive Rights Task Force to monitor state and local legislation that interferes with federal legal protections for reproductive care, restricts the ability to travel for reproductive care, restricts the ability to discuss reproductive care available in other states, bans mifepristone contrary to FDA approval, or imposes criminal or civil liability on federal employees who provide reproductive care in accordance with federal law.

Congressional Activity

Hundreds of bills relating to abortion have been introduced in the U.S. Congress since 2021. Of note, the Women's Health Protection Act of 2022 (H.R. 8296) prohibits governmental restrictions on the provision of and access to abortion services. The Ensuring Access to Abortion Act of 2022 (H.R. 8297) prohibits anyone acting under state law from interfering with an individual's ability to access out-of-state abortion services. The Protecting Pain-Capable Unborn Children from Late-Term Abortions Act (S. 4840) prohibits abortion after 15 weeks gestation except to save the life of the pregnant women or in cases of rape or incest.

Since Maryland already has statutory protections for abortions prior to viability and in certain circumstances at any time, federal legislation that prohibits states from restricting abortion before viability would not affect abortion access in Maryland. However, if the proposed federal legislation restricting abortion after 15 weeks gestation is enacted, Maryland's law protecting abortion access would be preempted and the federal standard would control.

This issue paper reflects actions taken as of November 2022 and additional discussions in Maryland and across the country are anticipated.

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Health and Health Insurance

Public Health Modernization

The COVID-19 pandemic response in the United States exposed weaknesses in the delivery of public health services and prompted reform efforts in other states. Several reports have made recommendations to modernize the U.S. public health delivery system. Maryland's COVID-19 response also revealed systemic flaws. The State ranks poorly among other states in public health indicators related to mental illness, drug overdose, and infant mortality, which highlights room for improvement.

Public Health Generally

The 1988 Institute of Medicine report *Unequal Treatment* defines public health as "what we as a society do collectively to assure the conditions in which people can be healthy." Foundational public health services include five foundational areas (communicable disease control; chronic disease and injury prevention; environmental public health; maternal, child and family care; and access to and linkage to clinical care) and eight foundational capabilities (assessment and surveillance; community partnership development; equity; organizational competencies; policy development and support; accountability and performance management; emergency preparedness and response; and communications). Multiple studies have found that public health factors – including healthy behaviors, social and economic conditions, and the physical environment – contribute far more to health and well-being than clinical care.

COVID-19 Response Highlights Need for Public Health Services

COVID-19 demonstrated the importance of effective delivery of public health services. Pandemic response at the national, state, and local level exposed a weak public health infrastructure, with challenges collecting and sharing data, maintaining a robust workforce, and collaborating with health care organizations and across levels of government. The pandemic also exposed community disparities related to physical and mental health, such as access to healthy food, safe and affordable housing, and affordable medical care. The challenges experienced in responding to COVID-19 have accelerated public health reform efforts in multiple states. Indiana, Massachusetts, Michigan, and Missouri have initiated processes to review and modernize their public health infrastructure in ways informed by the experience of the pandemic.

Modernizing the U.S. Public Health System

Federal Efforts

The COVID-19 pandemic led to significant federal funding for public health response. Five COVID-19 relief bills provided $305.6 billion to U.S. public health services agencies and the Public Health and Social Services Emergencies Fund. The American Rescue Plan Act of 2021 provided additional public health funding of nearly $90 billion for vaccines and therapeutics, testing and data, workforce, and behavioral health. However, state and local health departments encountered significant challenges using these funds related to underlying weaknesses in public health infrastructure. The funds were an example of "boom or bust" funding that makes it difficult to maintain a high level of service and readiness absent a major emergency. Several major reports have called on states and the federal government to use lessons learned from the pandemic to modernize public health systems.

Bipartisan Policy Center Report on Public Health Modernization

In December 2021, the Bipartisan Policy Center issued *Public Health Forward: Modernizing the U.S. Public Health System.* The report includes recommendations for state, territorial, and local policymakers in the areas of financing, data and information technology, workforce, public health laws and governance, partnerships, and community engagement. The report recommends (1) providing flexible funding and maximizing existing assets to support public health services and capabilities, including those needed to address health inequities and evaluate the social and economic impact of public health programs and strategies; (2) strengthening the collection of timely and actionable public health data to guide programs, respond to emergencies, and address health inequities; (3) investing in data sharing between health departments and health care entities; (4) investing in the recruitment and retention of a diverse and inclusive governmental public health workforce; and (5) incentivizing partnerships between public health departments and other sectors and stakeholders.

Commonwealth Fund Commission on a National Public Health System

In June 2022, the Commonwealth Fund Commission on a National Public Health System issued a report that found that public health efforts are not organized for success, public health funding is not sufficient or reliable, expectations for health agencies are minimal, the health care system is missing opportunities to support health improvement, and the public health enterprise faces a crisis in trust. The commission recommended several major reforms, including enhancing federal leadership and providing stable public health funding to state and local health departments that is tied to clear expectations for health departments to have foundational capabilities to protect their citizens. The commission also recommended that states assess the structural and policy changes needed to modernize public health, build connections between the health care system and public health, and involve community partners in decision making about public health.

Maryland's Public Health System

Maryland's public health system consists of the Maryland Department of Health (MDH) and 24 local health departments (LHD). This system responded with extraordinary efforts during COVID-19, launching major efforts to test and vaccinate millions of Maryland residents. As in other jurisdictions, however, the pandemic exposed challenges in the State related to data collection, workforce, emergency laboratory capacity, and other core functions.

Maryland Department of Health

MDH oversees public health through various administrations. The Health Systems and Infrastructure Administration works to maintain and improve the health of Marylanders by assuring access to primary care services and school health programs, assuring the quality of health services, and supporting local health systems' alignment to improve population health. The Prevention and Health Promotion Administration provides public health leadership through community-based public health efforts in partnership with LHDs, providers, community-based organizations, and public and private-sector agencies. Under the Catastrophic Health Emergency Disease Surveillance and Response Program, the Secretary of Health has emergency public health powers that may be used to monitor diseases; investigate exposure to deadly agents; and treat, prevent, or reduce the effects of exposure to deadly agents.

Local Health Departments

LHDs in each county and Baltimore City function as the local health agency with primary responsibility for policy development, assessment, and assurance of public health in each jurisdiction. With the exception of Baltimore City, each county is required to establish a local board of health that sets and implements health policy at the local level. A local health officer, who is nominated by each county and appointed by the Secretary of Health, serves as the executive director of the board, appoints LHD staff, and enforces policies adopted by the Secretary and the local jurisdiction. In Baltimore City, the health commissioner is appointed by the mayor. LHDs implement various programs in the areas of maternity care, infant and child care, family planning, cancer control, and AIDS education and research.

State, local, and federal dollars support the LHD operations. State and federal funding is provided to LHDs through the Targeted Local Health Program and individual grant agreements between LHDs and various MDH administrations. Statute mandates an annual formula for determining State funding allocations for LHDs. The formula adjustment factor is calculated by combining an inflation factor with a population growth factor. In 2019, State-based public health spending per resident was $44 and Maryland ranked twenty-first among states for such spending. Between fiscal 2008 and 2010, significant cuts were made to the public health formula. The formula did not return to the level of fiscal 2008 funding ($71.5 million) until fiscal 2023 due to significant discretionary budget enhancement. Enacted prior to this discretionary enhancement, Chapter 805 of 2021 rebases the formula at $70.0 million in fiscal 2025 and $80.0 million in fiscal 2026.

COVID-19 Response in Maryland

Though the State's public health delivery system responded with unprecedented efforts during COVID-19, testing and vaccinating millions of Maryland residents, the pandemic exposed challenges in the State related to data collection, workforce, emergency laboratory capacity, and other core functions. MDH staff worked countless hours, resulting in high levels of vaccination and a lower per capita mortality rate than many other states. The pandemic also placed significant stress on the workforce and exposed data gaps (including those related to equity). Maryland spent millions of dollars to hire major contractors to perform key functions, with uneven results. These challenges highlighted the need for reforms of the State's public health delivery system.

Maryland's Public Health Scorecard Rankings

Maryland's health outcomes are considered lower than expected given that the State has one of the highest median household incomes in the United States. In June 2022, the Commonwealth Fund published a *2022 Scorecard on State Health System Performance*. With respect to public health-related measures, Maryland ranked sixteenth on measures of prevention and treatment and fourteenth on measures relating to healthy lives. Maryland performed better on certain indicators such as adults who smoke (fourth) and suicide deaths (sixth), with less favorable performance on adults with mental illness reporting unmet need (forty-sixth), drug overdose deaths (forty-fifth), and infant mortality (twenty-seventh). Although the State outperforms other states in certain indicators, there remains significant room for improvement in Maryland's public health system.

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Health and Health Insurance

Status of Health Care Reform and Maryland's Insurance Market

Health insurance rates will increase an average of 6.6% in the individual market and 7.6% in the small group market in 2023. The federal Inflation Reduction Act of 2022 extended the enhanced federal premium subsidies through 2025. In October 2022, the Internal Revenue Service eliminated the "family glitch" (a definition of affordability that made many dependents, including 83,000 Marylanders, ineligible for premium subsidies). The Maryland Health Benefit Exchange plans to submit a waiver to renew the State Reinsurance Program in February 2023. State initiatives to increase enrollment and make coverage affordable continue.

Health Care Coverage in Maryland

Since the passage of the federal Patient Protection and Affordable Care Act (ACA), the percentage of uninsured Marylanders declined from 11.3% in 2010 to an estimated 6.0% in 2021. Although the COVID-19 pandemic was anticipated to increase the number of uninsured, recent estimates suggest that Maryland's uninsured rate remained the same. The largest gains in health care coverage in Maryland since passage of the ACA have occurred through the expansion of Medicaid, with 451,214 individuals enrolled under the expansion as of September 30, 2022.

Enrollment in qualified health plans (QHP) through the Maryland Health Benefit Exchange (MHBE) increased in 2022, with more than 170,000 individuals enrolled as of September 30, 2022. Enrollees can select a plan from one of four levels (bronze, silver, gold, or platinum), each of which covers a different percentage of medical expenses. Most MHBE enrollees (79%) receive a federal advanced premium tax credit (APTC) to help pay their monthly premiums. At 248,328 enrollees in 2022, enrollment in the small group market is down by 2.5%, following a 3% decline in 2021, a trend that has continued since 2018 when enrollment was 270,267.

Individual and Small Group Market Rates

For the second year in a row, individual market premium rates approved by the Maryland Insurance Administration (MIA) will increase in 2023. Calendar 2022 rates increased by an average of 2.1%. Calendar 2023 rates will increase by an average of 6.6%. This follows three consecutive years of double-digit rate decreases (13.2% in 2019, 10.3% in 2020, and 11.9% in 2021) that coincided with implementation of the State Reinsurance Program (SRP). MIA attributes the rate increases to inflation, increased unit costs for services, increased utilization, and costs related to COVID-19. Deductibles for certain plans will decrease slightly from calendar 2022. For calendar 2023, deductibles range from $5,900 to $8,800 for bronze plans, $0 to $6,000 for silver plans, and $0 to $1,800 for gold plans (the most purchased plan).

Small group market rates will increase by an average of 7.6% in calendar 2023, primarily due to higher than anticipated trend levels that result in an average pricing trend of 7.3% for the market.

Federal and State Affordability and Enrollment Initiatives

Several initiatives at the federal and State level are intended to increase enrollment in QHPs and make them more affordable, including enhanced APTCs under the federal American Rescue Plan Act of 2021 (ARPA) and the federal Inflation Reduction Act of 2022 (IRA), fixing the family glitch, Maryland's SRP, the State-Based Young Adult Health Insurance Subsidies Pilot Program, the Easy Enrollment Health Insurance Program, and an enrollment initiative for unemployment insurance (UI) claimants.

Federal American Rescue Plan Act and Inflation Reduction Act

APTCs are typically available only to individuals with incomes between 100% and 400% of the federal poverty level (FPL). For calendar 2021 and 2022, the ARPA made APTCs available for individuals with incomes above 400% FPL and significantly increased APTCs. The IRA extended these enhanced federal premium subsidies through calendar 2025. In calendar 2022, the enhanced subsidies reduced average premiums by 45%.

The Family Glitch

The ACA requires the federal government to provide APTCs to individuals who do not have minimum essential coverage that is affordable. A 2013 federal rule deemed employer coverage to be "affordable" if an employee's contribution for self-only coverage was less than 9.83% of household income. The rule did not consider the cost of covering dependents and became known as the "family glitch" as these dependents were deemed ineligible to receive APTCs. A 2021 Kaiser Family Foundation report estimated that the family glitch impacted 83,000 Marylanders.

On October 13, 2022, the Internal Revenue Service (IRS) published a final rule that eliminates the family glitch by basing the affordability of employer coverage for family members on the employee's share of the cost of covering the employee and their family members, not only the cost of the employee. The new regulations take effect December 12, 2022. IRS and the U.S. Department of Health and Human Services are working with state marketplaces to implement the changes before the 2023 open enrollment period, which begins November 1, 2022.

State Reinsurance Program

Funded by federal pass-through funding and State special funds from a health insurance provider fee assessment that has been extended through calendar 2028, SRP reimburses carriers for 80% of claims incurred between $18,500 (down from $20,000 after MIA expressed concern about the premium rate increases requested by carriers for 2023) and $250,000. Payments to carriers are made after the plan year ends and all costs have been reconciled. Over a four-year period, SRP has reduced individual market premiums by more than 25% and helped stabilize the individual market, which had experienced double-digit rate increases as high as 50% before the program. In 2022, Maryland's lowest cost plans have premiums that range 20% to 30% below national averages, depending on the metal level.

SRP will pay out approximately $468 million in 2021, $520 million in 2022, and $572 million in 2023. Through calendar 2021, federal pass-through funding alone was sufficient to cover costs. Beginning in calendar 2022, annual program costs will exceed available federal funding and SRP will begin to spend down the program's State funds. In 2022 and 2023, the balance of State funds is projected to be $369 million and $338 million, respectively. Original projections had SRP costs exceeding both federal and State annual funding and surplus State funds by calendar 2026. However, MHBE is revising the estimates to reflect the impact of lowering the attachment point of SRP to $18,500, the retention of $50 million in State funds that was transferred to Medicaid in the Budget Reconciliation and Financing Act of 2021, and final 2023 approved insurance rates.

SRP is authorized under a federal State Innovation Waiver valid through calendar 2023. MHBE intends to send a letter of intent to the federal government in November 2022 to extend SRP and submit a new waiver application in February 2023. MHBE will work with federal officials to get the waiver approved between March and June 2023, and the new five-year waiver should begin in calendar 2024. MHBE advises that additional State funding or parameter adjustments to SRP will need to be made for the program to remain solvent throughout the new waiver period.

State-Based Young Adult Health Insurance Subsidies Pilot Program

Chapters 777 and 778 of 2021 required MHBE to establish and implement the State-Based Young Adult Health Insurance Subsidies Pilot Program for calendar 2022 and 2023. Under the program, young adults ages 18 to 34 with incomes between 138% and 400% FPL are eligible for State premium assistance subsidies that reduce the maximum expected premium contribution. More than 13,000 new young adults joined the individual market in 2022 under the pilot program at an estimated cost of $15.7 million as of October 4, 2022.

Maryland Easy Enrollment Health Insurance Program

Established by Chapters 423 and 424 of 2019, the Maryland Easy Enrollment Health Insurance Program allows an uninsured individual to elect on their State income tax return to authorize the Comptroller to share information with MHBE to determine the individual's eligibility for insurance affordability programs. MHBE assists in enrolling individuals in Medicaid or health insurance. In 2022, more than 19,900 eligible individuals expressed interest in coverage on their tax year 2021 State income tax return and 1,477 (7.4%) enrolled in a special enrollment period (SEP) during tax time with more expected to enroll during the 2023 open enrollment period.

Enrollment Initiative for Unemployment Claimants

Chapter 49 of 2021 required the Maryland Department of Labor (MDL) to begin implementing a system through which a UI claimant may consent to the sharing of relevant information by MDL with MHBE and the Maryland Department of Health to determine whether the individual qualifies for free or low-cost health insurance and, if so, to help the individual enroll. As of October 3, 2022, approximately 21,886 eligible individuals had indicated an interest in obtaining health insurance and more than 1,300 had enrolled through a SEP.

Health and Health Insurance

Medicaid Enrollment and Programmatic Changes

Enhanced federal funding during the COVID-19 public health emergency (PHE) resulted in general fund savings and provider rate increases. To receive enhanced funding, states must suspend eligibility redetermination and disenrollment through the end of the PHE (currently mid-January 2023), which has resulted in significant enrollment growth. Eligibility redeterminations are anticipated to resume in January, take 12 months to complete, and result in significant disenrollment. Legislation enacted in 2022 expanded Medicaid coverage and altered program requirements.

Enhanced Federal Funding Yields General Fund Savings and Rate Increases

Maryland's Medicaid program, Maryland Children's Health Program (MCHP), and Employed Individuals with Disabilities (EID) program, are joint federal/state programs that provide comprehensive health care coverage to eligible low-income individuals. Federal funding is based on a matching rate known as the federal medical assistance percentage (FMAP) that varies based on a state's per capita income relative to the national average. Maryland's FMAP is generally 50% of Medicaid costs and 65% of MCHP costs. Some Medicaid populations receive a higher FMAP of up to 90% under the federal Patient Protection and Affordable Care Act (ACA).

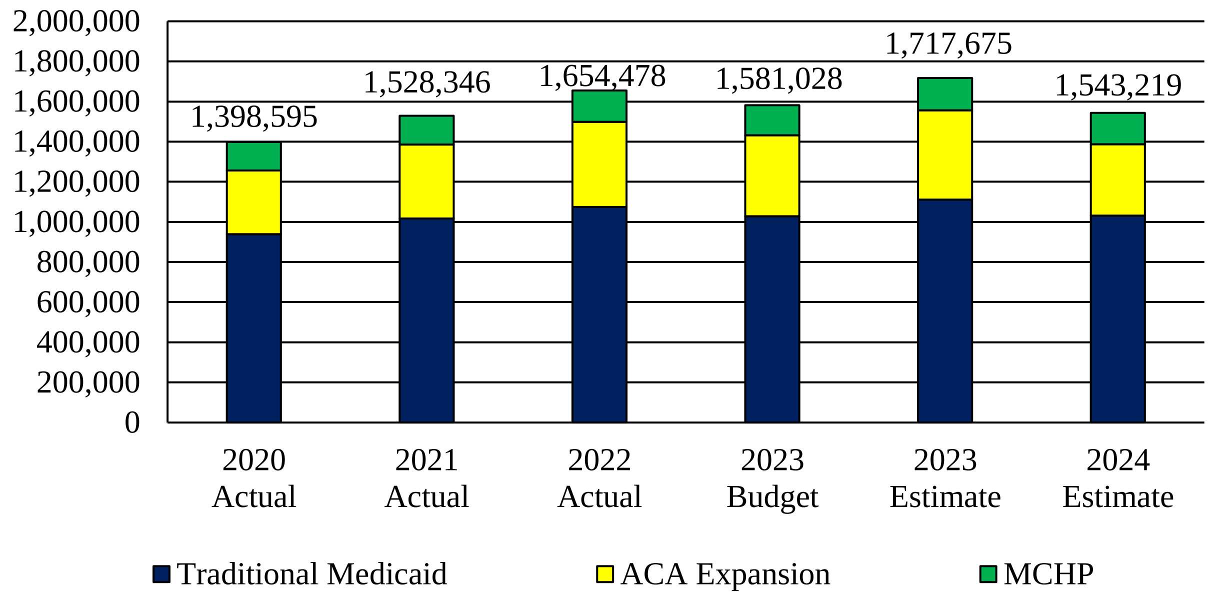
The Families First Coronavirus Response Act of 2020 authorized a 6.2% increase in the Medicaid FMAP and a 4.34% increase in the MCHP FMAP during the national COVID-19 public health emergency (PHE). States are eligible for enhanced FMAP through the last quarter in which the PHE ends. This additional federal aid has created significant general fund savings in Maryland. The Maryland Department of Health (MDH) estimates that it will claim $647.8 million in additional federal matching funds in fiscal 2022.

From April 1, 2021, through March 31, 2022, Maryland also received a 10% enhanced FMAP authorized in the federal American Rescue Plan Act for qualifying Medicaid home and community-based services (HCBS). States must reinvest this increased FMAP to enhance, expand, or strengthen Medicaid HCBS by March 31, 2024. MDH estimates that it will reinvest $612.3 million over this period, including for HCBS provider rate increases ranging from 5.2% to 5.5% that will remain in effect through March 31, 2024, and a one-time emergency 4% rate increase in fiscal 2023 for HCBS providers serving certain Medicaid waiver program participants.

Enrollment Trends and the Redetermination Process

As a condition of receiving enhanced FMAP during the COVID-19 PHE, state Medicaid programs were required to suspend eligibility redetermination and disenrollment (with limited exceptions). Thus, caseloads increased substantially throughout the PHE, as shown in **Exhibit 1**. Average monthly Medicaid and MCHP enrollment grew from just under 1.4 million in fiscal 2020 to 1.65 million in fiscal 2022, an 18% increase. Adults covered under the ACA expansion experienced the highest growth rate (34%) as average monthly enrollment increased from 316,313 in fiscal 2020 to 367,288 in fiscal 2022.

Exhibit 1
Medicaid and MCHP Average Monthly Enrollment
Fiscal 2020 Actual-Fiscal 2024 Estimate



ACA: Patient Protection and Affordable Care Act
MCHP: Maryland Children's Health Program

Source: Maryland Department of Health; Department of Budget and Management; Department of Legislative Services

On October 13, 2022, the Secretary of the U.S. Department of Health and Human Services renewed the COVID-19 PHE through mid-January 2023. MDH plans to resume eligibility redeterminations immediately after the PHE expires. Due to the continued freeze on disenrollment through at least mid-January 2023, the Department of Legislative Services (DLS) estimates a fiscal 2023 average monthly enrollment of approximately 1.72 million, an all-time high for the program and a 4% increase over fiscal 2022. Unanticipated enhanced FMAP claimed during the first three quarters of fiscal 2023 can cover expenditures resulting from higher enrollment.

Based on guidance from the federal Centers for Medicare and Medicaid Services (CMS) allowing states to process renewal backlogs over 12 months following the termination of the PHE, MDH is expected to take 12 months to finish its initial redetermination cycle and then return to its regular redetermination processes. Average monthly caseloads are, therefore, expected to fall significantly to an average of 1.54 million in fiscal 2024, a 10% decline over the estimated fiscal 2023 enrollment. DLS estimates assume that enrollment among the ACA expansion group will decrease at a faster rate than other eligibility groups, considering this group made up the largest share of caseload growth during the PHE.

MDH is developing outreach materials and paid marketing to notify Medicaid participants about upcoming redeterminations. By working with providers, managed care organizations, focus groups of Medicaid enrollees, and other stakeholders on these outreach efforts, MDH is trying to prevent Medicaid-eligible individuals from being improperly disenrolled due to not having updated contact information on file or not knowing to complete the renewal process.

State Legislation Impacting Medicaid

Legislation from the 2022 session expanded Medicaid coverage and altered program requirements, with select changes described below.

- ***Adult Dental Coverage Expansion:*** Chapters 302 and 303 of 2022 require Medicaid to cover diagnostic, preventive, restorative, and periodontal dental services for adults with household incomes up to 133% of the federal poverty level (FPL) beginning January 1, 2023. Previously, comprehensive dental benefits were only provided to children and certain adults, including income-eligible pregnant women, certain former foster care adolescents, and adults enrolled in the Rare and Expensive Case Management program. The fiscal 2023 budget includes a total of $76.3 million to expand dental coverage.

- ***Healthy Babies Equity Act:*** Chapter 28 of 2022 requires Medicaid to provide comprehensive medical care and other health care services to noncitizen pregnant women who would be eligible for Medicaid, but for their immigration status, and codifies the requirement that Medicaid cover their children up to the age of one. MDH is working with CMS to meet all federal requirements to expand coverage to this new eligibility group, with implementation expected to start in July 2023.

- ***Community Options Waiver:*** Chapter 738 of 2022 requires the Community Options Waiver, which provides HCBS to individuals not otherwise qualified for Medicaid to avoid institutionalization in nursing facilities, to include a cap on participation and a plan for waiver participation of at least 7,500 individuals. MDH must send a waiver application to at least 600 individuals on the waitlist each month starting October 1, 2022, and apply to

CMS to increase the waiver cap to at least 7,500 slots by October 31, 2022. The fiscal 2023 budget allocated $12.6 million to support 400 additional waiver slots and authorized Medicaid to fill 6 vacant positions to fill open slots.

- ***Emergency Medical Services (EMS) Transport:*** Chapter 668 of 2022 expands Medicaid reimbursement to an EMS transporter to include reimbursement for medical services provided in response to a 9-1-1 call in situations when the Medicaid recipient is not transported to a facility and for mobile integrated health services. MDH has submitted proposed regulations to implement these changes with an effective date of January 1, 2023. The reimbursement rate to transport a Medicaid recipient to a facility in response to a 9-1-1 call or provide medical services while transporting the Medicaid recipient must also increase to at least $150, beginning in fiscal 2023.

- ***Community Violence Programs:*** Chapters 504 and 505 of 2022 require Medicaid, subject to federal approval, to provide community violence prevention services beginning July 1, 2023. These services include peer support and counseling, mentorship, conflict mediation, and crisis intervention, among other evidence-based, trauma-informed services.

- ***Coverage of Abortion Care Services:*** Chapter 56 of 2022 requires Medicaid to cover abortion care services without restrictions that are inconsistent with specified protected rights under Title 20, Subtitle 2 of the Health-General Article. Medicaid must also provide information to enrollees about abortion care coverage using the terminology "abortion care" to describe coverage. Annual language in the budget bill, attached to Medicaid since 1979 and MCHP since 1999, authorizes the use of State funds to pay for abortions under specific circumstances. The General Assembly amended this language in the fiscal 2023 budget to comply with provisions in Chapter 56, such as allowing qualified providers, in addition to physicians or surgeons, to certify the necessity of an abortion procedure and perform the procedure for eligible Medicaid enrollees.

- ***Other Budgetary Changes:*** The fiscal 2023 Budget Bill increased funding for the Assistance in Community Integration Services pilot program by $4.8 million to expand program capacity from 600 to 900 slots. The fiscal 2023 budget also allocated $4.6 million to expand the EID program by removing the current income threshold of 300% FPL, among other changes to income and asset requirements.

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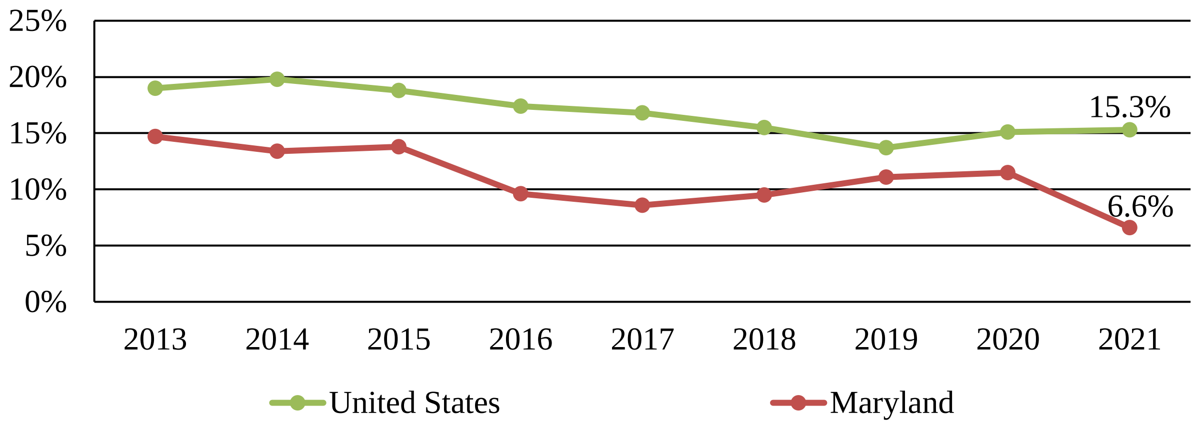
Child Poverty

Child poverty rates reached record lows in 2021 (15% nationally and 6.6% in Maryland, which is the lowest rate in the nation). Although child poverty in the State has decreased, disparities between jurisdictions persist. Federal and state-level declines in child poverty can be attributed primarily to the expansion of social safety net programs over the last three decades and, since 2020, federal COVID-19 relief programs.

Child Poverty Reaches Historic Lows Nationally and in Maryland

The U.S. Census Bureau's Current Population Survey provides official estimates of poverty rates. Child poverty rates reflect the proportion of children younger than 18 living in families with a reported income at or below 100% of the federal poverty level (about $21,960 for a family of three). In 2021, the U.S. child poverty rate was 15.3%; Maryland's child poverty rate was 6.6% – the lowest rate among all states and a 55.1% reduction from the 2013 rate of 14.7%. For the past two decades, Maryland has ranked among the 15 states with the lowest child poverty rates. Following small increases in 2019 and 2020, child poverty rates decreased again in 2021, likely due in large part to COVID-19 relief efforts. **Exhibit 1** displays the child poverty rates nationally and in Maryland from calendar 2013 through 2021.

Exhibit 1
Percent of Children Younger Than 18 Living in Poverty
Calendar 2013-2021

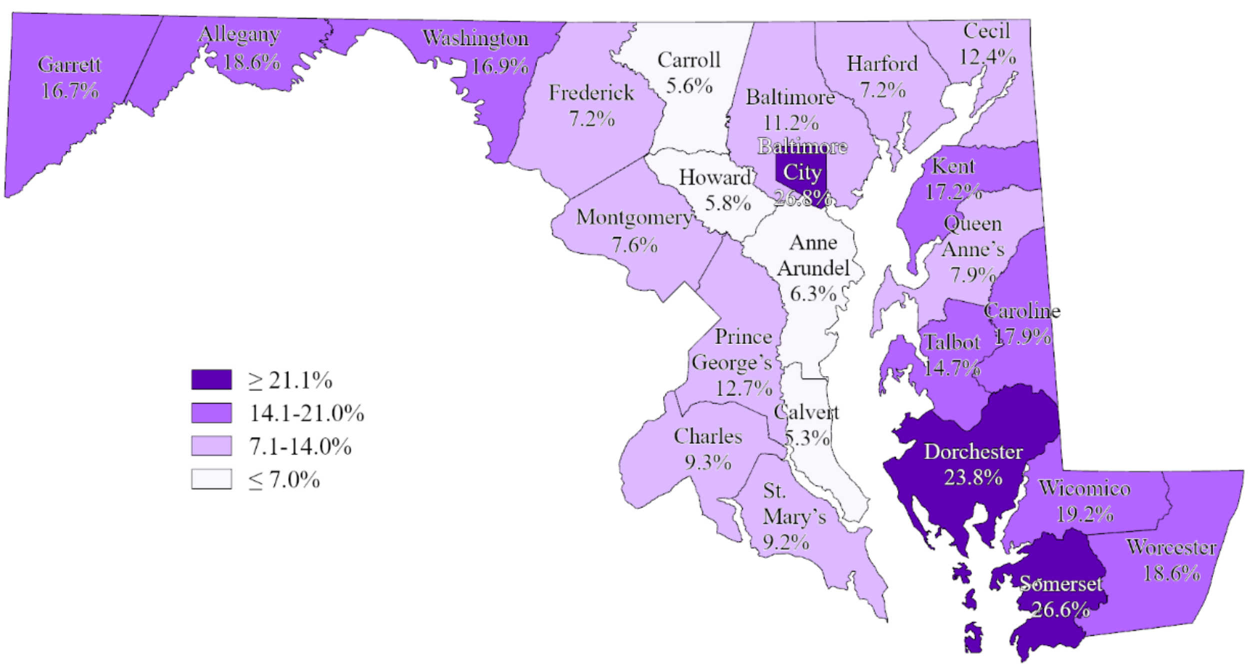


Source: U.S. Census Bureau

The Census Bureau also utilizes the Supplemental Poverty Measure (SPM) to capture a more comprehensive definition of poverty by considering noncash benefits and tax credits that families receive in addition to earned income. According to the SPM, the 2021 U.S. child poverty rate was 5.2% – about half the 2020 SPM child poverty rate. The SPM shows the significant impact that non-income resources like food benefits, housing subsidies, and tax credits have on mitigating poverty. For more information about non-income resources available in Maryland, see the Department of Legislative Services' biennial publication *Public Benefits for Children and Families.*

Available local data from the Census Bureau's Small Area Income and Poverty Estimates indicates that child poverty rates vary widely among Maryland jurisdictions. As shown in **Exhibit 2**, in calendar 2020, child poverty rates ranged from 5.3% in Calvert County to 26.8% in Baltimore City. Although child poverty in the State has decreased in 2020, 10 Maryland jurisdictions had child poverty rates above the national rate (15.1%), and 14 had child poverty rates above the State average. The factors contributing to child poverty are numerous and complex, but Maryland jurisdictions with the highest child poverty rates also have the lowest average income and highest rates of unemployment.

Exhibit 2
Child Poverty Rates in Maryland Jurisdictions
Calendar 2020



Source: U.S. Census Bureau

Declines in Child Poverty Largely Attributed to Social Program Expansion

The national decline in child poverty suggests that expansion of various federal social benefit programs since the 1990s, including the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, and Social Security, have played a significant role in moving more children out of poverty. Declines over the last two years have been attributed to COVID-19 stimulus measures, most notably the temporary expansions of the Child Tax Credit (CTC) and the Earned Income Tax Credit (EITC).

The federal American Rescue Plan Act of 2021 (ARPA) temporarily expanded federal CTC eligibility requirements to include families without earned income and children up to age 17 and increased the maximum credit amount per child from $2,000 to $3,000 ($3,600 per child younger than age six). Columbia University's Center on Poverty and Social Policy estimates that the expansion broadened eligibility to an additional 30% of all U.S. children, qualifying more than 90% of children in the country. In addition, the ARPA expanded, for tax year 2021 only, the federal EITC for individuals without a qualifying child by increasing its value and altering the age requirements necessary to claim the credit. As federal COVID-19 response initiatives phase out, states will need to assess how to ensure progress made to date is not interrupted or reversed.

In Maryland, legislation enacted in 2021 expanded certain tax credits for tax years 2020 through 2022. Chapter 39 of 2021 expanded the State refundable EITC by increasing the value of the refund for qualified individuals. Chapter 40 of 2021 expanded eligibility of the State and local EITCs (and thereby the State and local poverty level credits) and created a $500 refundable credit against the State income tax for each qualified dependent younger than age 17 years with a disability. These alterations to the State EITC and State CTC terminate at the end of tax year 2022. For additional information on these credits and the pending sunsets, see "Earned Income and Child Tax Credits" within the Revenues and Taxes section of this *Issue Papers of the 2023 Session*. Though it is too early to fully assess the impact of these expanded Maryland credits, national decreases in child poverty in the wake of the federal CTC expansion suggest that Maryland's expanded EITC and additional CTC may also contribute to preventing children from sliding back into poverty or becoming impoverished in the first place.

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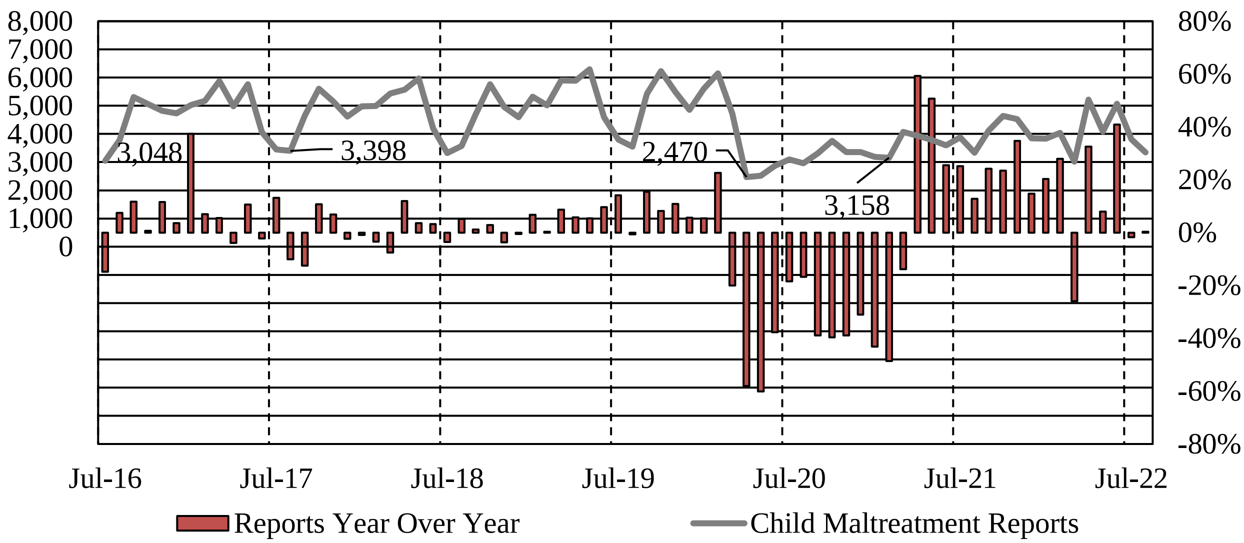
Trends in Child Welfare

Reporting of child maltreatment and child welfare caseloads are anticipated to increase toward pre-COVID-19 levels. Caseloads for foster care, subsidized adoptions, and subsidized guardianships continued to decrease in fiscal 2022. Child welfare placement costs will be impacted in fiscal 2023 by substantial provider rate increases, but increases will likely be offset by lower foster care caseloads. The Department of Human Services continues to implement the federal Family First Prevention Services Act, including evidence-based prevention services.

Out-of-home Placements Continue to Decline

Widespread closures of in-person school, child care facilities, medical visits, and court proceedings during the COVID-19 pandemic reduced opportunities for the observation and mandated reporting of child maltreatment, which resulted in a substantial decline in reports. As shown in **Exhibit 1**, reports remained lower than prepandemic levels through August 2022. However, reporting has increased following the resumption of in-person activities.

Exhibit 1
Child Maltreatment Reports
Fiscal 2016-2023 (through August 2022)



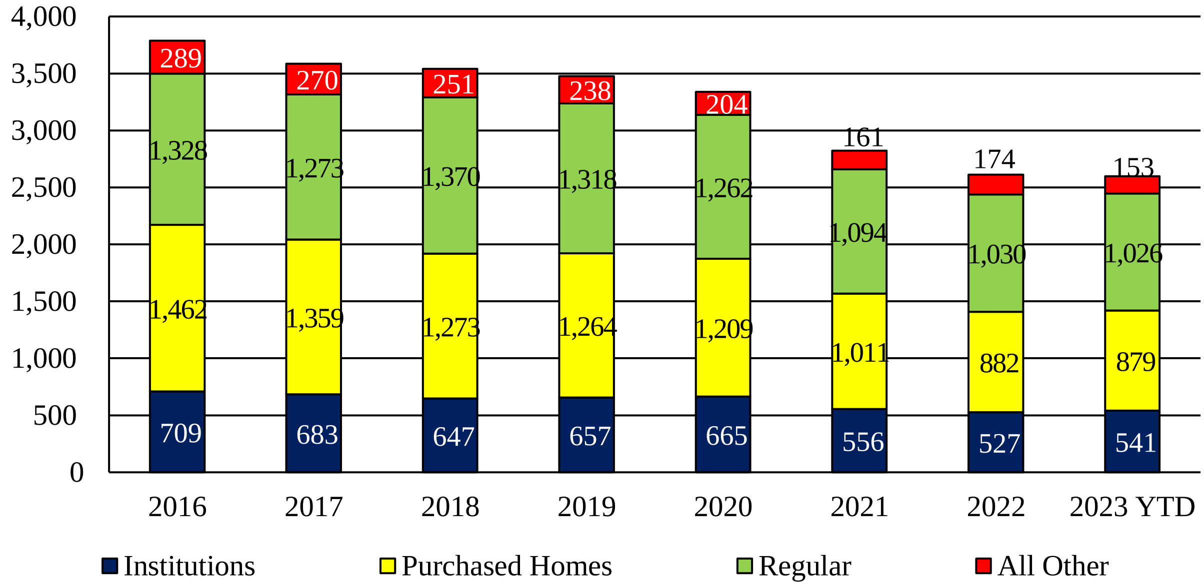
Source: Department of Human Services; Department of Legislative Services

The average monthly number of maltreatment reports in fiscal 2022 was 19.3% higher than the fiscal 2021 average. Despite this increase, rates remained 18.2% lower than the prepandemic monthly average for the first eight months of fiscal 2020. Child maltreatment reporting and child welfare caseloads, are anticipated to continue to increase through fiscal 2023 and into fiscal 2024, as caseloads begin to trend closer to prepandemic levels.

Placement Type Variations

As shown in **Exhibit 2**, the average monthly foster care caseload continued to decrease in fiscal 2022, although at a lower rate than the previous year (7.3% compared to 15.5% in fiscal 2021). The largest decline was in purchased homes (12.7%), while placements in purchased institutions decreased by 5.1%, and regular foster care placements decreased by 5.8%. Placements in purchased homes and institutions largely consist of treatment foster homes and other institutional care settings that provide a higher level of care. While caseload declines occurred in a majority of placement types, caseloads in some smaller placement types within the "All Other" category increased.

Exhibit 2
Average Monthly Foster Care Caseload
Fiscal 2016 to 2023 (through August 2022)



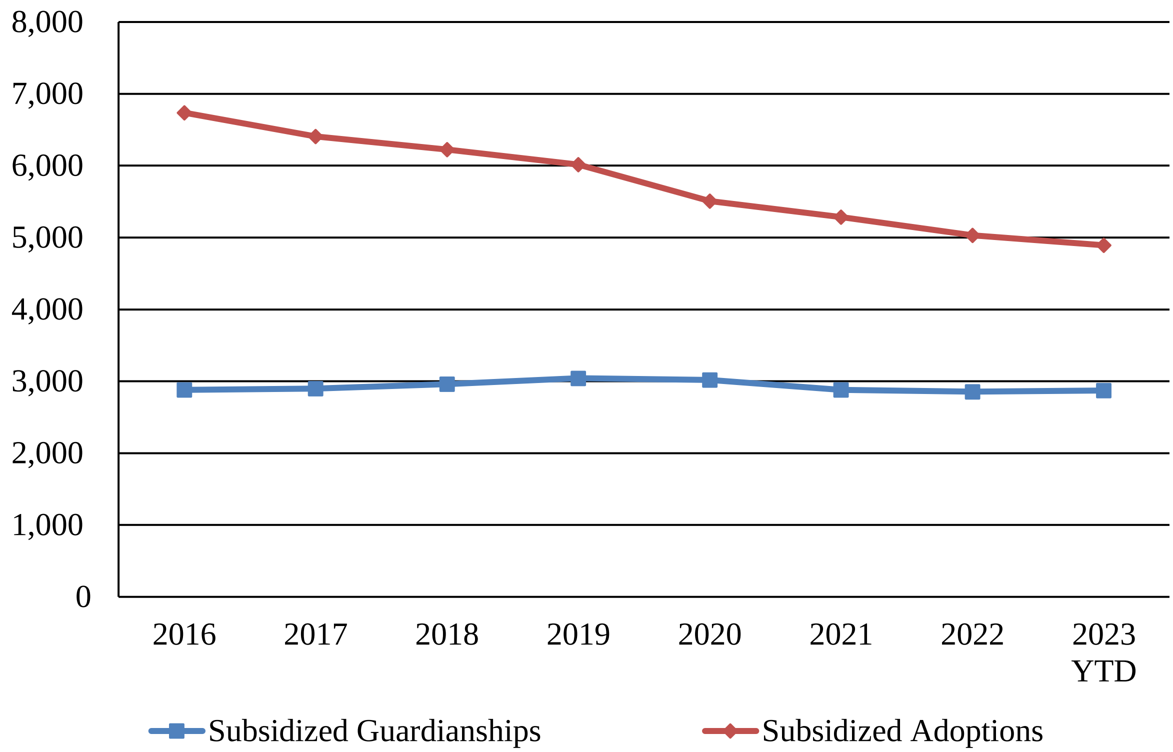
YTD: year to date

Source: Department of Human Services; Department of Legislative Services

During the first two months of fiscal 2023, the average monthly foster care caseload has decreased by less than 1% from fiscal 2022 levels, while purchased institution placements have increased by 2.7%. Caseloads are anticipated to trend toward prepandemic levels through fiscal 2023 and into fiscal 2024.

Average monthly caseloads for subsidized adoptions and subsidized guardianships also continued to decrease in fiscal 2022. As shown in **Exhibit 3**, in fiscal 2022, the average monthly number of subsidized adoptions decreased by 4.8% (compared to a 4.0% percent decrease in fiscal 2021) and the average monthly number of subsidized guardianships decreased by 0.9% (compared to a 4.6% decrease in fiscal 2021).

Exhibit 3
Average Monthly Caseload for Subsidized Adoptions and Guardianships
Fiscal 2016 to 2023 (through August 2022)



YTD: year -to date

Source: Department of Human Services; Department of Legislative Services

During the first two months of fiscal 2023, subsidized adoption caseloads decreased slightly (less than 1% from fiscal 2022 levels), while caseload numbers for subsidized guardianships have increased slightly (less than 1% from fiscal 2022 levels). Caseloads for these two placement types are anticipated to increase during the remainder of fiscal 2023 as courts continue to move more children into permanency options.

Placement Costs

Placement costs will be impacted in fiscal 2023 by provider rate increases. In most years since fiscal 2010, budget reconciliation language has limited the size of rate increases. However, fiscal 2023 rate increases are not limited by or determined by statute due to an absence of budget reconciliation language. As a result, actual provider rate increases for providers with rates set by the Interagency Rates Committee are estimated to be at least 10% in fiscal 2023. Placement costs for institutional and purchased home placements, which typically have the highest average monthly costs, may be particularly impacted. Average monthly costs for purchased institutions were $14,233 in fiscal 2022, an increase of approximately 5.4% from fiscal 2021. Average monthly costs for purchased homes were $5,204 in fiscal 2022, an increase of approximately 8.7% from fiscal 2021. Through the first two months of fiscal 2023, average monthly placement costs have increased by an additional 13.9% to $16,215 for purchased institutions and by 3.7% to $5,397 for purchased homes.

Despite increased placement costs, the Department of Legislative Services projects that these increases will be offset by lower foster care caseloads in fiscal 2023. Average monthly caseload projections assumed faster growth in 2023 and larger caseloads compared to actual fiscal 2022 end of year caseloads and caseloads through the first two months of fiscal 2023. Therefore, a surplus in the Foster Care Maintenance Payments Program of more than $20 million is projected for fiscal 2023, which includes a general fund surplus of $5.9 million.

Family First Prevention Services Act Implementation

The federal Family First Prevention Services Act (FFPSA), part of the Bipartisan Budget Act of 2018, expands allowable uses of federal Title IV-E funding by states to include reimbursement for prevention services (for the first time outside of a waiver) and emphasizes evidence-based practices that seek to prevent at-risk children from entering foster care. The Department of Human Services' (DHS) five-year prevention program plan was approved in February 2020, and DHS continues to implement an array of eight evidence-based prevention services. DHS submitted a revised Cost Allocation Plan (CAP) in December 2020, which remains under review. Once approved, the CAP will allow DHS, as necessary, to claim reimbursement for prevention services retroactively from October 2019.

The FFPSA also includes provisions amending the eligibility for federal reimbursement for certain non-family placements, including Qualified Residential Treatment Programs (QRTP), to promote the placement of children in the least-restrictive setting appropriate to their needs. DHS's Title IV-E state plan amendment, which included provisions related to reimbursements for placements in nonfamily-based settings (including QRTPs), was approved in May 2021. With this approval, DHS can claim federal reimbursement for QRTPs as of April 2021. In late 2021, DHS worked with the Department of Juvenile Services to develop a process for the designation of placement providers as QRTPs. As of August 2022, a total of five contracted providers have been designated as QRTPs.

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Human Services

Trends in Public Assistance Programs

Temporary Cash Assistance (TCA) and Supplemental Nutrition Assistance Program (SNAP) enrollment remained substantially above prepandemic levels as of June 2022, while Temporary Disability Assistance Program (TDAP) enrollment was the lowest in program history. The TDAP benefit increased to the level of the maximum allowable payment for a one-person household in TCA in January 2022, in advance of the fiscal 2027 requirement. Federal SNAP benefits also increased, but emergency SNAP allotments are anticipated to end as soon as January 2023. As of August 2022, nearly 700 TCA and SNAP recipients were victims of fraudulent benefit skimming.

Public Assistance Programs

Temporary Cash Assistance (TCA) provides monthly cash grants to needy children and their parents or caretaker relatives and is funded with general funds, federal Temporary Assistance for Needy Families funds, and certain child support collections. The Temporary Disability Assistance Program (TDAP) is a State program for disabled adults that provides a limited cash benefit for individuals with a short-term disability or for individuals with a long-term disability awaiting approval for federal disability benefits. The Supplemental Nutrition Assistance Program (SNAP) is a 100% federally funded benefit that helps low-income households purchase food.

Impact of Extensions on Eligibility Redeterminations

Prior to the COVID-19 pandemic, the number of SNAP, TCA, and TDAP recipients had generally declined. Enrollment increased significantly during the pandemic. One factor impacting enrollment, applications, and case closures was extensions on eligibility redeterminations. For most of the pandemic through December 2021 (with certain exceptions), the Department of Human Services (DHS) was able to extend eligibility recertifications in SNAP under federal waivers. DHS granted similar extensions for other programs, including TCA and TDAP.

Case Closures

Extension of eligibility recertifications limited the number of case closures, particularly in SNAP. Case closures for TCA, which typically exceed 1,500 per month, generally fell to less than 1,000 per month. Recertifications resumed in January 2022, resulting in a significant jump in case closures for SNAP and TCA in February 2022 through July 2022, primarily due to failure to reapply and issues related to providing verifications and cooperating with the eligibility process.

TDAP case closures began increasing in June 2020, prior to the temporary end of the recertification extension, due to an end of the extension for submitting certain verifications. However, Chapter 39 of 2021, among other actions, prohibited TDAP case closures through July 1, 2021, except in limited circumstances. Nearly 80% of TDAP case closures in June 2020 related to documentation of disability. Closures related to eligibility were the primary cause of case closures in recent months.

Recipients

Despite the substantial increase in case closures since the restart of eligibility recertifications, as of June 2022, the number of SNAP (658,327) and TCA (51,080) recipients remained substantially above prepandemic levels. In June 2022, there were approximately 29% more TCA recipients and 11% more SNAP recipients than in February 2020. Conversely, the number of TDAP recipients has been substantially below prepandemic levels. In June 2022, the number of recipients (4,630) was the lowest in program history.

Applications

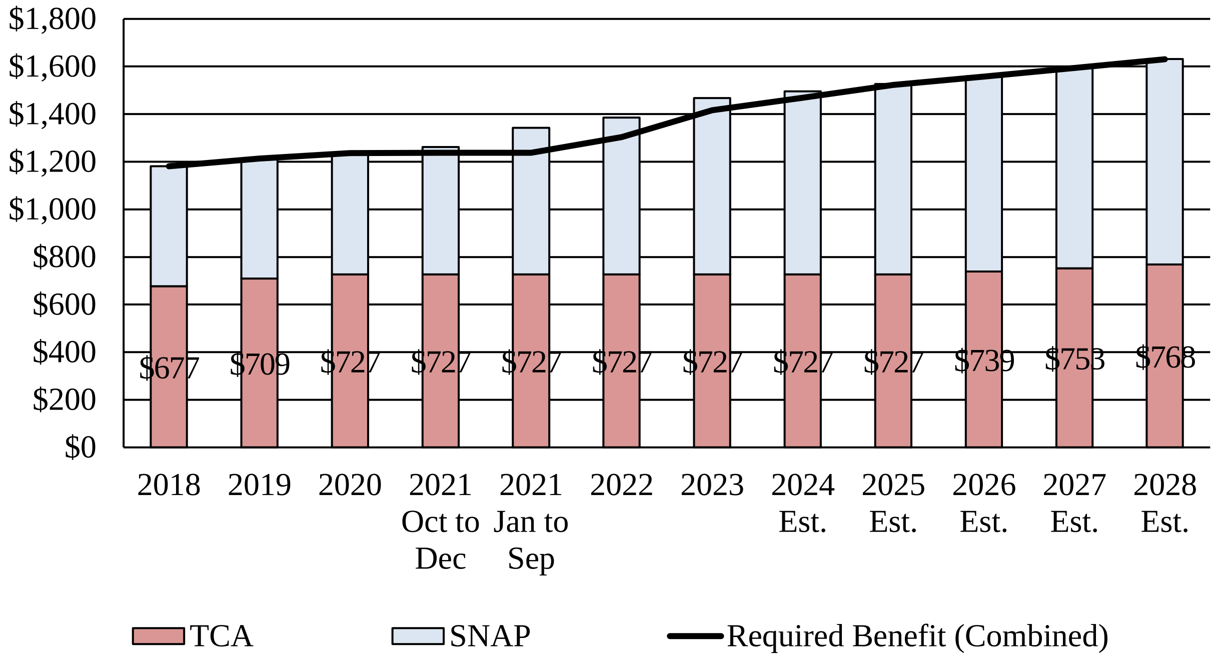
With fewer case closures and the resulting churn related to eligible individuals who did not submit recertification information, the number of applications for all programs was lower than prepandemic levels during much of calendar 2021. In December 2021, there were approximately 50% fewer TCA and SNAP applications and more than 75% fewer TDAP applications than in December 2020. With the restart of the recertification process and increasing case closures, the number of applications has exceeded prepandemic levels in SNAP and has begun to approach these levels in TCA and TDAP. The Department of Legislative Services (DLS) expects the number of case closures and applications to return to prepandemic levels during fiscal 2023.

Benefit Levels

Under current law, TCA benefits plus SNAP benefits must equal 61.25% of the Maryland Minimum Living Level (MMLL). Chapter 408 of 2018 established a plan for incrementally increasing the TDAP maximum benefit to the level of the maximum allowable payment for a one-person household in TCA by fiscal 2027. However, the TDAP benefit was increased to this level in January 2022, in advance of the statutory requirement. The statutory requirement regarding the combined value of TCA and SNAP benefits (and therefore the TDAP benefit) means that changes in benefit levels are dependent not only on inflation adjustments to the MMLL but also decisions by the U.S. Department of Agriculture (USDA) on SNAP benefit levels. Thus, TCA and TDAP benefits may remain level between years even with inflationary increases in the MMLL. In practice, DHS does not lower the benefit in instances when the required calculation might otherwise result in a lower benefit level.

In August 2021, USDA reevaluated the Thrifty Food Plan (the basis for calculating SNAP benefits), which resulted in an increase in SNAP benefits beginning October 1, 2021. Due to high inflation, SNAP benefits increased by approximately 12.5% beginning October 1, 2022. SNAP benefits are substantially higher than the inflationary adjustment in the MMLL. As a result, TCA and TDAP benefits will not increase in fiscal 2023, as shown in **Exhibit 1**. Assuming a return to lower inflation in subsequent fiscal years, DLS does not anticipate TCA and TDAP benefits will increase again until fiscal 2026.

Exhibit 1
Combined SNAP and TCA Maximum Allotments for a Household of Three Compared to Required Percentage of MMLL
Federal Fiscal 2018-2028 Est.



MMLL: Maryland Minimum Living Level
SNAP: Supplemental Nutrition Assistance Program
TCA: Temporary Cash Assistance

Note: Estimates for 2024 through 2028 are from the Department of Legislative Services and assume an inflationary increase of 3.7% for the MMLL and 3.9% for SNAP in fiscal 2024 and 2.3% and 2.6%, respectively, for fiscal 2025 through 2028. Excludes additional benefits provided to TCA and Temporary Disability Assistance Program recipients from January through December 2021 ($100 per recipient per month) and fiscal 2023 ($45 per month), and phase-down additional benefits provided to TCA recipients from January through April 2022.

Source: Department of Human Services; U.S. Department of Agriculture; Department of Legislative Services

Since April 2020, SNAP benefits have been available to recipients at the maximum level for the recipients' household size (known as emergency allotments). Authorization to provide emergency allotments will expire with the national public health emergency. In October 2022, the national public health emergency was extended to January 11, 2023. For some households, the end of emergency allotments will result in a substantial decrease in benefits, as benefits will begin to be determined based on the traditional calculation, including income.

Benefit Skimming

Card skimming occurs when criminals place a device on a card reader to collect data and the personal identification number for a credit, debit, or Electronic Benefits Transfer (EBT) card and, in turn, copy and fraudulently use the card. Following evidence in multiple states of EBT card skimming schemes, on April 10, 2022, DHS issued an e-mail fraud alert to SNAP and TCA recipients. On May 18, 2022, DHS issued a press release alerting customers and recommending steps recipients can take to protect their benefits. In a hearing before the Senate Finance Committee in September 2022, DHS reported that, as of August 2022, there were 298 cases of EBT fraud in TCA cases and 395 in SNAP cases in calendar 2022, compared to 22 and 115 cases, respectively, in all of calendar 2021. Under federal rules, DHS is unable to use federal SNAP funds to reimburse customers for stolen benefits. DHS has subsequently explained that while State funds may be used to reimburse stolen benefits, it does not currently have an appropriation for this purpose. Instead, DHS indicates that individuals who experience hardship related to benefit fraud are able to access other emergency funding administered by the department.

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Transportation

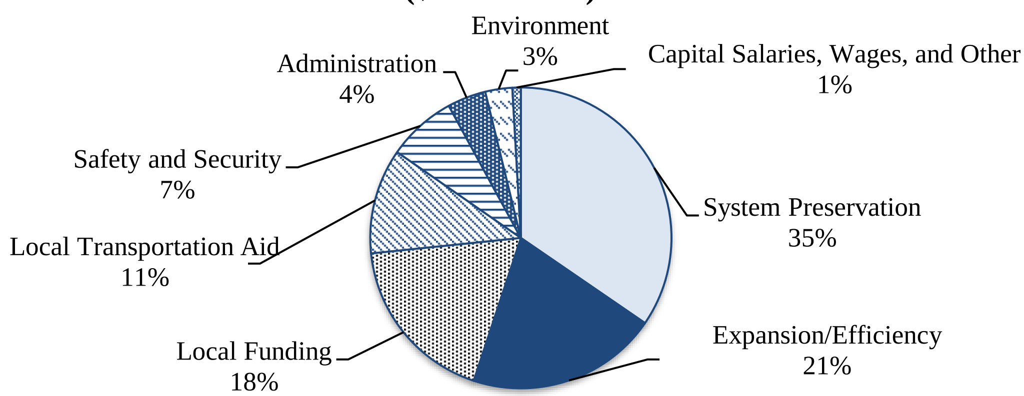
Overview of Draft *Consolidated Transportation Program*

The Maryland Department of Transportation's draft 2023-2028 *Consolidated Transportation Program* (CTP) lists all capital projects funded in the current fiscal year and those planned over the next five years. Spending over the six-year period of the draft 2023-2028 CTP totals $19.9 billion, a $2.2 billion increase from the 2022-2027 CTP.

Overview

The *Consolidated Transportation Program* (CTP) is Maryland's six-year capital budget for transportation projects. It is updated annually and includes all major and minor capital projects that the Maryland Department of Transportation (MDOT), its modal administrations, and the Washington Metropolitan Area Transit Authority are undertaking in the current year and over the next five-year planning period. The CTP also includes mandated State aid to local governments. Capital projects for the Maryland Transportation Authority are also included in the CTP but are excluded from this analysis. The draft 2023-2028 CTP includes $19.9 billion in programmed spending as shown by investment category in **Exhibit 1**. System preservation comprises the largest category of spending at $7 billion.

Exhibit 1
Draft CTP Six-year Capital Spending by Investment Category
Fiscal 2023-2028
($ in Millions)



Total: $19,872

CTP: *Consolidated Transportation Program*

Source: Maryland Department of Transportation

Exhibit 2 compares six-year spending contained in the 2022-2027 CTP, which covers fiscal 2022-2027, to the draft 2023-2028 CTP, which covers fiscal 2023-2028, by fund source.

Exhibit 2
Comparison of Six-year Programmed Spending by Fund Source
Fiscal 2022-2028
($ in Millions)

	2022-2027 CTP	Draft 2023-2028 CTP	Change	% Change
Special Funds				
Taxes, Fees, and Other	$6,786.8	$7,339.2	$552.4	8.1%
Bond Proceeds/Premiums	1,715.0	1,960.0	245.0	14.3%
Subtotal - Special Funds	***$8,501.8***	***$9,299.2***	***$797.4***	***9.4%***
Federal Funds	$6,406.8	$7,743.3	$1,336.5	20.9%
Other Funds[1]	1,693.7	1,703.0	9.3	0.5%
General/Other State Funds	1,093.2	1,126.5	33.3	3.0%
Total	**$17,695.5**	**$19,872.0**	**$2,176.5**	**12.3%**

CTP: *Consolidated Transportation Program*

[1] Includes funds from customer and passenger facility charges, special transportation revenue bond proceeds, and certain types of federal aid that do not flow through the Transportation Trust Fund.

Note: Numbers may not sum to total due to rounding.

Source: Maryland Department of Transportation; Department of Legislative Services

Total programmed spending in the draft 2023-2028 CTP is $2.2 billion higher than in the 2022-2027 CTP. Over half the increase is a result of increased federal funding from the reauthorization of the surface transportation program through the Infrastructure Investment and Jobs Act (IIJA). The special fund increase reflects the increased share of the corporate income tax going to the Transportation Trust Fund as required under Chapter 240 of 2022 and continued improvement in revenue attainment following decreases due to the COVID-19 pandemic.

Exhibit 3 compares programmed spending in each plan by MDOT business unit and for State aid to local governments. The State Highway Administration increase results from the higher federal aid levels authorized through the IIJA. The Mass Transit Administration decrease reflects the winding down of spending on the Purple Line. State Aid increases as a result of Chapter 240 of 2022, which allocates a greater share of the Gasoline and Motor Vehicle Revenue Account to local governments.

Exhibit 3
Comparison of Six-year Programmed Spending by Business Unit
Fiscal 2022-2028
($ in Millions)

	2022-2027 CTP	Draft 2023-2028 CTP	Change	% Change
Secretary's Office	$166.9	$168.4	$1.5	0.9%
WMATA	2,865.0	2,874.5	9.5	0.3%
State Highway	6,178.2	7,799.7	1,621.5	26.2%
Port	1,174.0	1,354.7	180.7	15.4%
Motor Vehicle	121.8	111.6	-10.2	-8.4%
Mass Transit	4,602.3	4,250.4	-351.9	-7.6%
Airport	896.4	1,066.8	170.4	19.0%
Subtotal	***$16,004.6***	***$17,626.1***	***$1,621.5***	***10.1%***
State Aid	$1,690.9	$2,245.9	$555.0	32.8%
Total	**$17,695.5**	**$19,872.0**	**$2,176.5**	**12.3%**

CTP: *Consolidated Transportation Program*
WMATA: Washington Metropolitan Area Transit Authority

Note: Numbers may not sum to total due to rounding.

Source: Maryland Department of Transportation; Department of Legislative Services

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Transportation

Status of Recent Transportation Initiatives

Over the past few years, several high-profile transportation initiatives intended to address traffic congestion, freight, high-speed transit, and mass transit have been proposed in the State. The initiatives are in varying stages of study, planning, and construction.

Chesapeake Bay Bridge

Background

Over the past several years, the Maryland Transportation Authority (MDTA) has conducted several studies on issues affecting the Chesapeake Bay Bridge, including transportation and safety needs, current and future maintenance requirements and costs, and traffic capacity and means to alleviate congestion. Most recently, MDTA initiated a formal process under the National Environmental Policy Act (NEPA) to begin consideration of options for the addition of a third Bay Bridge crossing.

Status

The Chesapeake Bay Crossing Study: Tier 1 NEPA (Bay Crossing Study) Final Environmental Impact Study (EIS) and Record of Decision was approved by the Federal Highway Administration in April 2022. It designated Corridor 7/Existing Corridor (US 50/301 to US 50 between Crofton and Queenstown) as the Preferred Corridor Alternative. On June 10, 2022, Governor Lawrence J. Hogan, Jr. announced $28 million in funding for Tier 2 of the Bay Crossing Study. Tier 2 will evaluate various build alternatives and a No Build Alternative, consider transportation alternatives within the study corridor, and determine mitigation strategies for any unavoidable environmental impacts. Prior to the development of the Tier 2 Draft EIS, MDTA held public hearings in September 2022 and accepted public comments until October 14, 2022. Information on the Tier 2 study can be found at: https://www.baycrossingstudy.com.

I-495 and I-270 P3 Managed Lanes

Background

In September 2017, Governor Hogan announced the I-495 and I-270 Public-private Partnership (P3) Program. As envisioned by the Maryland Department of Transportation (MDOT), the I-495 and I-270 P3 Program would reduce traffic congestion by adding two dynamic tolling lanes in each direction to the Maryland portion of the Washington Beltway (I-495) and to I-270 from the Washington Beltway to Frederick. As proposed, this $7.6 billion project would be paid for entirely from toll revenue generated by the project and would be constructed and operated by one or more concessionaires chosen through P3 procurements.

Status

The I-495 and I-270 P3 Program has been rebranded as Op Lanes Maryland. In August 2021, the Board of Public Works (BPW) approved the Phase 1 Developer P3 agreement between MDOT/MDTA and Accelerate Maryland Partners (AMP). Under this agreement, AMP will complete the predevelopment work for Phase 1 comprising I-495 from the vicinity of the George Washington Memorial Parkway (GW Parkway) in Virginia, across and including the American Legion Bridge, to its interchange with I-270, and I-270 from its interchange with I-495 to its interchange with I-70. Phase 1 is expected to be constructed in at least two phases with the first phase, Phase 1 South, comprising the segment from the GW Parkway to the I-270/I-370 interchange. Additional P3 procurements will be used to select section developers to design, build, operate, maintain, and finance each section. The Managed Lanes Study Final EIS was published on June 17, 2022. The Record of Decision was issued on August 25, 2022, ending the environmental review for Phase 1 South. AMP is currently working to put together a development proposal for Phase 1 South and will negotiate a P3 Agreement with MDOT/MDTA to submit to the General Assembly, the Comptroller, and the Treasurer for review prior to taking the agreement to BPW for approval. A bid protest on the award of the Phase 1 Developer P3 contract award is ongoing in the Montgomery County Circuit Court. Project information can be found at https://oplanesmd.com.

Howard Street Tunnel Reconstruction

Background

The inability to run high-cube double-stack railroad traffic through the Howard Street Tunnel (HST) has been a long-standing issue for the Maryland Port Administration. Completed in 1895, the existing single-track freight tunnel, as well as numerous clearances along the rail alignment, are approximately 18 inches too short to allow modern double-stack intermodal trains to travel between the Port of Baltimore and Philadelphia. In 2015, MDOT began working with CSX, which owns and operates the rail line and tunnel, to develop a cost-effective solution to modify HST to allow double stacking.

Status

The Environmental Assessment (EA) for the HST project concluded on June 17, 2021, with the Federal Railroad Administration (FRA) signing a Finding of No Significant Impact. The estimated project cost of $466 million will be provided from the following sources:

- federal Infrastructure for Rebuilding America grant ($125 million);
- State of Maryland ($202.5 million);
- CSX ($113 million);
- Pennsylvania Department of Transportation for bridges within Pennsylvania ($22.5 million); and
- Baltimore City federal formula funding ($3 million).

Construction began in fiscal 2022, with the project expected to be completed by the end of calendar 2025.

Maglev

Background

The Baltimore-Washington Superconducting Maglev (SCMAGLEV) Project is a proposal by the Baltimore Washington Rapid Rail (BWRR) company (a subsidiary of the Northeast Maglev company) to construct a high-speed rail line utilizing SCMAGLEV technology between Baltimore City and Washington, DC. This is the first segment in a long-range plan by Northeast Maglev to develop SCMAGLEV service between Washington, DC and New York City. In 2015, MDOT, as the State agency sponsor for the project, secured a $27.8 million grant from the U.S. Department of Transportation to conduct planning activities for the SCMAGLEV project. BWRR is providing the required 20% match toward the federal grant.

Status

In January 2021, the Draft EIS and Draft Section 4(f) Evaluation was published. In August 2021, BWRR's legal efforts to use eminent domain to condemn 43 acres of undeveloped land in Baltimore City for maglev train operations were dismissed, and FRA paused the EIS to review project elements and determine next steps. As of October 2022, the pause for further analysis appears to be ongoing. Additional information on the project can be found at http://bwmaglev.info.

Purple Line Light Rail

Background

The Purple Line light rail project is a 16.2-mile light rail line that will extend from Bethesda in Montgomery County to New Carrollton in Prince George's County, with a total of 21 stations. It will provide a direct connection to the Metrorail Red, Green, and Orange lines at Bethesda, Silver Spring, College Park, and New Carrollton. The Purple Line will also connect to the MARC train service, Amtrak, and regional and local bus services.

Status

In January 2022, BPW approved a contract for a new design-build contractor and amendments to the P3 agreement for the Purple Line light rail project. This followed the December 2020 approval of a termination settlement of the original P3 with Purple Line Transit Partners (PLTP).

As part of the settlement agreement, PLTP oversaw the procurement process for a replacement design-build contractor. With the support of the Maryland Transit Administration, PLTP selected Maryland Transit Solutions. BPW's approval of the new P3 includes an increase of $3.4 billion to the design-build contract and an extension of the P3 contract term until 2056. These increases result in a revised total agreement of $9.3 billion (which includes the $250 million settlement payment) and a term of just over 40 years. As of September 2022, the overall project is 48% complete, with 97% of civil design, 85% of systems design, and 63% of utility relocation completed.

Revenue service on the Purple Line, initially projected to start in March 2022, is now expected in fall 2026. Information on the Purple Line project can be found at https://www.purplelinemd.com.

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Transportation

Low- and Zero-emission Vehicles

Over the past two decades, the State and federal government have established programs to incentivize the purchase and use of low–emission vehicles (LEV) and zero–emission vehicles (ZEV). Many of these programs have been expanded over the past year, and California is in the process of adopting a LEV/ZEV rule that Maryland may need to adopt under current State law. Additional legislation may be considered this session to expand the State's electric vehicle infrastructure.

Background

Federal Clean Air Act

The federal Clean Air Act (CAA) authorizes the U.S. Environmental Protection Agency (EPA) to regulate air emissions from both stationary and mobile sources. Under CAA, all new motor vehicles and engine-powered equipment must meet specific emissions standards.

Section 209 of CAA generally preempts states from regulating emissions from new motor vehicles and motor vehicle engines but authorizes a state to enact emissions standards that meet or exceed federal levels if EPA grants the state a waiver. Section 177 of CAA allows states to adopt another state's stricter emissions standards without seeking approval from EPA if the state's emissions standards are identical to those of the other state and the other state has received a waiver from EPA under § 209. Federal law prohibits states from revising an EPA-approved air quality implementation plan in a manner that would result in increased emissions and, as a result, a state that adopts another state's emissions standards may not withdraw those standards unless it can achieve equivalent emissions reductions elsewhere.

New Zero-emission Vehicle Requirements in California

California is the only state that has received a § 209 waiver and administers its emissions authority through the California Air Resources Board (CARB). Maryland adopted California's stricter emissions standards under Chapter 111 of 2007 (the Maryland Clean Cars Act), effective beginning with model 2011 vehicles and making Maryland the twelfth state to adopt California's emissions standards. On August 25, 2022, CARB adopted the Advanced Clean Cars II regulation requiring that all new cars and light trucks sold in California be zero-emission vehicles (ZEV), including a certain percentage of plug-in hybrid electric vehicles (EV), by 2035.

State Low- and Zero-emission Vehicle Programs and Requirements

Electric Vehicle Tax Credits

Chapter 234 of 2022 (the Clean Cars Act of 2022) reestablished and altered the qualified plug-in EV and fuel cell EV tax credit originally established under Chapter 490 of 2010. The revised tax credit, administered by the Motor Vehicle Administration, allows consumers who purchase a ZEV from July 1, 2023, through June 30, 2027, to claim an excise tax credit of (1) $3,000 for each ZEV purchased; (2) $2,000 for each zero-emission three-wheeled electric motorcycle or autocycle purchased; and (3) $1,000 for each two-wheeled zero-emission motorcycle purchased. Hybrid vehicles are no longer eligible for tax credits under the revised program. The program may provide up to $8,250,000 in tax credits each fiscal year from fiscal 2024 through 2027 and is funded by the Strategic Energy Investment Fund (SEIF).

Electric Vehicle Recharging Equipment Rebates

Chapter 359 of 2014 repealed an income tax credit for EV recharging equipment and replaced it with a rebate program administered by the Maryland Energy Administration (MEA). Under the program, an individual, a business entity, or a unit of State or local government may apply for a rebate of certain costs, depending on the type of applicant, for acquiring and installing EV recharging equipment. Although the maximum amounts of the rebate have varied over time, for recharging equipment acquired during July 1, 2020, through June 30, 2023, the rebate is the lesser of (1) 40% of costs or $700 for an individual; (2) 40% of costs or $4,000 for a business entity or unit of State or local government; or (3) 40% of costs or $5,000 for a retail service station dealer. The program may provide up to $1,800,000 in rebates each fiscal year from fiscal 2021 through 2023 and is funded by the SEIF. The program is set to terminate July 1, 2023.

Medium-Duty and Heavy-Duty Zero-Emission Vehicle Grant Program

The Clean Cars Act of 2022 also established the Medium-Duty and Heavy-Duty Zero-Emission Vehicle Grant Program administered by MEA. Under the program, a person or a unit of local government may apply to MEA for a grant to defray the costs of acquiring a medium- or heavy-duty ZEV (*e.g.*, pickup trucks, vans, and other ZEVs rated at more than 8,500 pounds unloaded gross weight), zero-emission heavy equipment property (*e.g.*, construction vehicles, forklifts), or acquiring and installing corresponding recharging equipment. MEA may award grants of up to 20% of the cost of acquiring or installing the vehicle, property, or equipment. For each of fiscal 2024 through 2027, the Governor must include in the annual budget an appropriation from the SEIF of at least $1.0 million for grants for medium- or heavy-duty ZEVs and at least $750,000 for grants for zero-emission heavy equipment property.

Climate Solutions Now Act of 2022

Chapter 38 of 2022 (the Climate Solutions Now Act) made broad changes to the State's approach to reducing statewide greenhouse gas emissions and addressing climate change, including establishing new programs and requirements to increase the use of ZEVs. The changes include:

- establishing the Electric School Bus Pilot Program, to be implemented and administered by the Public Service Commission, under which an electric utility may partner with a local school system to lower the costs to the school system of acquiring and operating an electric school bus fleet while allowing the utility to access stored electricity without additional compensation at times when buses are not needed to transport students;

- prohibiting, beginning in fiscal 2025 and except under specified conditions, a county board of education from entering into a new contract to purchase a school bus that is not a ZEV or using school buses that are not ZEVs, subject to a grandfather clause; and

- requiring that all passenger cars and other light-duty vehicles in the State vehicle fleet, by 2031 and 2036, respectively, be ZEVs, subject to certain exceptions.

For further discussion of the Climate Solutions Now Act, see "State and Federal Climate Change Legislation and Initiatives" within the Environment and Natural Resources section of this *Issue Papers of the 2023 Session.*

Zero-Emission Vehicle School Bus Transition Grant Program

Chapter 492 of 2019 established the Zero-Emission Vehicle School Bus Transition Grant Program within the Maryland Department of the Environment (MDE) to provide grants to county boards of education, and entities that contract with county boards of education to provide transportation services, to (1) purchase zero-emission school buses; (2) install EV infrastructure for charging zero-emission school buses; (3) engage in planning for a transition to using zero-emission school buses; and (4) fund pilot programs to experiment with a transition to zero-emission school buses. Chapter 492 also established the Zero-Emission Vehicle School Bus Transition Fund to provide funding for the program.

Zero-emission Transit Buses

Chapter 693 of 2021 (the Zero-Emission Bus Transition Act) prohibited the Maryland Transit Administration (MTA), beginning in fiscal 2023, from entering into a contract to purchase buses for its transit bus fleet that are not zero-emission buses. However, MTA may purchase an alternative-fuel bus instead if it determines that no available zero-emission bus meets the performance requirements for a particular use. The full cost of a zero-emission bus or alternative-fuel bus purchased by MTA must be paid from the Transportation Trust Fund.

Additionally, MTA must ensure the development of charging infrastructure to support the operation of zero-emission buses in the State transit bus fleet.

Federal Low- and Zero-emission Vehicle Tax Credit Enhancements

On August 16, 2022, President Joseph R. Biden, Jr. signed into law the Inflation Reduction Act (IRA) that, among other things, includes nearly $369 billion in climate and clean energy-related funding. To stimulate consumer demand for passenger EVs, the IRA extends an established EV tax credit (up to $7,500 for a qualifying EV) through 2032. While new qualifying plug-in EVs remain eligible for the credit, the IRA extends eligibility to other low-emission vehicles (LEV), including qualifying hydrogen fuel-cell vehicles and plug-in hybrids, and makes tax credits available for used LEVs and commercial or fleet LEVs. The IRA limits eligibility to electric and low-emission cars costing $55,000 or less and electric and low-emission sport utility vehicles, vans, or pickup trucks costing $80,000 or less. It also establishes standards for EV battery assembly and mineral extraction, processing, and recycling that must be met to qualify for a tax credit.

Policy Implications for Maryland

Legislation will likely be introduced during the 2023 legislative session to address CARB's regulation that 100% of new cars and light trucks sold by 2035 be ZEVs. The legislation may, among other things, (1) establish or require MDE to adopt CARB's 2035 ZEV regulation; (2) alter the application of CARB's regulation in Maryland; or (3) withdraw Maryland from the Section 177 emissions regulatory program altogether. As discussed above, option (2) would likely be prohibited under CAA and option (3) would require achieving equivalent emissions reductions elsewhere, which may be difficult to accomplish. Additionally, legislation may be introduced to extend, and possibly alter, the expiring EV recharging equipment rebates to expand EV infrastructure in the State.

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Business Regulation

Public Service Commission Initiatives and Renewable Energy

The State energy landscape continues to evolve in response to State and federal policy and to accommodate new and ongoing challenges for customers and utilities alike. Low-income customers continue to need bill assistance for essential utilities. Federal and State legislation are moving the State toward increased deployment of renewable energy sources. Safety-related gas infrastructure continues to be replaced on an accelerated basis. Federal policies on grid connections and cybersecurity affect State energy policies and investments.

Public Utility Arrearages and State Energy Assistance Programs

One of the major economic impacts of the COVID-19 pandemic was increased demand for financial assistance to low-income households for electricity and gas service. First by executive order and then by order of the Public Service Commission (PSC), utility services in 2020 were subject to moratoriums on service terminations and late fees. The State moratoriums on service terminations expired on October 1, 2020. The RELIEF Act, Chapter 39 of 2021, allocated $83 million in fiscal 2021 to PSC for distribution directly to utility companies to reduce utility arrearages.

In an August 2022 order, PSC determined that given the changing impact of the pandemic, it was appropriate to review the emergency ratepayer protection measures that had been implemented in 2020 and to make certain modifications. Under the modifications, utilities (1) must give 30 days' notice before terminating residential service; (2) must offer 12-month payment plans for all residential customers who are behind on payments; (3) were still prohibited from requiring down payments and deposits as a prerequisite to enrolling in a residential payment plan; and (4) were no longer required to offer more than one "second chance" in an 18-month period to customers who defaulted on prior payment plans. PSC plans to hold a hearing in November 2022 to further examine these issues but noted that utilities are encouraged to work with customers to ensure continued payment and minimize unnecessary disconnections. Under Chapters 638 and 639 of 2021, utilities must adopt limited-income mechanisms, subject to PSC approval, to assist limited-income customers to afford utility service.

In addition to residual arrearages that accrued throughout the pandemic, heightened energy prices in the months ahead may continue to put pressure on existing utility assistance programs. The Office of Home Energy Programs in the Department of Human Services administers energy assistance programs, including the Electric Universal Services Program (EUSP) and the Maryland Energy Assistance Program (MEAP). EUSP, funded primarily with State sources, provides bill payment and arrearage assistance to electric customers. MEAP, funded through the federal Low-Income Home Energy Assistance Program, provides bill payment assistance for a variety of heating fuels and natural gas arrearage assistance. Arrearage assistance is generally only available to households once every seven years, but Chapters 638 and 639 reduced that restriction to once every five years for certain individuals. The Acts also expanded eligibility under EUSP – which was otherwise set at 175% of the federal poverty level – for residential customers age 67 or older who are at or below 200% of the federal poverty level, or for residential customers who meet a broader designation approved by PSC.

Renewable Energy and Energy Efficiency Legislation

Climate Solutions Now Act

Among its other measures for reducing statewide greenhouse gas (GHG) emissions, Chapter 38 of 2022, the Climate Solutions Now Act (CSNA), includes provisions that (1) specify it is the goal of the State that the electric distribution system support, in a cost-effective manner, the State's goals with regard to GHG reduction; (2) prioritize renewable energy; (3) decrease dependence on electricity imported from other states; and (4) increase energy distribution resiliency, efficiency, and reliability. By January 1, 2030, each primary State procurement unit must ensure that at least 75% of the electricity supply procured by the unit for use in State facilities is derived from no- or low-carbon energy sources.

CSNA also requires PSC and the Maryland Energy Administration to coordinate with utility providers to apply for federal funds relating to the State's electric system. Accordingly, PSC has issued orders requiring all Maryland utilities to file monthly reports, beginning August 1, 2022, identifying the projects for which they have applied for funding that is available under the federal Infrastructure Investment and Jobs Act (IIJA), discussed in more detail below.

Federal Legislation

The IIJA, signed into law in November 2021, authorizes billions in federal funding for states and utilities to improve transmission, storage, and distribution infrastructure, and provides a nearly tenfold increase in funding for the U.S. Department of Energy State Energy Program for fiscal 2022 through 2026. Among other provisions, the IIJA also provides $3.5 billion for the Weatherization Assistance Program, $500 million for energy efficiency and renewable energy improvements at public school facilities, and $550 million in the Energy Efficiency and Conservation Block Grant Program.

The federal Inflation Reduction Act (IRA) was signed into law in August 2022. Among other provisions, the IRA provides $369 billion over 10 years for energy security and climate purposes, including tax credits for renewable energy, consumer tax credits and rebates, and grants and loans for energy transmission initiatives. A $27 billion Greenhouse Gas Reduction Fund will form the basis for the first national green bank – the allocated funds can be used for state or regional green banks, and 60% of the funding must go to disadvantaged communities. The IRA includes a $1 billion clean heavy-duty vehicle program for school buses, garbage trucks, and other zero-emission transit buses. The IRA also provides more than $4 billion to help states establish rebate programs for homeowners who accomplish demonstrated energy savings, including in apartments and affordable housing.

For further discussion of the CSNA and federal energy efficiency and transition initiatives under the IIJA and the IRA, see "State and Federal Climate Change Legislation and Initiatives" within the Environment and Natural Resources section of this *Issue Papers of the 2023 Session*.

Natural Gas Infrastructure

The Maryland Strategic Infrastructure Development and Enhancement program (STRIDE) was established in 2013 to replace vulnerable gas distribution pipes on an accelerated schedule. Under traditional rate regulation, a gas company must replace piping and valves before seeking reimbursement in a rate case for prudently incurred costs. STRIDE allows the utility to plan upgrades in advance and obtain prospective cost recovery through a surcharge on customer bills. Currently, the fixed annual surcharge may not exceed $2 per month for each residential natural gas customer; fixed annual surcharges for nonresidential customers are also capped.

In the first phase of STRIDE filings, from 2014 to 2018, approximately 290 miles of gas mains were approved for replacement by BGE, Columbia Gas, and Washington Gas at a total cost of over $800 million. In the ongoing second phase of filings, from 2019 to 2023, PSC has approved replacement of more than 400 miles of gas mains at an anticipated total cost of at least $1.2 billion. The costs are subject to annual PSC review. By the end of 2021, BGE had replaced approximately 350 miles of cast iron and bare steel pipeline, and approximately 1,040 miles remained to be replaced. Washington Gas had replaced approximately 130 miles of mains by the end of 2021 and had approximately 530 miles of mains to be replaced in coming years.

After a 2016 explosion at the Flower Branch apartment building in Silver Spring that was likely caused by the failure of an indoor gas service regulator, Chapter 264 of 2021 required certain gas service regulators to be installed or relocated outside of specified structures. Under the Act, gas companies were required to file by January 1, 2022, plans with PSC for relocating gas service regulators in multifamily residential structures. PSC has approved the filed plans. Until the plans are fully implemented, gas companies must update PSC annually on the progress made in the previous year.

Transmission Planning and Interconnection Rules

As the federal agency responsible for overseeing the electric grid's reliability, the Federal Energy Regulatory Commission (FERC) proposed a draft rule in April 2022 to reform regional transmission planning. Under the draft rule, transmission providers would be required to consider regional transmission needs on a longer-term (20-year) basis as well as consider changes in the resource mix and demand, trends in technology and fuel costs, resource retirements, generator interconnection requests, and extreme weather events. Transmission providers would also need to seek agreement from relevant state entities regarding the cost allocation for chosen transmission facilities.

To address backlogs in connecting electric generation projects to the grid, which nationwide now average more than three years, FERC proposed a rule in June 2022 to expedite the interconnection review process. FERC's proposed rule would implement a first-ready, first-served cluster study process, under which transmission providers would conduct larger studies involving multiple proposed facilities, instead of a separate study for each generating facility. FERC's proposed rule would also generally impose readiness requirements, firm deadlines, and penalties for interconnection studies that are not completed on time.

PJM Interconnection, the regional transmission operator that serves Maryland and several other surrounding states, filed a conceptually similar interconnection proposal with FERC in June 2022. Under PJM's proposal, if approved, projects would similarly be handled on a first-ready, first-served basis. PJM's proposal would also establish readiness deposits and impose penalties for noncompliance or withdrawal from the interconnection queue.

Utility Cybersecurity

In 2019, PSC issued an order establishing consensus cybersecurity reporting requirements for all Maryland utilities under the commission's jurisdiction. The order established several cybersecurity definitions, requirements for periodic cybersecurity reporting at least every three years for utilities with over 30,000 customers, and requirements for utility cybersecurity breach reporting. In June 2022, the commission adopted as regulations cybersecurity requirements for all electric companies, gas companies, and water companies regulated by the commission that operate in the State. The regulations largely codify the cybersecurity requirements previously established under the order.

At the federal level, the Cyber Incident Reporting for Critical Infrastructure Act, enacted in March 2022, requires critical infrastructure entities, including utilities and energy providers, to report cybersecurity incidents and ransom payments to the Department of Homeland Security within specified timeframes. As required under the IIJA, in September 2022, FERC proposed voluntary incentives for utilities to make cybersecurity investments, including an extra 2% return on equity for expenditures that materially improve cybersecurity and that are not otherwise required by industry standards or law.

Business Regulation

Family and Medical Leave Insurance

Legislation enacted in 2022 established the Family and Medical Leave Insurance Program. The program provides up to 12 weeks of benefits to an individual who takes leave from employment for certain eligible reasons. The Maryland Department of Labor must implement the program and complete initial study and program development requirements before contributions to the program begin on October 1, 2023, and claims for benefits begin on January 1, 2025.

Family and Medical Leave Insurance Program

Chapter 48 of 2022 established the Family and Medical Leave Insurance (FAMLI) Program, to be administered by the Maryland Department of Labor (MDL). The program provides up to 12 weeks of benefits to a covered individual who is taking leave from employment due to caring for certain family members, the individual's own serious health condition, or a qualifying exigency arising out of a family member's military deployment. The weekly benefit is based on an individual's average weekly wage and is indexed to inflation. Required contributions to the program, which are shared between employers and employees, are also based on employee wages. Generally, employers with 15 or more employees must contribute to and participate in the program – although employers may instead demonstrate to MDL that they maintain a private plan that meets or exceeds the rights, protections, and benefits under the State-administered program.

MDL must establish the new program using general funds until monies from required contributions become available. The fiscal 2023 budget provides $10.0 million in general funds for this purpose. Contributions to the program must begin October 1, 2023, and claims for benefits must be allowed beginning January 1, 2025. Based on the size of Maryland's workforce, the Department of Legislative Services (DLS) has previously estimated benefit payments of $333.1 million in fiscal 2025 and at least $685.1 million annually thereafter.

Implementation Timeline

Chapter 48 established a timeline for implementation of the Act. While more actions will need to be taken for implementation, these required actions provide a general framework, answer key questions early in the process, and provide advance notice to the public of key dates, such as those for contributions and benefit payments. Significant timeline requirements are as follows:

- ***December 1, 2022:*** The Secretary of Labor, in consultation with other State agencies and relevant stakeholders, must (1) conduct a cost analysis of the program that is focused on the cost of maintaining solvency and paying benefits to covered individuals and (2) study and make recommendations on the total rate of contribution, the appropriate cost-sharing formula between employers and employees, and the cost efficiency and benefits of MDL issuing a request for proposals (RFP) seeking the services of an outside contractor. These requirements repeat every two years beginning in 2025.

- ***January 1, 2023:*** The Secretary must report on whether a covered employee using FAMLI benefits is also eligible for unemployment insurance benefits and the effect that dual eligibility has on employer ratings.

- ***June 1, 2023:*** The Secretary must set the total rate of contribution and cost-share paid by employees and employers with 15 or more employees that will be in effect from October 1, 2023, through December 31, 2025, and adopt regulations to implement the Act that are consistent with the federal Family and Medical Leave Act and any relevant State laws. The requirement to set upcoming rates of contribution and cost-sharing repeats every two years beginning in 2025.

- ***October 1, 2023:*** Contributions to the program are required to begin.

- ***January 1, 2025:*** Individuals must be allowed to submit claims for benefits.

Preparation for Implementation

Department of Labor

In preparation for implementation of the FAMLI Program, MDL advises that it is participating in monthly meetings with other states that have passed similar laws establishing paid family leave programs. During these meetings, MDL has exchanged information relating to program administration and has begun coordination with counterparts in Washington, D.C., and Delaware to establish a cooperative relationship aimed at enforcing potentially overlapping programs. Such coordination will be necessary as many workers in the region work in one jurisdiction while living in another. MDL further advises that it has begun meeting with interested stakeholders to understand their particular concerns and obtain knowledge from their expertise.

MDL has been coordinating efforts on the required reports and studies referenced above and has contracted with the Jacob France Institute at the University of Baltimore for assistance. Results are still forthcoming as of the writing of this issue paper.

Department of Legislative Services

As required by Chapter 48, DLS has contracted with a consultant, Spring Consulting Group, to study and make recommendations regarding the capability and capacity of MDL to implement and administer the FAMLI Program, including recommendations regarding additional resources needed by MDL to meet future demands of the program. DLS intends to report the consultant's findings and recommendations to the Governor and the General Assembly in advance of the 2023 legislative session.

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Business Regulation

Apprenticeships

During the 2022 session, the General Assembly provided $25 million to expand apprenticeship programs in the State and directed the Maryland Department of Labor to form several workgroups to study opportunities for public sector workforce apprenticeship programs as well as for the development of degree apprenticeship programs. The President of the Senate has also created a workgroup on apprenticeships. Work on developing apprenticeship pathways for in-demand occupations is expected to continue during the 2023 session.

Background

Apprenticeship is a voluntary, industry-sponsored system that prepares individuals for occupations typically requiring high-level skills and related technical knowledge. An apprentice receives supervised, structured, on-the-job training under the direction of a skilled journeyperson and related technical instruction in a specific occupation. Apprenticeships are available to individuals aged 16 and older and may last from one to six years, although most are three to four years, and involve a minimum of 144 hours of classroom instruction per year and at least 2,000 hours per year of on-the-job training.

A national apprenticeship and training program was established in federal law in 1937 with the purpose of promoting national standards of apprenticeship and to safeguard the welfare of apprentice workers. Along with 26 other states and the District of Columbia, Maryland has chosen to operate its own apprenticeship programs under the federal law. The Division of Workforce Development and Adult Learning (DWDAL) within the Maryland Department of Labor (MDL) is responsible for the daily oversight of State apprenticeship programs. More specifically, DWDAL approves new apprenticeship programs as well as changes to current programs and ensures compliance with State and federal requirements. The Maryland Apprenticeship and Training Council serves in an advisory role for legislation and regulations, recommending changes to update apprenticeship law.

Public Sector Apprenticeship Workgroups

The 2022 *Joint Chairmen's Report* (JCR) directed MDL to establish three workgroups on public sector apprenticeships at the State and local level, focusing on the health care, transportation, and public safety sectors. Each workgroup was tasked with identifying the extent of public sector vacancies in each sector; reviewing related apprenticeship programs in other states or internationally; and identifying apprenticeship opportunities in jobs with the greatest barriers to recruitment and training, including opportunities for degree apprenticeship programs and high school apprenticeship programs.

Each of the three workgroups has met monthly throughout fall 2022, discussing the current landscape of apprenticeships in Maryland and barriers to expanding apprenticeships in each field, as well as hearing about apprenticeship programs in other states. The workgroups will continue to meet through spring 2023, with a targeted focus on implementation of potential apprenticeship programs. Each workgroup is expected to submit an interim report to the budget committees by December 1, 2022, and a final report by June 30, 2023. Additionally, the JCR directed the University System of Maryland (USM) to convene a group of stakeholders to discuss the feasibility of creating degree apprenticeship programs, including developing two pilot programs by fiscal 2024. USM and MDL are expected to submit a report on these efforts by December 1, 2022.

Funding

The fiscal 2023 budget includes $25 million in general funds in the Dedicated Purpose Account (DPA) to be expended over multiple years to support the expansion of apprenticeship programs. As of the writing of this issue paper, MDL is deciding how the funds will be used and has identified priority areas and potential initiatives, including:

- ***Sustaining and Growing the Pool of Registered Apprenticeship Sponsors:*** assisting employers in establishing or expanding apprenticeship programs through reimbursement programs for related instruction, funding for onsite coordination staff, or other services for apprenticeship sponsors;

- ***Growing and Diversifying Apprentices:*** improving recruitment and support for apprentices, including through marketing and outreach, integration with disability services, supporting programs in serving underrepresented groups, and expanding access to pre-apprenticeship and reentry programs that lead to apprenticeship; and

- ***Expanding Degree Apprenticeship and Public Sector Apprenticeship:*** implementing recommendations and pilot programs identified by the workgroups established in accordance with the 2022 JCR language.

The $25.0 million from the DPA represents a significant expansion of funding for apprenticeship initiatives. Excluding the DPA funds, the fiscal 2023 budget for apprenticeship programs totals $4.4 million. Major components of that total include $1.9 million to support the expansion of State apprenticeship programs, $1.0 million for the newly expanded apprenticeship income tax credit, $750,000 for a law enforcement cadet apprenticeship program, $100,000 for a pilot apprenticeship program for formerly incarcerated individuals, and $400,000 available from the State Apprenticeship Training Fund for MDL to award grants for pre-apprenticeship programs. Remaining budgeted funds are generally administrative.

Funding for broader workforce development initiatives has also expanded significantly in recent years. Federal funds of $75 million from the American Rescue Plan Act of 2021 are allocated across the fiscal 2022 and 2023 budgets to local workforce boards for providing training, job search assistance, supportive services, and other workforce development initiatives to individuals and businesses impacted by the pandemic, including the expansion of apprenticeship and pre-apprenticeship programs. For example, Baltimore City plans to use a portion of this funding to support 100 apprenticeships in industries negatively impacted by the pandemic, and Montgomery County plans to invest in business incentives for hiring apprentices as well as funding pre-apprenticeship training.

Upcoming Initiatives

Work to expand apprenticeships in Maryland will continue during the 2023 session and likely beyond. During the 2022 interim, the President of the Senate created the Senate President's Workgroup on Apprenticeships. The purpose of the workgroup is to examine and make recommendations to reduce skill shortages in high-demand occupations and provide affordable training for career pathways for young people in the public and private sectors. As of the writing of this issue paper, the workgroup has yet to meet, but it is anticipated that the workgroup will meet at least twice in 2022 and continue its work during the 2023 interim.

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Business Regulation

Broadband Service

Access to broadband service is increasingly important as Marylanders continue to work and study remotely and as the use of the Internet for daily activities continues to expand. Although the Federal Communications Commission establishes standards for what Internet speeds constitute broadband, these standards may be outdated, and some federal programs make use of minimum speed requirements that differ from the established standard. Maryland law does not define its own standards, and the Office of Statewide Broadband generally adheres either to the minimum federal standard or to higher standards as required by certain federal grant programs.

Broadband Internet Service Requirements

With the onset of the COVID-19 pandemic and resulting requirements for many Maryland citizens to work and study remotely, residential access to reliable and high-speed broadband Internet has become increasingly important. The Office of Statewide Broadband (OSB) is responsible for the disbursement of funding to expand existing and future broadband Internet infrastructure that either meets or exceeds current federal standards. However, maintaining the option of only meeting minimum federal broadband Internet standards runs the risk of authorizing the disbursement of funds for broadband Internet infrastructure that does not meet the needs of typical end users. This problem can also be exacerbated by changing end user expectations and the availability of new technologies.

Mixed Federal Broadband Standards

The Federal Communications Commission (FCC) is required to establish standards for what constitutes broadband Internet. The current standard, set in 2015, defines fixed broadband as a service that provides a minimum download speed of at least 25 megabits per second (Mbps) and upload speeds of at least 3 Mbps (25/3 Mbps). FCC twice reaffirmed the 25/3 Mbps benchmark in 2018 and 2021, though FCC indicated possible interest in updating the standards in 2023. In addition, the Congressional Research Service (CRS) advised in 2021 that the U.S. Congress consider the encouragement of the development of faster broadband services among new and existing networks. CRS specifically cited comments from stakeholders that a higher benchmark would allow multiple users within a household to simultaneously participate in high-definition video streaming for work or school, in addition to keeping up with current trends regarding household connectivity, such as phone and telephone service, thermostats, and security doorbells and cameras.

The U.S. Treasury and Congress both signaled willingness to increase broadband Internet standards. Federal regulations from the U.S. Treasury require broadband Internet infrastructure funding offered under the American Rescue Plan Act of 2021 (ARPA) to offer to the maximum extent practicable minimum service speeds of at least 100/100 Mbps, or a minimum of 100/20 Mbps under specified circumstances (generally related to limitations due to geography, costs, and technological limitations). The Infrastructure Investment and Jobs Act of 2022 (IIJA) also included federal funding for the installation of fixed broadband Internet infrastructure, with priority given to services offering a minimum of 100/20 Mbps.

End User Bandwidth Needs

The most common fixed broadband Internet connections are digital subscriber lines (DSL), cable modem, and fiber optic Internet lines. DSL and cable modem use existing communications infrastructure to connect to the Internet (*e.g.*, telephone and television wires); however, those connections rely upon aging infrastructure and can result in slower broadband Internet speeds. **Exhibit 1** illustrates the range of download and upload speeds for DSL, cable modem, and fiber optic broadband Internet.

Exhibit 1
Broadband Internet Download and Upload Speed Ranges

Connection Type	Download Speed Range	Upload Speed Range
Digital Subscriber Line	5 to 35 Mbps	1 to 10 Mbps
Cable	10 to 500 Mbps	5 to 50 Mbps
Fiber Optic	250 to 1,000 Mbps	250 to 1,000 Mbps

Mbps: megabits per second

Source: BroadbandNow.com; Department of Legislative Services

In a July 2021 report, the Government Accountability Office (GAO) advised that current FCC broadband Internet standards are likely too low to meet small business needs. GAO specifically cited reports stating that speeds of at least 50 Mbps are needed to maintain basic operations for small businesses. Moreover, with the inclusion of more complicated Internet applications, such as cloud-based applications (*e.g.,* payroll and report tracking software) and remotely connecting with other computers on virtual networks, considerable strain is added to a business' broadband Internet connection.

Bandwidth usage varies depending on what task is being completed, in addition to how many people are using broadband Internet within a given household network. For example, FCC reports indicate that the minimum download speeds for video teleconferencing range from 5 to 25 Mbps, depending on the number of individuals involved in the call. In addition, Zoom support documentation states that the recommended upload speeds for video teleconferencing range from 0.6 to 3.8 Mbps for one-to-one calls and 1.0 to 3.8 Mbps for group video calls. As FCC minimum broadband Internet standards are 25/3 Mbps, it does not take much in terms of Internet usage to exceed those standards, especially for households with multiple users and those that can only access the Internet from aging infrastructure.

Office of Statewide Broadband Implementation

Established by Chapter 74 of 2021, OSB is responsible for ensuring that every resident of the State is supported in the adoption of high-quality broadband Internet service, in addition to managing State and federal funds for the purposes of creating and expanding upon existing broadband Internet infrastructure. Among other responsibilities, OSB must prepare a statewide plan that ensures 98% connectivity to reliable broadband Internet by December 31, 2025. OSB must also establish definitions and standards for broadband Internet that are not at odds with the definitions and standards adopted by FCC, in addition to creating a publicly accessible map showing which residences do and do not have access to broadband Internet in the State.

As of October 2022, OSB has yet to publish the statewide plan despite the original July 1, 2022 due date, though OSB advises an anticipated publication date of approximately May 2023. OSB contracted with Salisbury University to create the publicly accessible broadband Internet accessibility map, and OSB anticipates that map will be available in June 2023. OSB awarded approximately $40.2 million in fiscal 2021 and $127.6 million in fiscal 2022 for broadband Internet projects in the State.

Maryland law does not define minimum standards as to what constitutes broadband Internet. Instead, OSB is required to either meet or exceed the standards set by FCC. In a report mandated by Chapter 74, OSB advised that the office previously awarded funding for projects at least meeting the FCC standard of 25/3 Mbps. However, because federal funding was made available for projects exceeding, instead of meeting, those minimum standards, OSB began in fiscal 2021 and 2022 to require eligible projects to at least meet 100/100 Mbps capabilities or 100/20 Mbps under specified circumstances. It is unclear if OSB will continue to use either benchmark for future grant awards once current federal funding is expended, although the office still has approximately $171.2 million in ARPA funding available to award in addition to an anticipated minimum of $100.0 million from the IIJA. OSB advises that the office anticipates establishing State minimum broadband Internet standards upon the publication of the statewide plan. However, the statutory option to merely meet FCC standards leaves open the potential for future projects utilizing OSB funds to default to a lower broadband Internet infrastructure standard that may be insufficient for meeting the needs of State residents.

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Business Regulation

Cybersecurity and Information Technology

The importance of cybersecurity and information technology continues to rise due to cyber attacks resulting in disruptions to government and private-sector operations. Steps have been taken to strengthen the cybersecurity of the State through executive initiatives and legislation, and new federal legislation established funding opportunities for utilities and state and local governments. Human resource needs are prompting government and industry leaders to consider ways to build the cyber workforce.

Cyber Attacks in Maryland

In recent years, cybersecurity and privacy issues have drawn attention from the general public and policymakers due to many ransomware attacks and data breaches that have occurred in Maryland and throughout the nation. Since 2019, there have been several high-profile ransomware attacks in the State, including multiple southern Maryland towns losing computer access after a third-party vendor was attacked, an attack on the Baltimore County Public Schools and Baltimore City government operations, and an attack on several servers at the Maryland Department of Health during the COVID-19 public health crisis.

Executive and Legislative Action in Maryland

Gubernatorial Action on Cybersecurity

In July 2021, Governor Lawrence J. Hogan, Jr. announced several cybersecurity measures, including a partnership with the National Security Agency, a memorandum of understanding with the University of Maryland, Baltimore County to establish the Maryland Institute of Innovative Computing, and an executive order creating a statewide privacy framework to govern the manner in which the State secures the personally identifiable information of its residents. In 2022, the Governor announced several budgetary investments to bolster the State's cyber readiness and workforce development programs. The additional funding aims to expand and accelerate critical information technology projects throughout the State, launch the Maryland Cyber Range for Elevating Workforce and Education, and provide universal and equitable access to Advance Placement Computer Science courses in every State high school.

Cybersecurity Legislation

Chapters 231, 241, 242, and 243 of 2022 established reforms related to cybersecurity and information technology asset funding, maintenance, and safeguarding. Chapter 231 established data security standards for insurance regulators, insurers, and other carriers to mitigate losses from data breaches. Under the Act, carriers must perform a prompt investigation when learning that a cybersecurity event has or may have occurred and then notify the Maryland Insurance Commissioner under certain circumstances.

Chapter 241 established the Cybersecurity Preparedness Unit in the Maryland Department of Emergency Management and the Information Sharing and Analysis Center in the Maryland Department of Information Technology (DoIT). It also required certain local governments to create cybersecurity preparedness plans, complete assessments, and report local cybersecurity incidents. Units of local government that use the State-operated broadband network must certify their compliance with the established minimum standards.

Chapter 242 codified and expanded the responsibilities of the Maryland Cybersecurity Coordinating Council, the Office of Security Management, and the State Chief Information Security Officer, all of which were created by executive order in 2019. Chapter 242 also required State agencies and local governments to report cybersecurity incidents and required units of State government and certain units of local government to complete cybersecurity preparedness assessments. In addition, DoIT's responsibilities were expanded to include centralizing the management and direction of certain information technology while allowing State agencies to maintain their information technology units. To accomplish this goal, DoIT was further required to develop a centralization transition strategy and conduct a performance and capacity assessment.

Chapter 243 established an independent Modernize Maryland Oversight Commission to ensure the security of information and to advise the State on appropriate cybersecurity upgrades. Additionally, it required water and sewer systems that serve more than 10,000 users and receives financial assistance from the State to assess their vulnerability to cyber attacks and make plans to address the vulnerabilities. Chapter 243 also established the Local Cybersecurity Support Fund to financially support local government cybersecurity preparedness activities.

Federal Infrastructure Investment and Jobs Act

In November 2021, President Joseph R. Biden Jr. signed the Infrastructure Investment and Jobs Act (IIJA), allocating approximately $1.9 billion to guard states and local government entities against cybersecurity attacks. The IIJA created a State and Local Cybersecurity Grant Program through the U.S. Department of Homeland Security to address cybersecurity threats against state and local governments and established a Cyber Response and Recovery Fund to assist the Cybersecurity and Infrastructure Agency's response to a cybersecurity attack. It also provided funding for cybersecurity research for telecommunications equipment and industrial control systems, established grants and research programs to develop the capacity of the energy sector at the federal, state, and local level to assess risks to cybersecurity, and provided funding through several federal entities for infrastructure projects that have a tangential focus on cybersecurity development.

Workforce Development

The National Conference of State Legislatures, cybersecurity and information technology experts, and sources of employment and education data have highlighted that human resources in the cybersecurity industry remain in scarce supply. In 2022, the International Information System Security Certification Consortium, a nonprofit that offers cybersecurity training and certification programs, reported that in the United States, there are approximately 1.2 million cybersecurity professionals in the workforce and an unfilled need for another 436,080 workers. Additionally, the U.S. Bureau of Labor Statistics projects "information security analyst" will be the eighth fastest growing occupation over the next decade, with an employment growth rate of 35% compared to the 5% average growth rate for all occupations.

In addition, data provided by the Maryland Longitudinal Data System (MLDS) indicates that as of the 2019-2020 school year, 87% of Maryland public high schools offered computing courses. MLDS also reports that 26% of 2020 high school graduates took at least one computer-related course and 59% of the students who took a computer-related course graduated and entered a full-time college program immediately following high school. However, just 19% of those students declared a major related to computer science.

Heightened awareness of the human resource needs in cybersecurity and information technology is prompting leaders in government and industry to examine ways to expand educational opportunities and grow the cyber workforce. In July 2022, President Biden hosted a National Cyber Workforce and Education Summit, bringing together leaders from government and across the cyber community, with a focus on building the cyber workforce; improving skills-based pathways to cyber jobs; and improving diversity, equity, inclusion, and accessibility in the cyber field.

Business Regulation

Data Privacy

Although data privacy is an increasingly important issue, applicable federal and State law is limited. The introduction of legislation in the 2023 legislative session addressing the types of data in need of protection and the level of protection afforded to individuals in the State is anticipated.

Data Privacy

Background

Data privacy is a subset of privacy law that covers the collection, use, and secure storage of personal information or personal data. In Maryland, "personal information" is defined as an individual's first name or first initial and last name in combination with certain data elements, including a Social Security number, a driver's license, an account number, health information, a health insurance policy or certificate number, or certain biometric data, among other elements. An individual's username or email address in combination with other data elements under certain circumstances may also be considered "personal information".

The types of sensitive and personal information that are shared with and requested by individuals and entities are at a record high. In contrast to the European Union, which has a General Data Protection Regulation in place for its citizens, the United States has a patchwork of federal and state laws that together are able to offer some protection for an individual's personal information.

Individuals in states that do not have a comprehensive data privacy law are afforded privacy protections over their personal information only when their data is subject to a specific federal law, such as the Children's Online Privacy Protection Act (COPPA) and the Health Insurance Portability and Accountability Act. Unless a state has a comprehensive data privacy law, a business can use, share, or sell any data the business collects about an individual without notifying the individual of these actions. If a business shares an individual's data with a third party, including sensitive personal information, the third party can also share and sell the information without notifying the individual.

Federal Regulation

In July 2022, two committees in the U.S. Congress made progress on comprehensive data privacy legislation, although neither proposal has been enacted. First, the House Energy and

Commerce Committee advanced a comprehensive privacy bill, the American Data Privacy and Protection Act. Most notably, this bill would (1) require most companies to limit the collection, processing, and transfer of personal data to that which is reasonably necessary to provide a requested product or service and other specified circumstances; (2) establish consumer data protections, including the right to obtain access to, correct, and delete personal data; (3) provide additional protections with respect to personal data of individuals under the age of 17; and (4) expressly preempt any state data privacy law that conflicts with the bill.

The Senate Commerce Committee advanced the Children and Teens' Online Privacy Protection Act. This bill would make several updates to the COPPA, which imposes certain requirements on operators of websites or online services directed to children under the age of 13 and on operators of other websites or online services who have actual knowledge that they are collecting personal information online from a child under the age of 13.

Other State Regulation

While there is no single overarching federal law governing how private data must be secured, each state has its own security measures in place to protect data privacy. In the past few years, as cybersecurity threats have increased, the trend has been to create a statewide comprehensive approach to data privacy. As of November 2022, California, Colorado, Connecticut, Utah, and Virginia are the only states to have enacted comprehensive data privacy laws. These state laws have several provisions in common, such as the right for customers to have access to and delete personal information and to opt out of the sale of their personal information. Other provisions require commercial websites or online services to post a privacy policy that describes the types of personal information collected, what information is shared with third parties, and how consumers can request changes to certain information.

California's Privacy Rights Act (CPRA) of 2020 is considered to be the strongest in the nation by many advocates of data privacy because it includes a private right of action for unauthorized access, exfiltration, theft, or disclosure of a consumer's information as a result of a business' violation of the duty to implement and maintain reasonable security procedures and practices. It also includes a "global opt out" that allows citizens to remove themselves from data sharing by device or browser, rather than needing to opt out on each separate website. The CPRA allows Californians to delete personal information that is digitally collected on them that identifies, relates to, describes, or is reasonably capable of being associated with the individual as a particular consumer or household. It also prohibits discrimination against consumers who opt out and puts limits on business retention of sensitive personal information for longer than is reasonably necessary. Covered sensitive information includes precise geolocation, race, ethnicity, religion, genetic data, private communications, sexual orientation, and health information.

Some states have enacted more specific data privacy protections for employees. Connecticut, Delaware, and New York require employers to give notice prior to monitoring employee email or internet access. Hawaii prohibits employers from requiring an employee to download mobile applications on the employee's personal communication devices that enable the employee's location to be tracked or reveal personal information.

Other states have enacted legislation targeting how internet service providers (ISP) keep and safeguard the personal information of their customers. Minnesota and Nevada require ISPs to keep private certain information concerning their customers unless the customer gives permission to disclose it. Minnesota also requires ISPs to get permission from their customers before disclosing information about the customer's online surfing habits and internet history. Maine prohibits the use, disclosure, and sale of customer personal information without consent and prohibits ISPs from refusing to serve a customer who does not consent or from charging a penalty or offering a discount to customers based on their consent status.

Maryland Regulation

While Maryland does not have a comprehensive data privacy law that regulates the collection and use of personal information, the Maryland Personal Information Protection Act (MPIPA) provides protections for Maryland residents relating to data security. The MPIPA requires certain businesses in possession of an individual's personal information to implement and maintain reasonable and appropriate security procedures and practices to protect the information from unauthorized access, use, modification, or disclosure. If a data breach occurs, the MPIPA requires businesses to conduct, in good faith, a reasonable and prompt investigation and notify individuals of the data breach in certain circumstances.

Additionally, Maryland regulates the manner in which direct-to-consumer genetic testing companies interact with consumers and handle consumer data by requiring companies to disclose certain information to consumers; to obtain consent before collecting, using, or disclosing the consumer's genetic data; and to develop and implement policies and procedures related to the disclosure of genetic data to law enforcement or other government agencies.

The General Assembly considered several bills related to data privacy and security during the 2019–2022 term, including bills addressing the scope of the MPIPA, genetic and biometric data, data collected from facial recognition technology, online privacy for children, and the collection of consumer data and right of consumers to opt out of the sharing of their data. While these bills failed, legislation relating to these topics may be considered again in the 2023 legislative session.

Public Safety

Police Reform

A number of policing reform measures were enacted during the 2021 and 2022 legislative sessions. Implementation of the new laws is underway; however, litigation has arisen and the discussion on additional improvements in policing continues.

Policing Reform in Maryland

In 2021, several policing reform bills were enacted, including a package of bills collectively known as the Maryland Police Accountability Act of 2021 (MPAA). During the 2022 legislative session, the General Assembly modified some provisions of MPAA. State and local agencies have worked to implement the provisions of the MPAA, and progress has been made, but in some instances, problems have arisen.

Modifications to MPAA During the 2022 Legislative Session

Discipline of Police Officers

Chapter 59 of 2021 made significant changes to State law pertaining to discipline of police officers. Among these changes was the repeal of the Law Enforcement Officers' Bill of Rights (LEOBR), enacted in 1974 to provide a framework for disciplinary procedures initiated by law enforcement agencies against officers and to guarantee officers specified procedural safeguards in that process. Chapter 59 replaced LEOBR with a system creating administrative charging boards in each county (and at least one statewide administrative charging board) to, among other duties, review investigations of police misconduct based on citizen complaints, make determinations about whether administrative disciplinary actions should proceed against police officers in those matters, and, if appropriate, recommend discipline. A police officer who is administratively charged with misconduct may elect to accept the proposed discipline or have the matter adjudicated before a trial board. Chapter 59 also required the Maryland Police Training and Standards Commission (MPTSC) to develop a uniform State disciplinary matrix.

The General Assembly revised some provisions pertaining to police discipline during the 2022 legislative session. Among these changes, Chapter 141 of 2022 clarified that the disciplinary matrix developed by MPTSC must be adopted by each law enforcement agency for all matters that may result in discipline of a police officer. Moreover, Chapter 141 required that law enforcement agencies forward all investigatory files for complaints of police misconduct involving a member of the public and a police officer, regardless of whether the complaint originated from within the law enforcement agency or from an external source, to an appropriate administrative charging committee. In addition, Chapter 141 also clarified the trial board process and modified the requirements and responsibilities of trial board members.

Inspection of Records Relating to Police Officer Misconduct

Chapter 62 of 2021 altered the law governing disclosure of records relating to police officer misconduct. Previously, police department records relating to officer misconduct were typically considered to be personnel records and therefore barred from disclosure under the Maryland Public Information Act (PIA). Chapter 62 provided that a record relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and a record relating to a disciplinary decision, is not a personnel record for purposes of PIA. Instead, these records are now generally subject to discretionary denial of inspection as provided under PIA. However, a custodian must allow inspection of these records by the U.S. Attorney, the Attorney General, the State Prosecutor, or the State's Attorney for the jurisdiction relevant to the record.

Chapter 536 of 2022 established the Task Force to Study Public Information Act Requests Made to Law Enforcement to review and study (1) costs charged by law enforcement agencies in relation to disclosure of records requested under PIA; (2) procedures applied by law enforcement agencies in the disclosure of records requested under PIA; and (3) the status and operations of the Maryland Public Information Act Compliance Board. The task force must submit to the General Assembly an interim report on its findings by December 31, 2022, and a final report by December 31, 2023.

Investigations by Office of the Attorney General

Effective October 1, 2021, Chapter 132 of 2021 established an Independent Investigative Unit (IIU) within the Office of the Attorney General (OAG) to investigate all alleged or potential police-involved deaths of civilians. Chapter 132 required a law enforcement agency to notify IIU of any alleged or potential police-involved death of a civilian and cooperate with the unit in connection with the investigation. In conducting investigations, IIU is authorized to act with the full powers, rights, privileges, and duties of a State's Attorney, including the use of a grand jury in any county. To investigate and assist with the investigation of alleged criminal offenses committed by police officers, IIU may (1) detail one or more police officers employed by the Department of State Police (DSP) and (2) employ other civilian personnel as needed.

During the 2022 legislative session, the General Assembly made changes to these provisions of MPAA. Chapter 141 of 2022 renamed IIU to instead be the "Independent Investigations Division" (IID) and specified that it is the primary investigative unit for police-involved incidents that result in the death of civilians or injuries likely to result in death. OAG is required to determine whether an incident is police-involved and whether an injury is likely to result in death.

IID must investigate all police-involved incidents that result in the death of a civilian or injuries that are likely to result in the death of a civilian. A law enforcement agency must cooperate with and may not impede IID in connection with the investigation of a police-involved death of a civilian. On request of the Attorney General or the Attorney General's designee, a local law enforcement agency must provide any requested evidence to IID.

The Attorney General or the Attorney General's designee is authorized to seek temporary or permanent injunctive relief to facilitate an investigation or prevent interference with an investigation, and to issue in any court in the State a subpoena to a person to produce records or documents.

Subsequent Developments

Attorney General Lawsuit Against Harford County Sheriff

On April 25, 2022, the Attorney General filed a lawsuit against the sheriff of Harford County, seeking declaratory and injunctive relief for the sheriff's alleged refusal to allow DSP investigators under the direction of IID to collect evidence in relation to a police-involved death. On April 28, 2022, a judge of the Circuit Court for Harford County granted a request for a temporary restraining order and ordered the sheriff to supply IID with evidence collected by the Harford County Sheriff's Office in the matter. According to the State Judiciary's public website, as of October 2022, the case is still open.

Adoption of Regulations Regarding Police Discipline

On June 27, 2022, MPTSC submitted emergency regulations providing for discipline of police officers and a disciplinary matrix establishing discipline guidelines to the Joint Committee on Administrative, Executive, and Legislative Review (AELR) for review and approval. The regulations included a provision for informal resolution of complaints against police officers for complaints successfully mediated through a mediation program that MPTSC is required by statute to develop and operate. Notably, while the statute requiring MPTSC to develop and operate a mediation program had become law in 2016, MPTSC had not yet established or begun operating a mediation program at the time of submission of the emergency regulations to AELR for review. The emergency regulations also included a requirement that members of the charging boards be "of good moral character."

On September 6, 2022, AELR advised MPTSC of its decision to approve the emergency regulations to prevent further delay in implementing police reform. However, the chairs of the committee noted concerns regarding the mediation provision and "good moral character" requirement and suggested that those issues be addressed when MPTSC adopts corresponding proposed "permanent" regulations.

Litigation Relating to Inspection of Records Relating to Police Officer Misconduct

According to reports by the *Washington Post*, on July 5, 2022, the Fraternal Order of Police Lodge 35 filed a lawsuit against Montgomery County seeking to block the release under PIA of disciplinary records pertaining to a police officer employed in the county. The lawsuit alleges that release of the officer's records would be contrary to the public interest and would constitute an unwarranted invasion of privacy. According to the State Judiciary's public website, as of October 2022, the case is still open.

In addition, advocates have expressed concern that Montgomery County has reportedly entered into an agreement with the local police union allowing law enforcement to review police disciplinary records before they are released to the public.

Possible Further Legislative Action

During the 2023 legislative session, the General Assembly may consider further legislative action regarding the police disciplinary process, disclosure of records under PIA, and IID investigations.

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Public Safety

Handgun Permits – Impact of Recent Supreme Court Decision

As a result of the U.S. Supreme Court decision in *New York State Rifle & Pistol Association vs. Bruen* and the *In the Matter of William Rounds* opinion by the Maryland Court of Special Appeals, the Department of State Police has stopped applying the "good and substantial reason" requirement when reviewing handgun permit applications. This paper discusses the cases and the changes and challenges that have followed.

The Supreme Court Decision

On June 23, 2022, the U.S. Supreme Court, in *New York State Rifle & Pistol Association, Inc. v. Bruen,* held unconstitutional a New York law that required applicants for a concealed carry handgun permit to demonstrate a "proper cause" (or a special need for self-defense) before issuance of a license to carry a handgun in public. In a 6-3 ruling, the Supreme Court held for the first time that the Second Amendment provides a constitutionally protected right for a law-abiding citizen to carry a handgun outside the home for self-defense.

Background

Except in limited circumstances, New York law requires a license to possess a handgun inside or outside the home. The petitioners in *Bruen* were denied unrestricted licenses to carry a handgun outside the home for failing to show a "proper cause" existed, which required demonstrating a special need for self-protection different from that of the general public. The petitioners along with the New York State Rifle & Pistol Association filed a federal civil rights lawsuit arguing the law violated their Second and Fourteenth Amendment rights. The district court dismissed the suit, citing a Second Circuit ruling in *Kachaslsky v. County of Westchester*, 701 F.3d 81 (2012), which upheld the "proper cause" standard finding the requirement was substantially related to an important government interest. On appeal, the U.S. Court of Appeals for the Second Circuit affirmed. The Supreme Court reversed the ruling, holding that the New York law violated the Fourteenth Amendment because it prevented law-abiding citizens from exercising their Second Amendment right to keep and bear arms for self-defense.

The Ruling

The *Bruen* ruling not only affects New York, but also six other states with similar statutes: Maryland; Delaware; California; Hawaii; Massachusetts; and New Jersey. The Supreme Court found that the "may issue" licensing schemes used in these impacted states gave a licensing official discretion to deny a handgun permit applicant a license even after the person met other statutory requirements (such as a background check, fingerprinting, or firearms training). The Court held the "may issue" permitting scheme was unconstitutional because it gave the government a subjective role over whether an applicant met the additional special need to carry a handgun. In contrast, the Court noted that the "shall issue" permitting scheme used in the 43 other states was not problematic because a handgun permit applicant must only complete the required objective statutory requirements before issuance of a license which is not discretionary.

The Supreme Court in its reasoning of *Bruen* altered the manner in which the lower courts should assess Second Amendment challenges moving forward. The Supreme Court dismissed the traditional means-ends scrutiny approach referred to by the lower courts when reviewing constitutional rights challenges, which balanced government interests against the scope of the firearms restriction. Instead, *Bruen* concluded a "national historical tradition" approach should now be used for Second Amendment cases. Under this approach, the courts should look at the plain text of the Second Amendment to determine if an individual's conduct is covered and only enforce a firearm regulation if the government is able to demonstrate that the regulation is consistent with the nation's historical tradition of firearm regulation. The Court concluded that the government had failed to identify an American tradition justifying New York's proper cause requirement; it was therefore unconstitutional.

The Supreme Court did acknowledge, in the concurring opinions, that other objective handgun permit licensing requirements that exist in many states (such as fingerprinting, background checks, mental health records check, and firearms safety training) and the federal and state laws regarding who is unqualified to possess a firearm (such as convicted felons and the mentally ill) are not made unconstitutional by the ruling in *Bruen*. The Court also noted that prohibiting firearms in certain "sensitive places" such as schools and government buildings is allowed but it declined to either define or provide an exhaustive list of "sensitive places" where it would be constitutional to prohibit the possession of firearms.

Recent Developments in Maryland and Legal Challenges

Following the Supreme Court decision, Maryland's Court of Special Appeals applied *Bruen* directly to *In the Matter of William Rounds*, No. 1533, Sept. Term, 2021 (Md. Ct. Spec. App. July 27, 2022), ruling that Maryland's wear and carry handgun permit law requiring an applicant to have a "good and substantial reason" to be issued a license to carry was analogous to New York's "proper case" requirement and was unconstitutional. On July 5, 2022, Governor Hogan responded to the ruling by directing the Department of State Police to immediately stop using the "good and substantial reason" requirement when reviewing handgun permits in the State. On July 6, 2022, the Office of the Attorney General issued a similar letter advising on the constitutionality and severability of the "good and substantial reason" from the State's handgun permit statute while affirming all other requirements for a handgun permit remain in effect. These recent developments coincided with a significant increase in the number of handgun permit applications within the State. According to the Department of State Police, there was a 900% increase in handgun permit applications in Maryland since the *Bruen* ruling. As of September 30, 2022, the department has received approximately 54,450 applications for handgun permits compared to 12,189 total applications in 2021.

On June 30, 2022, the U.S. Supreme Court remanded four pending Second Amendment cases to the lower courts. One of those cases, *Bianchi v. Frosh*, No. 21-1255 (4th Cir. Sep. 17, 2021) is challenging Maryland's 2013 law banning semiautomatic assault-style weapons. The still pending case has been remanded to the U.S. Court of Appeals for the Fourth Circuit, and the Supreme Court has asked the lower court to apply the new *Bruen* standard of review. The other cases remanded to the lower courts include cases challenging California and New Jersey's ban on large capacity magazines and a case challenging Hawaii's handgun permit policy requiring a demonstration of "the urgency or the need" to concealed carry.

In the wake of the Supreme Court's ruling, many lower courts in the State and across the nation are attempting to navigate the *Bruen* precedent. The "national historical tradition" approach laid out in *Bruen* created a new legal foundation to reevaluate other firearm-related restrictive laws. Recent litigation topics include the constitutionality of handgun safety requirements, shooting range zoning requirements, age restrictions for possession of certain firearms, fees accompanying certain gun regulations, required background checks for purchasing ammunition, prohibiting the possession of firearms in certain "sensitive areas" such as on public transit, and possession of a firearm with its serial number removed.

Potential Legislative Initiatives in Maryland

During the 2023 legislative session, considering the recent developments and uncertainty among the lower courts in applying the new *Bruen* precedent, Maryland could see legislation attempting to address potential Second Amendment constitutional issues that may exist in current State firearm laws. It is also possible Maryland will see components of the New York legislation that passed immediately following the *Bruen* decision. The New York law is being used by other "may issue" states as a benchmark for potential legislation. The New York law, among other things (1) removed the "proper cause" requirement while still requiring a demonstration of a "good moral character" and listed the specific steps to satisfy the requirement (for example requiring an in-person interview, providing additional character references, and submitting a list of social media accounts); (2) listed the "sensitive areas" where carrying a firearm would be prohibited (locations like Times Square, healthcare facilities, places of worship, zoos, and polling places); (3) enacted a blanket ban on concealed carry in privately owned locations unless the property owner posts a sign permitting guns to be carried or gives consent; (4) increased background check information sharing on the state and federal level; and (5) imposed storage requirements for leaving firearms in vehicles or homes with minors. The law took effect on September 1, 2022, but a federal judge subsequently enjoined enforcement of the law citing *Bruen*. The law remains in effect while the case is being appealed in the U.S. Court of Appeals Second Circuit. California and New Jersey are considering similar legislation.

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Public Safety

State Correctional System Update

After several years of decline, further accelerated by the COVID-19 pandemic, the population of State correctional and community supervision is showing signs of growth. Although the Department of Public Safety and Correctional Services has been able to consolidate facilities and resources in response to the reduced populations, staffing remains a significant concern, with over 16% of positions vacant. A new Therapeutic Treatment Center in Baltimore City remains at the center of the department's capital plan.

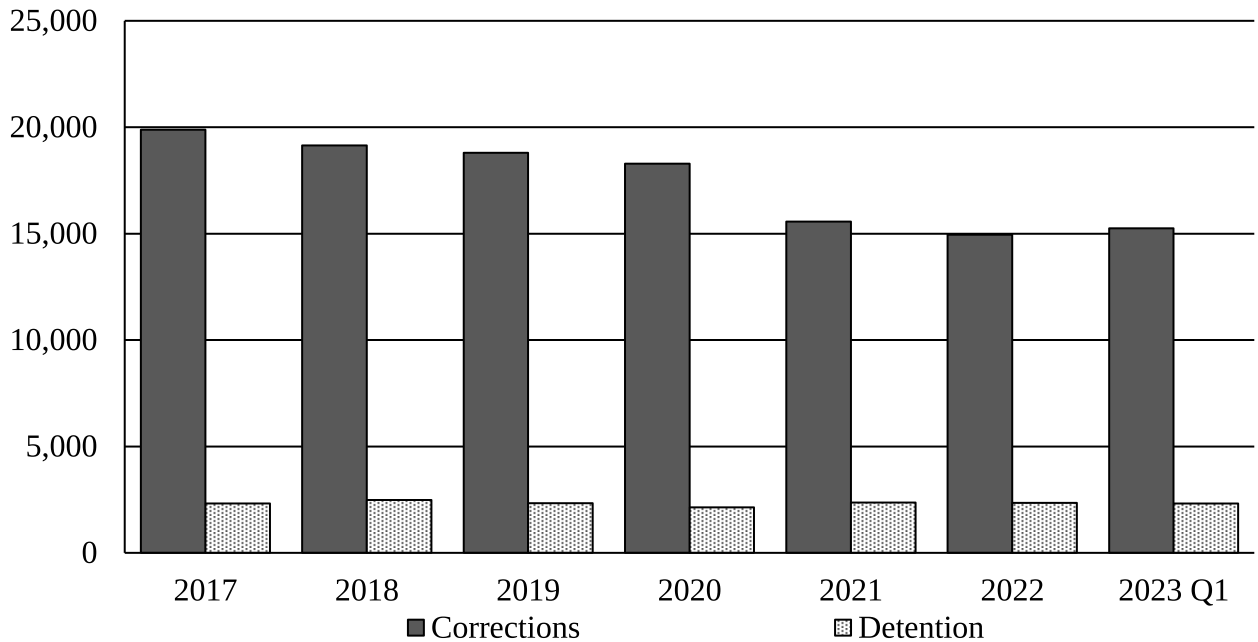
Background

The Department of Public Safety and Correctional Services (DPSCS) is responsible for operating 13 State Correctional institutions and 5 pretrial detention facilities in Baltimore City with an average daily population (ADP) of approximately 17,600. In addition, the Division of Parole and Probation (DPP) provides court-ordered supervision to offenders in the community and operates 46 parole and probation units. For fiscal 2023, DPSCS has a total budget of over $1.4 billion and approximately 9,217 employees, accounting for 4.7% of general fund expenditures and 11.4% of the total State workforce.

Population Trending Upward

The annual number of offenders in DPSCS custody continued to decline in fiscal 2022. However, the department's monthly average daily inmate population has increased each month since February 2022. **Exhibit 1** shows ADP of sentenced and detained individuals in DPSCS custody since 2017, including the first quarter of fiscal 2023, where the slight population increase is seen.

Exhibit 1
Average Daily Population
Fiscal 2017–2023 Q1

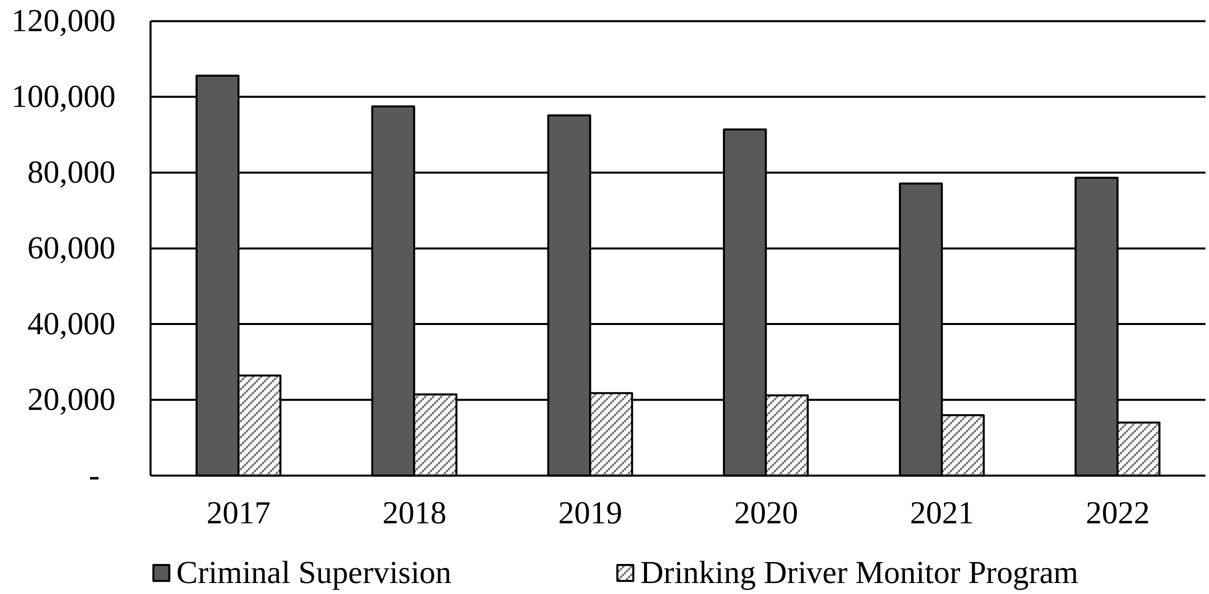


Source: Department of Public Safety and Correctional Services

In the first quarter of fiscal 2023, an average of 17,561 offenders were incarcerated while 2,314 were detained in pretrial detention. Overall, this represents a 2% increase from the first quarter ADP in fiscal 2022 and a 33.2% decline from the peak correctional population in fiscal 2011. This is the first year since 2011 that there has been an increase in the correctional population, although the detained population has increased since fiscal 2020 and currently stands above pre-COVID levels of population.

Exhibit 2 depicts the total number of cases under community supervision, which includes criminal supervision (parole, probation, and mandatory release cases) and cases under the Drinking Driver Monitor Program (DDMP). In fiscal 2022, DPP supervised 78,689 active criminal cases and 14,025 active DDMP cases. Criminal cases rose slightly in fiscal 2022 but remain lower than previous years. On average, total criminal cases for DPP have declined by approximately 5,700 each year since fiscal 2016. DDMP cases declined dramatically during COVID-19, falling 25% in fiscal 2021. That trend continued with an additional 14% decrease in fiscal 2022.

Exhibit 2
Total Community Supervision Cases Supervised
Fiscal 2017–2022

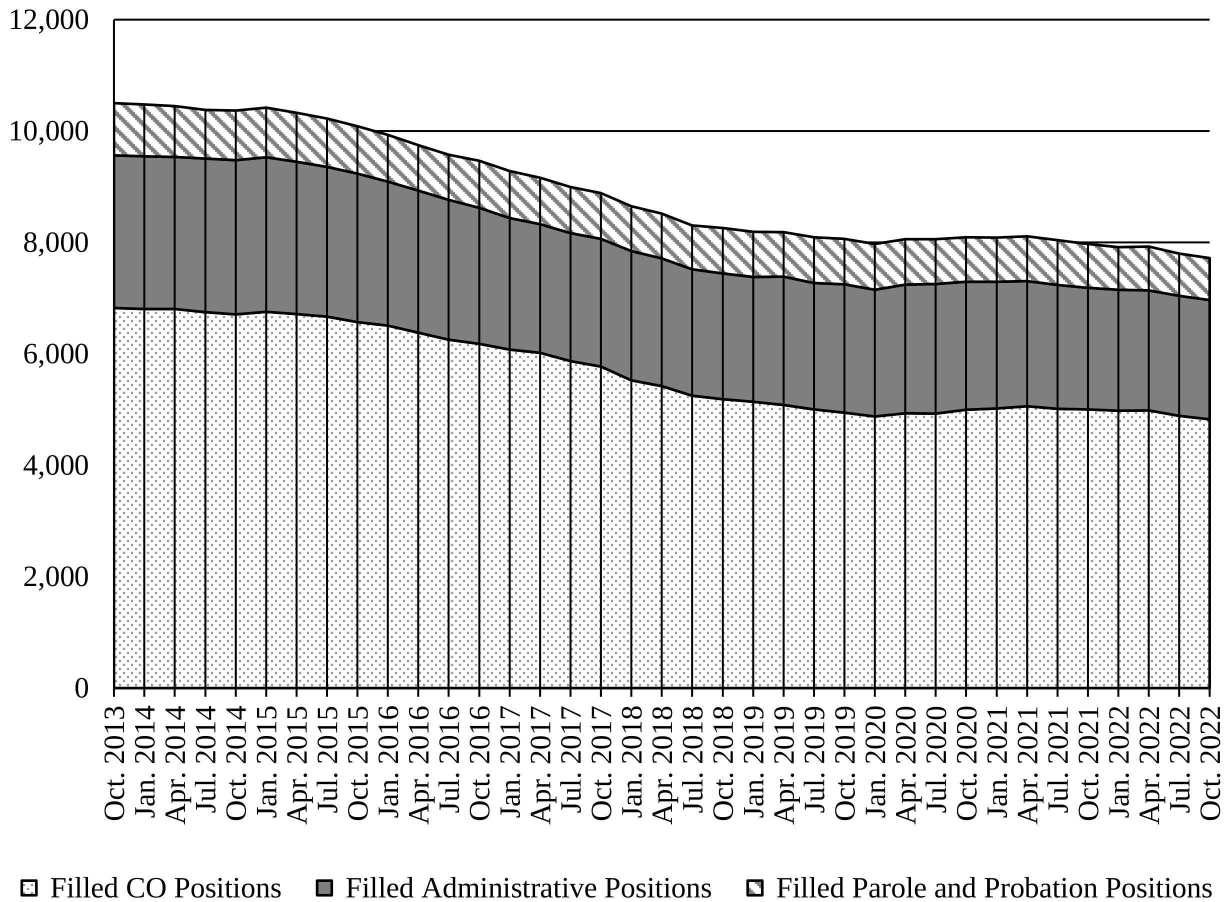


Source: Department of Public Safety and Correctional Services; Department of Legislative Services

Staffing Vacancies Increase

DPSCS staffing, specifically for correctional officers, is a perennial issue that has been a focus of legislative action in the budget. Vacancy information displayed in **Exhibit 3** shows that staffing improvements experienced during the COVID-19 pandemic are not being sustained, as filled positions in DPSCS have been shrinking each month since March 2022 for both correctional officers and noncustodial staff.

Exhibit 3
Filled Positions by Employee Category
October 2013–October 2022



Note: The Department of Legislative Services calculates filled positions by removing reported vacancies from the relevant fiscal year allowance. Estimates may not account for the internal or external transfer of positions mid-year.

Source: Department of Budget and Management; Department of Legislative Services

As of October 2022, DPSCS employed approximately 7,723 employees, including 4,826 correctional officers and 756 community supervision agents. Thus, the department has approximately 16% of its authorized positions vacant, reflecting the lowest level of employment in recent history and a net decrease of 286 employees from October 2021. Most (75%) of the drop in employment has been in the correctional officer series, which currently is functioning with a 10% vacancy rate. This increases overtime and raises risks to facility safety and security. While

DPSCS made progress in 2019 in slowing down the departure of employees, new strategies may be needed to recruit and maintain adequate staffing.

Capital Plan and Facility Openings and Closures

The fiscal 2023 capital budget plan for DPSCS includes $32.1 million in general funds for several projects, including steam tunnel replacements at the Eastern Correctional Institution, infrastructure and electrical improvements to facilities in the Jessup region, and planning for a new Therapeutic Treatment Center, which will replace the now-demolished Baltimore City Detention Center. The funding required in future years totals $451.7 million for the Therapeutic Treatment Center and $355.4 million for all other capital projects. In addition, DPSCS manages the Local Jails and Detention Centers Capital Grant Program, which receives $2.6 million in general obligation bonds for the Frederick County Adult Detention Center Phase IV Medical Addition in fiscal 2023.

DPSCS has consolidated facilities, staff, and resources as the number of offenders under custody has declined. From July 2015 to July 2021, the department eliminated about 3,400 beds for various legal, operational, and maintenance reasons at locations in Baltimore City, Hagerstown, Jessup, and the Eastern Shore. Most recently, DPSCS fully depopulated Brockbridge Correctional Facility (BCF) as of September 2019 and fully depopulated the Eastern and Southern Maryland Pre-Release Units as of July 2021. BCF and the pre-release units remain in departmental custody and can be redeployed if needed to support the growing inmate population.

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Criminal Law

Legalization of Cannabis

In the November 2022 general election, voters in Maryland will decide whether to join a number of other states in legalizing adult-use cannabis. If voters approve the proposed constitutional amendment, several provisions contained in a contingent enactment governing the use of cannabis will go into effect. Additional legislation to implement cannabis legalization is likely to be introduced during the 2023 legislative session.

Status of Legalization of Cannabis for Adult Use in the United States

Although cannabis is considered a Schedule I substance under the Controlled Substances Act and is illegal under federal law, an increasing number of states have legalized cannabis for adult use. As of October 2022, 19 states and the District of Columbia have legalized cannabis for adult use; 13 of these jurisdictions used a ballot initiative, and 7 jurisdictions enacted legislation. Reasons for state-level legalization of adult-use cannabis include the lack of federal action, the need to address racial disparities that have resulted from the enforcement of state laws prohibiting the use of cannabis, and the desire to regulate and generate revenue from a product that is thriving in the illegal market.

On October 6, 2022, President Joseph R. Biden, Jr. issued a full pardon to all citizens and lawful residents convicted of the offense of simple possession of marijuana under federal law. In an accompanying statement, President Biden urged "all Governors to do the same with regard to state offenses." In addition, President Biden directed his administration to "expeditiously" begin reviewing how marijuana is scheduled under federal law. Legislation to legalize cannabis is also pending in Congress.

Cannabis Legalization in Maryland

Chapter 45 of 2022 – Proposed Constitutional Amendment

In 2022, two companion measures to initiate the process of legalization of adult-use cannabis in the State were enacted. Chapter 45 of 2022 is a proposed constitutional amendment, which if approved by the voters at the November 2022 general election, will authorize an individual who is at least 21 years old to use and possess cannabis in the State beginning July 1, 2023. The authorization is subject to a requirement that the General Assembly pass legislation regarding the use, distribution, possession, regulation, and taxation of cannabis.

Chapter 26 of 2022 – Criminal Law Provisions

The second Act, Chapter 26 of 2022, alters various laws regarding the use, possession, and distribution of cannabis, subject to the ratification of the constitutional amendment. In this regard, among other things, Chapter 26:

- repeals the term marijuana and replaces it with cannabis;
- establishes that from January 1, 2023, through June 30, 2023, it is a fineable civil offense for a person to possess up to 2.5 ounces of cannabis or specified amounts of related products (fines vary based on specified thresholds);
- establishes that effective July 1, 2023, a person who is at least 21 years old may legally possess up to 1.5 ounces of cannabis or specified amounts of related products, including up to two cannabis plants;
- establishes that effective July 1, 2023, it is a fineable civil offense for a person younger than age 21 to possess up to 1.5 ounces of cannabis or specified amounts of related products or for a person (regardless of age) to possess between 1.5 ounces and 2.5 ounces of cannabis or specified amounts of related products;
- reduces possession with intent to distribute cannabis to a misdemeanor subject to a maximum penalty of three years imprisonment and/or a $5,000 fine and specifies that possession of up to 2.5 ounces of cannabis without other evidence of an intent to distribute or dispense does not constitute possession with intent to distribute cannabis;
- repeals criminal penalties associated with cannabis paraphernalia;
- authorizes a person incarcerated for a conviction related to possession of cannabis to apply to the court for resentencing, and requires the court to grant the application and resentence the person to time served;
- authorizes a person who is convicted of possession of cannabis to file a petition for expungement of the conviction after the satisfactory completion of the sentence, including probation; and
- authorizes a person who is convicted of possession with the intent to distribute cannabis to file a petition for expungement of the conviction three years after satisfaction of the sentence(s) imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

Chapter 26 of 2022 – Public Safety, Public Health, Social Equity, and Business Assistance Provisions

Chapter 26 also contains provisions addressing the public safety, public health, social equity, and business assistance aspects of cannabis legalization, including that it:

- requires the Attorney General to provide the General Assembly with a formal opinion regarding the impact of cannabis legalization on the authority of police officers to conduct searches of individuals and vehicles based on detection of the odor of cannabis;

- creates a subtraction modification against the State individual and corporate income tax for the amount of ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business as a State licensed medical cannabis grower, processor, or dispensary or any other cannabis establishment licensed by the State;

- requires the Maryland Medical Cannabis Commission (MMCC), in consultation with the specified entities, to conduct or contract for a comprehensive baseline study of cannabis use in the State;

- requires MMCC to complete a study on a home grow program for patients to cultivate cannabis for personal use, the implementation of laws relating to on-site consumption facilities, and methods to reduce the use of cannabis products by minors;

- subjects the smoking of cannabis to the Clean Indoor Air Act;

- creates a Cannabis Public Health Advisory Council to study and make annual recommendations regarding various cannabis-related issues, including the impact of cannabis legalization on the education, behavioral health, and somatic health of individuals under the age of 21; addiction and misuse; advertising, labeling, and quality control; and educational and public health programs;

- creates a Cannabis Public Health Fund to provide funding to address the health effects associated with the legalization of cannabis and to support the Cannabis Public Health Advisory Council;

- establishes a Cannabis Business Assistance Fund to assist small, minority-owned, and women-owned businesses entering the cannabis industry;

- establishes the Community Reinvestment and Repair Fund to provide funds to community-based organizations that serve communities that have been the most impacted by disproportionate enforcement of the cannabis prohibition; and

- expresses the intent of the General Assembly that the Office of the Executive Director of the Alcohol and Tobacco Commission (ATC) is the successor of MMCC concerning the regulation of medical cannabis and requires MMCC and ATC to jointly study and report on the transfer of personnel from MMCC to ATC.

Issues for Consideration during the 2023 Session and Beyond

If the constitutional amendment is ratified, in addition to creating a regulatory and taxation structure for the adult-use cannabis market, the General Assembly will need to address a number of issues arising out of legalization, including integration of the State's existing medical cannabis program, inclusion of social equity provisions, and public safety and health concerns. The reports and studies required by Chapter 26 of 2022 will provide valuable insight and data to assist the General Assembly in its work.

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Criminal Law

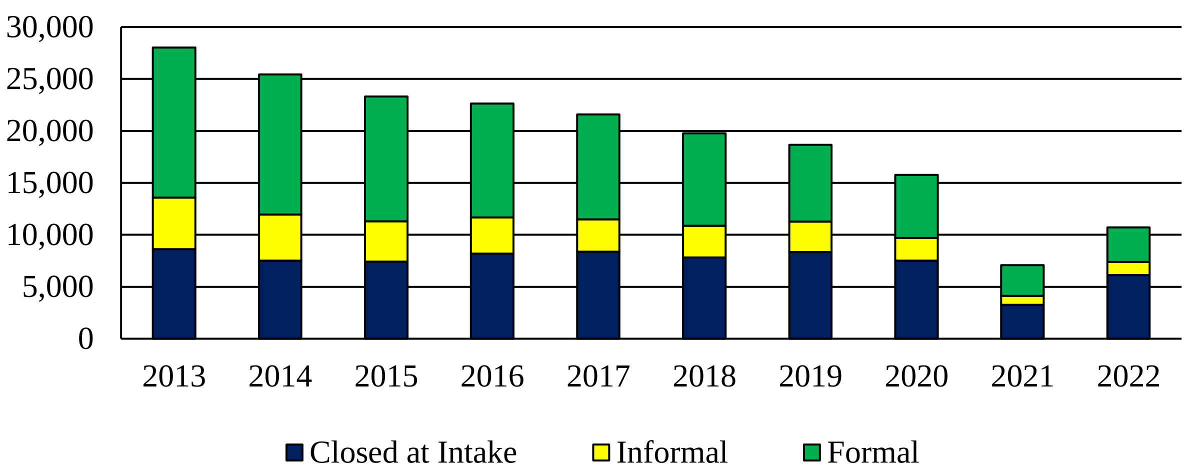
Department of Juvenile Services Update

Virtual or hybrid schooling and efforts by the courts to limit out-of-home placements due to the COVID-19 pandemic had a sustained impact on caseloads and populations within the juvenile services system. Despite increases in some of the committed populations, the average length of stay decreased for nearly all detained and committed youth. Staffing shortages have resulted in a temporary closure of a detention center.

Complaints and Referrals Increase Compared with Pandemic-driven Lows

The Department of Juvenile Services (DJS) received 10,838 complaints and referrals in fiscal 2022, a 52.1% increase from fiscal 2021, as shown in **Exhibit 1**. A historically high proportion of complaints (57.1%) were resolved at intake, requiring no court intervention and minimal interaction with DJS. Youth receiving pre-court supervision from the department or with a complaint referred to the State's Attorney for the authorization of a formal petition, accounted for 12.0% and 30.9%, respectively.

Exhibit 1
Department of Juvenile Services Complaints by Disposition
Fiscal 2013-2022



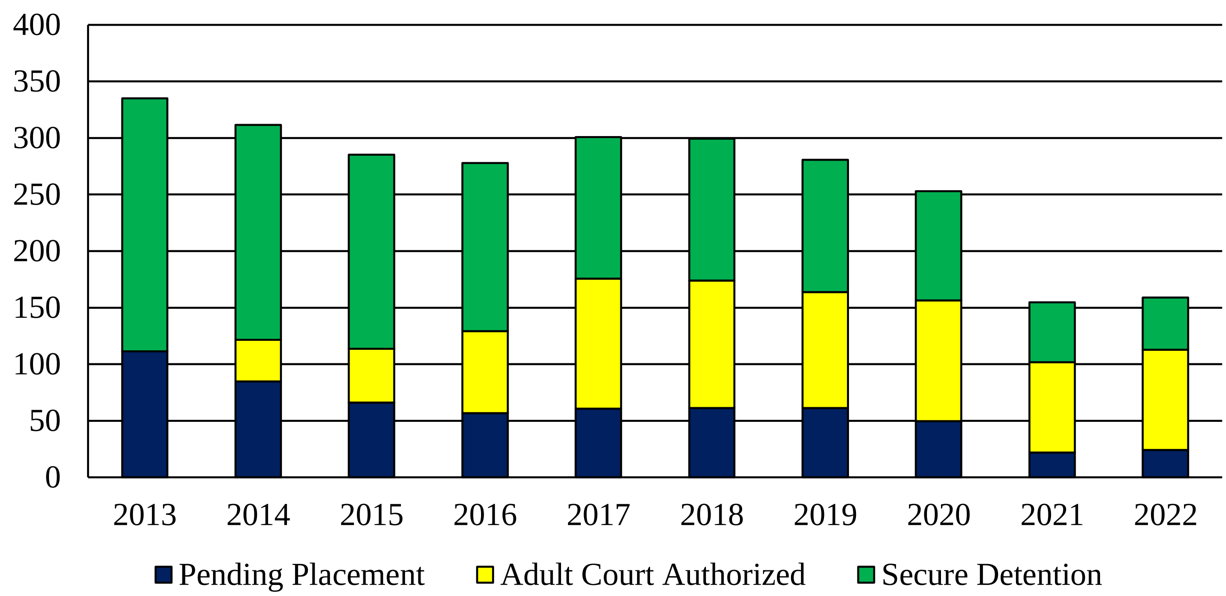
Source: Department of Juvenile Services

The rise in total complaints is likely due to the return of in-person education in primary and secondary schools over the 2021-2022 academic year. Though monthly referrals remained below their pre-pandemic levels throughout fiscal 2022, referrals increased 46.7% in the second half of fiscal 2022 compared to the first half.

Diversion Efforts Continue to Suppress Detained and Committed Populations

The detained average daily population (ADP) consists of three populations: (1) secure detention (*i.e.*, youth awaiting juvenile court disposition); (2) pending placement (*i.e.*, youth awaiting placement in a committed facility after juvenile court disposition); and (3) adult court authorized (*i.e.*, youth charged as adults pending a transfer determination to the juvenile court). As shown in **Exhibit 2**, the detained ADP was 159 youth in fiscal 2022, which is a 2.7% increase from fiscal 2021 but still a 37.2% decrease compared with fiscal 2020. The increase in the detained population in fiscal 2022 marks the second year in a row that the adult court authorized population made up over half of the total detained population (55.8%).

Exhibit 2
Department of Juvenile Services Average Daily Detained Population
Fiscal 2013-2022

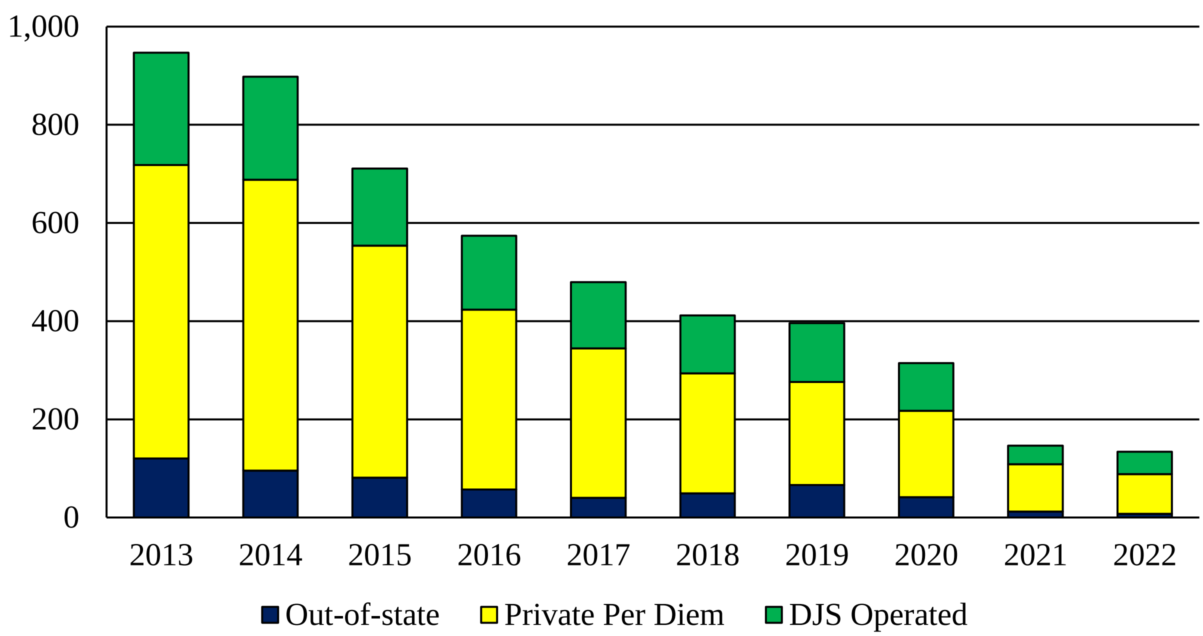


Source: Department of Juvenile Services

Secure detention populations decreased by 13.1% from fiscal 2021 to 2022. This suggests that fewer youth initially eligible for juvenile court were detained awaiting court disposition, which is consistent with an April 2020 order issued by then Chief Judge Mary Ellen Barbera directing local courts to find alternatives to detaining juveniles in facilities to minimize risks of contracting COVID-19. In contrast, the pending placement and adult court authorized populations increased by 10.5% and 11.1% in fiscal 2022. However, these populations are still 51.2% and 17.0% lower than they were in fiscal 2020.

As shown in **Exhibit 3**, the committed population continues to be significantly lower than pre-pandemic levels. The fiscal 2022 committed population ADP was 134 youth, which is down 8.7% from fiscal 2021 and 57.5% compared with fiscal 2020. Most notably, enhanced efforts to treat youth with in-state services contributed to the out-of-state ADP falling to 8 youth in fiscal 2022, which is a 37.7% reduction from the year prior and an 81.6% reduction compared with fiscal 2020. The private per diem ADP also shrank 16.3% in fiscal 2022.

Exhibit 3
Department of Juvenile Services Average Daily Committed Population
Fiscal 2013-2022



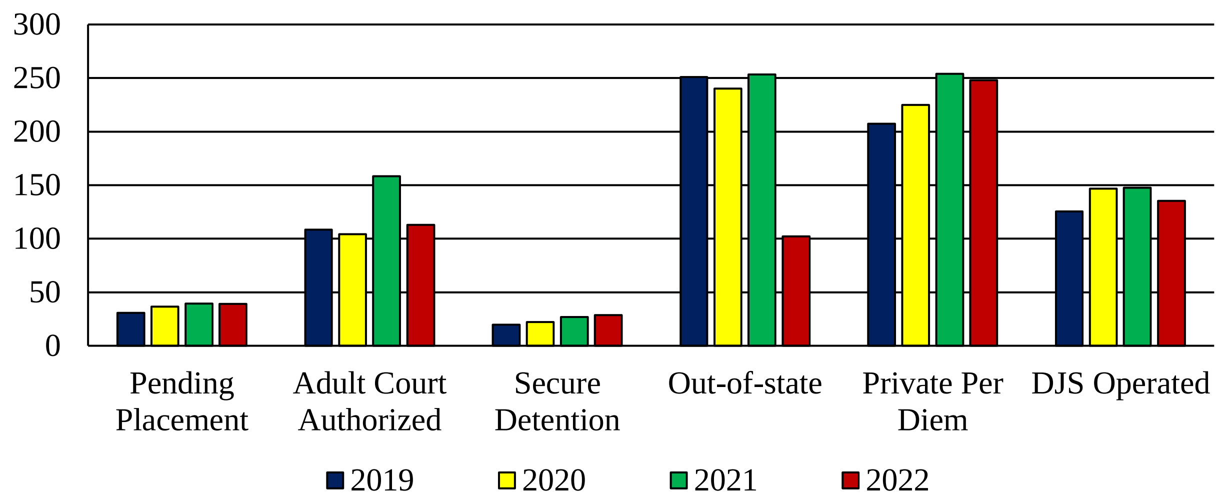
DJS: Department of Juvenile Services

Source: Department of Juvenile Services

Average Length of Stay Decreased for Most Populations but Generally Remains Above Prepandemic Levels

Although ADP increased across detained adult court authorized youth and youth pending placement, the average length of stay (ALOS) for pre- and post-disposition youth decreased in fiscal 2022, as shown in **Exhibit 4**. Only ALOS for the youth in secure detention increased from 26.7 days in fiscal 2021 to 28.8 days in fiscal 2022. Compared with fiscal 2019, ALOS remains elevated for all populations except those youth committed out-of-state. ALOS for the committed out-of-state population shrank 148.5% from 253.4 days in fiscal 2021 to 102.0 days in fiscal 2022. This decrease could be explained by multiple factors, including the decreased out-of-state population in fiscal 2022 and COVID-related fluctuations in court operations.

Exhibit 4
Department of Juvenile Services Average Length of Stay
Fiscal 2019-2022



DJS: Department of Juvenile Services

Source: Department of Juvenile Services

Adjustments to the Facility Realignment Plan

On November 17, 2021, DJS announced a new facility realignment plan. The plan proposes to close two treatment facilities and two detention facilities and expand the population served on the Cheltenham campus. Cheltenham's campus will be enhanced through an addition to the existing detention facility and through the construction of a new treatment center. DJS anticipates that the realignment will result in operational budget savings and align capital facility planning with population needs, including a smaller female detained youth population.

In accordance with the plan, the Thomas J.S. Waxter Children's Center in Anne Arundel County closed on March 2, 2022, and its detained female population was moved to the Alfred D. Noyes Children's Center (Noyes). Noyes is slated to close after the construction of the Cheltenham Youth Detention Center – Addition for Females, which could be as soon as fiscal 2025. Due to staffing issues, DJS decided to temporarily close Noyes from October 2022 through the beginning of January 2023.

As a result of this temporary closure, pre-disposition female youth at Noyes were relocated to the Cheltenham Youth Detention Center and the pending placement female youth at Noyes were placed at the Victor Cullen Center after DJS opened a female hardware secure unit there. Most staff at Noyes were relocated to the Cheltenham campus. A new shelter program for youth – located on the grounds of the Charles H. Hickey, Jr. School but outside of the detention center's secure perimeter – opened in October 2022.

Courts and Civil Proceedings

Judicial Elections

Unlike other judges in Maryland, the judges of the circuit courts are subject to contested elections to remain in office following appointment by the Governor. Numerous attempts have been made to abolish contested elections and substitute an alternative method that more closely aligns with the process used for the selection and retention of other judges in the State. The Judiciary recently convened a workgroup to study the various methods to select and retain trial judges and to make related recommendations.

The Judicial Selection and Retention Process

At all levels of the court system in Maryland (the appellate courts, the circuit courts, and the District Court), the Governor appoints a member of the Maryland Bar in cases of a vacancy, including a vacancy that arises from the creation of a new judgeship. To assist in the selection process, governors since 1970 have issued executive orders creating judicial nominating commissions to recommend candidates for appointment. The commissions review applications, interview candidates, and consider recommendations from citizens and various bar associations. In general, the commission compiles and submits to the Governor a list of candidates that the commission deems to be the most qualified for judicial office, and the Governor makes an appointment from this list.

For both appellate courts, the appointments must be confirmed by the Senate, and the judge holds the office until the next general election following the expiration of one year from the date the vacancy occurred. At the general election, the incumbent judge's name is placed on the ballot without opposition, and citizens vote for or against retaining the judge for a 10-year term. Most appellate judges receive a significant majority of votes (generally exceeding 80%) in favor of retention. District Court judges are also appointed by the Governor and serve 10-year terms after confirmation by the Senate but do not face retention elections and are instead reappointed by the Governor, with the Senate's consent, at the conclusion of the 10-year term.

Although circuit court judges are also initially appointed by the Governor and must stand for election, they face a different process. Unlike their colleagues on the appellate courts, circuit court judges may be subject to a contested election in which any member of the Maryland Bar who meets the constitutional requirements may challenge the incumbent judges by filing as a candidate. These elections are nonpartisan, as candidates for judgeships (including the incumbent judges) will typically "cross-file" in the primary election, appearing on both the Democratic and Republican primary election ballots. In the general election, the names of candidates appear on ballots without a party label or other distinguishing mark that might indicate party affiliation.

Consequently, circuit court judges are the only judges in the State who could face a contested election to retain their appointment. It is also the only court level where an individual may become a judge without a gubernatorial appointment and without being screened and recommended by a nominating commission. Circuit court judges are elected to 15-year terms.

Previous Legislative Action

Over the past two decades, there have been numerous bills introduced to alter the method by which circuit court judges are selected and retained in office. Although most of the bills have proposed that vacancies in circuit court judgeships be filled in a substantially similar manner as vacancies on the appellate courts, other bills have proposed filling vacancies in the same manner as those on the District Court. Legislation has also been proposed in several sessions in which circuit court judges would initially be appointed by the Governor and subject to confirmation by the Senate. However, judges who were confirmed by the Senate by at least a majority but less than 80% of all members would also be subject to a contested election, while judges who were confirmed by a majority of at least 80% would not face elections.

Opponents of judicial elections have traditionally argued that an independent Judiciary is critical to maintaining public trust in the judicial system and that such trust is eroded when judges who face contested elections must assume the role of a politician and solicit campaign funds, which often come from the attorneys who appear before the court. Opponents also note that attorneys who challenge the incumbent judges may be unqualified, as they have often not been subjected to the same screening process as the sitting judges. Proponents of judicial elections argue that, as with other elected offices, any individual who wishes to become a judge and otherwise meets basic criteria should have an opportunity to campaign and be elected by the voters. Furthermore, those supporting judicial elections contend that contested elections may offer a greater opportunity for an individual without political connections to become a judge and note that in some instances, contested elections have further increased diversity on the bench after voters elected minority and/or female candidates who challenged incumbent judges.

Workgroup to Study Judicial Selection

According to the Brennan Center for Justice, as of October 2022, trial court judges in over half of the states are subject to some form of contested elections. Since 1985, over a dozen candidates have prevailed over incumbent Maryland judges in contested elections. In 2022, the Maryland Judiciary convened a Workgroup to Study Judicial Selection to examine the various methods of selecting and retaining trial judges throughout the country. Among other tasks, the workgroup will study relevant academic literature; review the current and historical judicial complement in the State based on gender, race, and ethnicity; hold public hearings for stakeholders; and make recommendations.

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Environment and Natural Resources

Status of Chesapeake Bay Restoration

Maryland's Phase III WIP anticipates that the State will achieve statewide nutrient and sediment pollution reduction goals for the Chesapeake Bay by calendar 2025, but a recent federal evaluation found that certain 2021 targets were not met. An influx of federal funding for the Chesapeake Bay Program and agricultural conservation practices may help boost bay restoration efforts in the near term. However, long-term challenges remain, including reducing nutrient loads from the Conowingo Dam and addressing declining blue crab populations.

Chesapeake Bay Total Maximum Daily Load

In December 2010, the U.S. Environmental Protection Agency (EPA) established a Chesapeake Bay Total Maximum Daily Load (TMDL), as required under the federal Clean Water Act and in response to consent decrees in the District of Columbia and Virginia. This TMDL sets the maximum amount of nutrient (phosphorus and nitrogen) and sediment pollution that the bay can receive and still meet water quality standards. It also identifies specific pollution reduction requirements. Measures to meet a pollution reduction of at least 60% were required to be in place by calendar 2017, and all reduction measures must be in place by calendar 2025.

Watershed Implementation Plans

As part of the TMDL, bay jurisdictions (Delaware, the District of Columbia, Maryland, New York, Pennsylvania, Virginia, and West Virginia) must develop watershed implementation plans (WIP) that identify the measures being put in place to reduce pollution and restore the bay. Specifically, WIPs identify pollution load reductions to be achieved by various source sectors and in different geographic areas and help to provide "reasonable assurance" that sources of pollution will be cleaned up. WIPs must be submitted to EPA for review and evaluation. Each bay jurisdiction submitted (1) a Phase I WIP in calendar 2010 detailing how the jurisdiction plans to achieve its pollution reduction goals under the TMDL; (2) a Phase II WIP in calendar 2012 establishing more detailed strategies to achieve the TMDL on a geographically smaller scale; and (3) a Phase III WIP in August 2019 ensuring that all measures to meet restoration goals are in place by calendar 2025.

Achieving the Goal: Progress and What Lies Ahead

Maryland's Phase III WIP anticipates that the State will achieve (and possibly exceed) statewide nutrient and sediment pollution reduction goals by calendar 2025, but concerns have been raised regarding (1) whether the Phase III WIP includes sufficient detail regarding the actions that must be taken to achieve pollution reduction goals; (2) the feasibility of the State's continued reliance on the wastewater sector to meet pollution reduction goals when other sectors fall short; and (3) whether adequate resources to implement necessary agricultural practices are available. In addition, Maryland's Phase III WIP acknowledges that pollution loading resulting from climate change, population growth, and the Conowingo Dam may impact the achievement and sustainability of restoration beyond calendar 2025.

Most recently, in its October 2022 evaluation of Maryland's 2020-2021 completed and 2022-2023 projected milestones, EPA notes that Maryland did not achieve its 2021 targets for nitrogen and phosphorus but did achieve its target for sediment. The evaluation specifically flags the State's handling of expired municipal storm sewer system permits and implementation of agricultural best management practices as areas for improvement. Delaware, New York, Pennsylvania, and Virginia also fell short on their projected milestones, prompting the EPA Administrator to acknowledge that the plan and timeline for meeting remaining pollution reductions will likely need to be revised.

Federal Funding for Bay Restoration

Chesapeake Bay Program Funding

The Chesapeake Bay Program directs bay restoration and operates as a partnership between federal and state agencies, local governments, nonprofit organizations, and academic institutions. In October 2020, the U.S. Congress passed America's Conservation Enhancement Act, which reauthorizes the program for another five years and provides up to $92.0 million annually by federal fiscal 2025 to fully fund bay water quality monitoring and coordination activities between the bay jurisdictions. In accordance with the Act, President Joseph R. Biden, Jr.'s federal fiscal 2023 budget request calls for increasing program funding to $90.6 million, a $2.6 million increase from the prior fiscal year. While Congress has yet to take final action on the fiscal 2023 budget, a continuing resolution that continues federal fiscal 2022 appropriations to federal agencies through December 16, 2022, has been signed into law. Most programs and activities are funded at the federal fiscal 2022 levels under the continuing resolution, meaning that Chesapeake Bay Program funding remains at $88 million while the federal fiscal 2023 budget is finalized.

The federal Infrastructure Investment and Jobs Act (IIJA) became law on November 15, 2021. In addition to providing funding for an array of infrastructure investments, the Act increases funding for the Chesapeake Bay Program by $238 million over the next five years (an additional $47.6 million per year).

Agricultural Conservation Practices Funding

On August 16, 2022, the federal Inflation Reduction Act (IRA) was signed into law. Among other things, the Act allocates almost $20 billion to the U.S. Department of Agriculture (USDA) for agricultural conservation practices that have co-benefits for climate resiliency, water quality, greenhouse gas emissions, and nutrient and sediment pollution. On September 14, 2022, USDA announced that it is investing up to $2.8 billion in 70 selected projects intended to create market opportunities for commodities produced using agricultural practices that reduce greenhouse gas emissions or sequester carbon. Of the selected projects, 14 are expected to be implemented in Maryland.

Conowingo Dam

For decades, the Conowingo Dam, a hydroelectric facility that uses reservoir storage to generate electricity during peak electricity demand periods, has collected sediment and associated nutrients that would otherwise flow from the Susquehanna River into the bay. However, the dam, owned by Exelon Corporation, has reached an end state in terms of sediment storage capacity. The dam officially has its own reduction target of 6.0 million pounds of nitrogen and 260,000 pounds of phosphorus under a separate Conowingo WIP (CWIP) managed by the Center for Watershed Protection, the Chesapeake Bay Trust, and the Chesapeake Conservancy.

The final CWIP was completed in July 2021 and submitted to EPA in September 2021 for review and evaluation. The CWIP reflects an over-the-target reduction of 6.75 million pounds of nitrogen per year. The total annualized cost of nitrogen reduction is still to be determined but ranges from $53.3 million to $253.0 million per year. In its January 2022 evaluation of the final CWIP, EPA raised concerns over the need to distinguish restoration activities under the CWIP from activities that are already pledged under the bay jurisdictions' Phase III WIPs, as well as the need to identify dedicated funding mechanisms. On July 19, 2022, based on EPA guidance, the Principals' Staff Committee (the policy advisors to the Chesapeake Executive Council) reached consensus that Maryland, New York, and Pennsylvania can use a phased approach that extends beyond calendar 2025 to address nutrient loads from Conowingo, indicating that this approach will allow time to build the organizational infrastructure necessary to implement the final CWIP. Maryland's fiscal 2023 budget includes $25.0 million for the Maryland Department of the Environment (MDE) to implement nutrient control actions under the CWIP.

Maryland is also implementing a project, known as the Conowingo Dredging and Innovative and Beneficial Reuse Pilot Project, to assess the pollution reduction benefits of dredging sediment behind the dam and determine whether dredged materials could be used for beneficial purposes, such as soil and fill material. As of October 31, 2022, the Maryland Environmental Service (MES) had not released a final report on the project's findings. However, preliminary findings indicate that increased dredging is likely to reduce downstream sediment and nutrient loading. An expert panel, convened by MDE in coordination with the Chesapeake Bay Program, is expected to further evaluate the nutrient reduction effectiveness of dredging in calendar 2022 with results and recommendations available within two years. The fiscal 2023 budget bill includes $6.0 million for implementation of the dredging and innovative reuse project by MES.

Blue Crabs

In June 2022, the Department of Natural Resources published new restrictions on harvesting blue crabs in the Chesapeake Bay, including the State's first-ever limit on harvesting male crabs. These restrictions followed the release of the 2022 Bay-wide Blue Crab Winter Dredge Survey, which estimated the blue crab population to be 227 million crabs – the lowest levels observed since the survey began in 1990 and down 19% from 2021 levels. While the number of spawning age female crabs has been above the minimum management threshold of 72.5 million crabs for eight consecutive years, the population dropped from 158 million in 2021 to 97 million in 2022, significantly lower than the target of 196 million. Results also showed the adult male crab population to be 28 million, which is the lowest number on record. Although recruitment – the number of juvenile crabs – increased from 86 million in 2021 to 100 million in 2022, this is the third consecutive year of below average recruitment. The blue crab population is naturally variable and impacted by multiple factors, including habitat availability, bay and oceanic conditions, disease, and predation, including by red drum and invasive blue catfish.

On July 6, 2022, the Chesapeake Bay Program's Chesapeake Bay Stock Assessment Committee (CBSAC) issued its annual blue crab advisory report, recommending precautionary management measures to maintain a healthy spawning stock and protect juvenile crabs. The report recommended that a new benchmark stock assessment be conducted and expressed CBSAC's commitment to conducting a workshop to identify available data sources and evaluate potential drivers of blue crab population dynamics, including recruitment success. On September 21, 2022, Maryland's congressional delegation sent a letter to the U.S. Department of Commerce, urging the department to initiate a new benchmark stock assessment and to expedite the process by using funding from the federal IIJA and IRA.

Policy Implications

Several challenges lie ahead for Maryland and the other bay jurisdictions. While Maryland's Phase III WIP indicates that the State will make necessary nutrient and sediment pollution load reductions by calendar 2025, recent EPA evaluations indicate that the State and other bay jurisdictions are not on track to meet remaining commitments. Recent federal funding initiatives may provide a boost to bay restoration activities in the near term, but questions remain about the State's ability to fund implementation of the Phase III WIP and address increasing pollution loads resulting from climate change, population growth, and the Conowingo Dam. In addition, the blue crab population is at historically low levels, which may spark further management measures as well as efforts to better understand the factors contributing to the population's decline.

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Environment and Natural Resources

State and Federal Climate Change Legislation and Initiatives

The State has begun implementing the Tree Solutions Now Act of 2021 and the Climate Solutions Now Act of 2022, laws with initiatives to help the State mitigate and adapt to the effects of climate change. The federal Infrastructure Investment and Jobs Act and the Inflation Reduction Act have funding and other initiatives that may assist the State in making progress on climate change-related goals.

State Initiatives

Tree Solutions Now Act

Trees mitigate the effects of climate change by sequestering carbon dioxide, providing shade that reduces energy use and controls the heat island effect, serving as a buffer during high winds and flooding, and reducing drought. Chapter 645 of 2021, the Tree Solutions Now Act (TSNA), designated funding and established tree planting goals, programs, and a commission to support tree plantings in the State.

Tree Planting Goal

The TSNA established a goal of planting five million trees in the State by the end of 2031, with the intention that at least 500,000 of those trees be planted in an underserved area. To achieve this, the Maryland Department of the Environment (MDE) advises that it received fiscal 2023 funding from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund and has contracted with the Maryland Environmental Service and the University of Maryland, College Park Campus to help promote, facilitate, and align the State's efforts. These efforts include establishing a website and GIS-based tree tracking tool; coordinating with data providers, performing quality checks on submitted tree planting data, and reporting progress; and using the State's forest carbon monitoring system to quantify and integrate the carbon value of five million trees. Additionally, to support the tree planting goal, MDE formed the Tree Data Advisory Council composed of staff from the Department of Natural Resources (DNR), the Maryland Department of Agriculture, the Maryland Department of Transportation, and the Chesapeake Bay Trust (CBT).

Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings

The TSNA also established the Commission for the Innovation and Advancement of Carbon Markets and Sustainable Tree Plantings. The commission began meeting in January 2022 and released its final plan for growing five million trees in Maryland in October 2022. The plan includes several recommendations intended to allow the State to maximize the benefits of trees for all Marylanders and confirms the State's pledge to allocate the five million trees toward the U.S. Chapter of the One Trillion Trees Initiative, an initiative to grow one trillion trees around the world by 2030. The plan also identifies the following key actions that DNR's Maryland Forest Service (MFS) is undertaking to accomplish the State goal to plant five million trees: (1) increasing tree stock availability; (2) increasing tree planting accomplishment for previously existing programs; (3) increasing engagement of diverse communities; and (4) improving tree planting opportunity mapping. Additionally, MFS began recruiting to fill 13 new contractual positions that were funded under the TSNA.

Urban Trees Grant Program and Forest Cover and Tree Canopy Study

In November 2021, CBT hired a program manager to manage the Urban Trees Grant Program established under the TSNA. CBT began funding grant applications in 2022, awarding $7.7 million to 33 applicants to plant 40,000 trees beginning in fall 2022. CBT also included in the commission's draft plan a recommendation to allow the planting of non-native fruit and nut trees to count toward the five million tree goal to help support food security, agriculture, and biodiversity while continuing to advance carbon sequestration. In addition, the TSNA required the Harry R. Hughes Center for Agro-Ecology, in consultation with State agencies and the Chesapeake Bay Program, to conduct a technical study to review changes in forest cover and tree canopy in the State. The study is anticipated to be released in fall 2022.

Climate Solutions Now Act

Chapter 38 of 2022, the Climate Solutions Now Act (CSNA), makes broad changes to the State's approach to reducing statewide greenhouse gas (GHG) emissions.

GHG Emissions Reductions

The CSNA requires the State to reduce statewide GHG emissions by 60% from 2006 levels by 2031 and achieve net-zero GHG emissions by 2045. In September 2022, MDE released a mandated progress report addressing the new GHG reduction goals under CSNA and concluded that future actions beyond those set out under the State's 2030 Greenhouse Gas Emissions Reduction Act Plan must be considered to meet CSNA's new emissions reduction targets. As the CSNA took effect on June 1, 2022, the majority of requirements for State agencies have yet to be fully implemented. However, several reports from various agencies and related entities are due in November and December 2022.

Public Service Commission Report and Study

On July 1, 2022, the Public Service Commission (PSC) submitted a report required under the CSNA that included recommendations on the goals and cost-effectiveness of the EmPOWER Maryland program. The report recommends that the General Assembly pass legislation codifying the GHG abatement goal structure detailed in the report beginning with the 2024-2026 EmPOWER program cycle. The CSNA also requires PSC to submit a general system planning study relating to gas and electric companies and the transition to a highly electrified building sector. PSC advises that a study workgroup has been established and is working with technical staff on the parameters of the study. PSC plans to release a request for proposals for the study in fall 2022.

Maryland Green Building Council Examination and Report

The CSNA requires the Maryland Green Building Council (MGBC) to examine and report on issues related to the climate impacts of specified building materials by December 1, 2022. MGBC advises that its committees have examined these issues, and MGBC plans to review the committees' findings and discuss compilation of a final report at its October 2022 meeting.

Building Energy Transition Implementation Task Force and Maryland Commission On Climate Change Working Groups

MDE and the Maryland Commission on Climate Change (MCCC) advise that both are in the process of gathering information on potential members for the Building Energy Transition Implementation Task Force and the four MCCC working groups established under the CSNA. Once established, the task force and each working group will have a webpage on the MCCC website.

Zero-emission Vehicles

The CSNA establishes requirements and incentives for the purchase and use of zero-emission vehicles in the State. For a discussion of these requirements and incentives, see "Low- and Zero-emission Vehicles" within the Transportation section of this *Issue Papers of the 2023 Session*.

Federal Initiatives

Infrastructure Investment and Jobs Act and Inflation Reduction Act

The U.S. Congress passed the Infrastructure Investment and Jobs Act (IIJA) in November 2021 and the Inflation Reduction Act (IRA) in August 2022. The IIJA and the IRA together allocate more than $430 billion in an effort to lower energy costs for consumers, improve human health, rebuild the country's transportation infrastructure, expand access to clean drinking water, mitigate the impacts of climate change, advance environmental justice, create high-quality jobs, and support vulnerable communities. The IIJA and the IRA, in tandem with previous actions, are projected to put the United States on a path to reduce GHG emissions by roughly 40% below 2005 levels by 2030.

Building Improvements

The IIJA and the IRA include tax incentives for more efficient homes and commercial buildings, rebate programs for home efficiency and electrification, and funding to assist state and local governments in the adoption of and compliance with energy efficient building codes. The IRA provides rebates of up to $14,000 per household for energy efficiency upgrades, including rebates for electric stoves, heat pumps, water heaters, and clothes dryers and upgrades to home electric panels, wiring, and insulation. The IRA also provides rebates for more than 50% of the costs of a full-home energy retrofit, or up to 80% of the costs for low- and moderate-income families. The IRA also offers tax credits to reduce the cost of rooftop solar and battery storage by 30% and provides rebates of up to $400,000 for whole-building energy retrofits of large multifamily apartment buildings.

Greenhouse Gas Reduction Fund

The IRA creates a $27 billion Greenhouse Gas Reduction Fund to accelerate energy transition in the United States. Of the $27 billion, $20 billion will be administered by the U.S. Environmental Protection Agency to support eligible nonprofit entities' emissions-reduction projects and $7 billion will be available to states and local governments to implement programs enabling low-income and disadvantaged communities to benefit from zero-emission technology. According to the Atlantic Council, Congress's intention is for the $20 billion to be allocated for a nonprofit national green bank that will support the transition to a clean energy economy. These federal efforts could help encourage green bank efforts in Maryland and supplement the Climate Catalytic Capital Fund established under the CSNA to promote geographical impact remedies and leverage increased private capital investment in technology development and deployment.

Tree Planting and Transportation Infrastructure

The IRA includes $1.5 billion in grants for State and local governments to plant trees. In addition, the IIJA provides transportation infrastructure investments to reduce climate change impacts.

2023 Farm Bill

The farm bill is an omnibus federal law that governs an array of food and agriculture programs. The bill is typically renewed once every five years and is anticipated to be renewed again in 2023. Congressional hearings held in preparation for reauthorization of the 2023 Farm Bill suggest that it may include initiatives with the potential to support attainment of State climate change goals, such as incentives to agricultural producers for the adoption of carbon sequestration and other climate-friendly practices, renewable energy opportunities in rural areas, the use of industrial hemp as a carbon-negative crop, leveraging the voluntary carbon market for improving and sustaining forest stewardship programs, and reauthorizing the Conservation Reserve Program, which provides technical and financial assistance to eligible landowners to address soil, water, and related natural resource concerns on their lands in an environmentally beneficial and cost-effective manner.

Environment and Natural Resources

Water Supply and Wastewater Systems

In March 2022, the Maryland Environmental Service took charge of operations at the Back River Wastewater Treatment Plant in Baltimore City to prevent the risk of catastrophic failures at the plant. In September 2022, an *E. Coli* contamination event affected drinking water in several Baltimore City neighborhoods. These incidents highlight broader issues – including staffing shortages and aging infrastructure – facing the State's water supply and wastewater infrastructure, even as the State faces emerging challenges, such as the regulation of PFAS chemicals in drinking water.

Background

The U.S. Environmental Protection Agency (EPA) has delegated primacy to the Maryland Department of the Environment (MDE) for implementing the federal Safe Drinking Water Act and components of the National Pollutant Discharge Elimination System (NPDES) permit program under the federal Clean Water Act, including the permitting of industrial and municipal wastewater and stormwater discharges. Staffing shortages at the State and local levels, as well as aging and failing infrastructure, are growing challenges to MDE's primacy in these areas. Recent events in Baltimore City, as well as an increasing concern regarding PFAS chemicals in drinking water, highlight the challenges faced by MDE as it seeks to safeguard the State's water resources.

Recent Incidents in Baltimore City

Back River and Patapsco Wastewater Treatment Plants

On March 27, 2022, MDE issued a directive to the Maryland Environmental Service (MES) to take charge of the Back River Wastewater Treatment Plant, which is operated by Baltimore City. The directive was issued after MDE inspectors determined that a recent decline in the proper maintenance and operation of the plant risked catastrophic failures that could pose threats to the environment and public health. The plant began to experience problems in spring 2021 as a result of the COVID-19 pandemic, which caused staffing shortages and impeded the city's ability to obtain repair parts. These issues were exacerbated by a long-standing run-to-fail maintenance methodology. As a result, the plant began to discharge above its permitted levels, causing citizen complaints. Similar concerns have been raised about the Patapsco Wastewater Treatment Plant, also operated by Baltimore City.

E. Coli Contamination Event

From September 5 through 9, 2022, MDE issued a required boil water advisory for the Sandtown-Winchester and Harlem Park neighborhoods of Baltimore City due to the detection of *E. coli* in the drinking water. The Baltimore City Department of Public Works testified to the City Council on September 29, 2022 that the *E. coli* outbreak was caused by failing and aging infrastructure.

Staffing Shortages

Staffing challenges in the water and wastewater sectors, like those experienced by the Back River Wastewater Treatment Plant, are a national problem. The U.S. Department of Labor projects that, nationwide, about 10,800 water and wastewater treatment plant and system operator positions will become available each year from 2021 to 2031 due to the need to replace workers who exit the industry. The COVID-19 pandemic exacerbated these challenges; the American Water Works Association reported in October 2021 that the pandemic increased employee turnover and made it more difficult for water utilities to fill vacancies. As recently as July 2022, staff for the Maryland Board of Waterworks and Waste Systems Operators expressed concern about a dire need for new operators.

Staffing is an issue that affects not only the utilities that operate water supply and wastewater systems but also the agencies that regulate them. For example, a May 2021 report commissioned by EPA concluded that MDE's Water Supply Program is significantly understaffed and underfunded and that, as a result, the State risks losing primary enforcement responsibility over the regulation of its drinking water systems. In response, MDE submitted a resource investment plan to EPA in May 2022, which outlines not only its plan to phase in additional positions by the end of fiscal 2024 – using federal funding under the Infrastructure Investment and Jobs Act (IIJA) – but also its plans for promoting technical and professional development, diversity hiring, and workplace technology improvements in order to support adequate employee development and retention.

MDE also faces staffing shortages in its wastewater permits program, as highlighted by Chapter 22 of 2022, which requires MDE to clear the backlog of administratively continued NPDES discharge permits by December 31, 2026. The Act also required MDE to report by October 1, 2022, on the number of additional employees necessary to clear the backlog and process discharge permit renewals in a timely manner. MDE's submitted report notes that an additional 86 positions are needed to comply with the Act. Finally, Chapter 22 also requires MDE to request regular positions for the additional employees identified in the report.

Aging and Failing Infrastructure

The recent incidents in Baltimore City also draw attention to the challenges posed by aging and failing infrastructure. The American Society for Civil Engineers' 2020 Report Card for Maryland Infrastructure (ASCE Report Card) assigned grades of "C" and "C+" to the State's drinking water and wastewater infrastructure, respectively. In the State's most densely populated areas of Baltimore City and the region surrounding Washington, D.C., the aging water supply infrastructure affects the reliability of the drinking water systems. For example, although the Baltimore Department of Public Works replaces more than 20 miles of pipe annually and spends about 60% of its water budget on improving aging infrastructure, Baltimore residents still experience almost 1,000 water main breaks each year. The ASCE Report Card further noted that, while the State has worked aggressively in recent years to improve its wastewater infrastructure by upgrading wastewater treatment plants, Maryland still faces significant challenges, such as reducing sanitary sewer overflows and leakage from urban areas that have aging pipes.

Repairing and maintaining the State's aging water infrastructure is expensive. According to EPA's Drinking Water Needs Survey, last updated in 2018, the projected 20-year cost to update and maintain Maryland's drinking water infrastructure is approximately $9.3 billion. Despite the significant need, federal funding to maintain and repair such infrastructure fell by 77% between 1977 and 2017. As noted in a July 2022 report by the Maryland Advisory Committee to the U.S. Commission on Civil Rights, these costs now largely fall to local water utilities and to consumers through rate increases. Low-income households are often most affected; while there are federal programs that subsidize gas and electric utility bills for low-income households, no such programs exist for water bills.

PFAS Chemicals

PFAS chemicals – also known as forever chemicals – are a class of fluorinated organic chemicals that contain at least one fully fluorinated carbon atom, including perfluoroalkyl and polyfluoroalkyl substances. Studies have linked these chemicals with harmful health conditions. Chapters 138 and 139 of 2022 prohibit, beginning January 1, 2024, the manufacture and sale of fire-fighting foams and personal protective equipment and new rugs containing intentionally added PFAS chemicals in the State. Even so, concerns remain about PFAS chemicals that have already entered the environment.

EPA has not set an enforceable limit on PFAS chemicals in drinking water, so states are not required to test for or remediate the presence of these chemicals in drinking water supplies. However, EPA has issued health advisories for specified PFAS chemicals, and the agency indicates that it will propose mandatory limits by the end of 2022. In the absence of federal mandates, several states in the Chesapeake Bay watershed have proposed their own enforceable limits. New York imposed a maximum contaminant level of 10 parts per thousand for two of the most common PFAS compounds in 2020. Delaware and Pennsylvania have also proposed caps on these compounds. In Maryland, MDE has not proposed mandatory limits but is working with community water supply systems to reduce PFAS concentrations on a voluntary basis.

Policy Implications for Maryland

Some of the challenges discussed above should be ameliorated in the short-term by the influx of federal funding under the IIJA. Nationwide, the IIJA directs more than $50 billion to EPA for improvements to drinking water, wastewater, and stormwater infrastructure, including $15 billion in dedicated funding through Drinking Water State Revolving Loan Funds for lead service line identification and replacement and $5 billion through both the Clean Water and Drinking Water State Revolving Loan Funds to address PFAS contamination. IIJA funding will be guided by the federal Justice40 Initiative, which has a goal that 40% of overall benefits flow to disadvantaged communities that are marginalized, underserved, and overburdened by pollution.

Efforts are also underway in Maryland to address workforce development in the water and wastewater sectors. Several agencies and organizations have established or will soon establish apprenticeship programs for operators and utilities. The hope is that with multiple programs in place, there will be various opportunities to meet the unique needs of operators and utilities.

PFAS chemicals are likely to remain a major environmental policy challenge for the immediate future. MDE's close coordination with EPA, other states, and the private sector will be critical to creating a regulatory structure for addressing existing PFAS contamination and preventing future contamination.

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Local Government

State Aid to Local Governments

State aid to local governments is projected to total $9.9 billion in fiscal 2024, representing a $429.9 million, or 4.5%, increase over the prior year. Public schools will continue to receive a vast majority of State aid with State support totaling $8.3 billion in fiscal 2024.

Projected Funding

Local governments are projected to receive $9.9 billion in State aid in fiscal 2024, representing a $429.9 million, or 4.5%, increase over the prior year. Public schools will receive the vast majority of the State funding, while counties and municipalities will receive 9.0% of the total funding. Public schools will receive $8.3 billion in fiscal 2024, which is 84.3% of total State aid. Counties and municipalities will receive $892.0 million in fiscal 2024, with $349.2 million targeted to transportation initiatives and $198.2 million targeted to public safety programs. Community colleges, libraries, and local health departments will receive $663.5 million, which accounts for 6.7% of total State aid. **Exhibit 1** shows the change in State aid by governmental entity for fiscal 2024. **Exhibit 2** shows the change in State aid by major programs.

Exhibit 1
State Aid to Local Governments
Fiscal 2024
($ in Millions)

	State Aid Amount	Percent of Total	Aid Change	Percent Change
Public Schools	$8,341.6	84.3%	$388.1	4.9%
Counties/Municipalities	892.0	9.0%	7.0	0.8%
Community Colleges	458.3	4.6%	23.0	5.3%
Libraries	91.3	0.9%	1.9	2.1%
Local Health Departments	113.9	1.2%	9.9	9.5%
Total	**$9,897.1**	**100.0%**	**$429.9**	**4.5%**

Source: Department of Legislative Services

Exhibit 2
State Aid by Major Programs
Fiscal 2021-2024
($ in Millions)

	2021	2022	2023	2024	Difference	Percent Difference
Public Schools						
Foundation Programs	$3,502.7	$3,413.3	$3,817.4	$3,917.5	$100.2	2.6%
Compensatory Aid	1,364.7	1,286.7	1,295.2	1,367.0	71.8	5.5%
English Language Learners Grant	348.2	334.3	422.5	469.5	47.0	11.1%
Special Education – Formula Aid	314.9	311.1	401.3	450.1	48.8	12.2%
Special Education – Nonpublic	123.9	127.5	141.4	137.4	-4.0	-2.8%
Student Transportation	310.2	288.1	336.0	364.9	29.0	8.6%
Guaranteed Tax Base	41.2	49.9	45.8	48.7	2.9	6.3%
Head Start/Pre-Kindergarten	29.6	29.6	29.6	29.6	0.0	0.0%
Blueprint Programs	384.7	811.8	595.4	665.6	70.3	11.8%
Other Education Programs	90.6	102.0	144.3	145.0	0.7	0.5%
Subtotal Direct Aid	***$6,510.7***	***$6,754.2***	***$7,228.8***	***$7,595.5***	***$366.7***	***5.1%***
Retirement Payments	750.3	779.0	724.6	746.1	21.5	3.0%
Total Public School Aid	**$7,261.0**	**$7,533.2**	**$7,953.5**	**$8,341.6**	**$388.1**	**4.9%**
Libraries						
Library Aid Formula	$44.1	$44.7	$47.7	$48.6	$0.9	1.9%
State Library Network	19.5	19.8	21.0	21.4	0.5	2.3%
Subtotal Direct Aid	***$63.6***	***$64.4***	***$68.7***	***$70.1***	***$1.4***	***2.0%***
Retirement Payments	20.0	20.5	20.8	21.3	0.5	2.3%
Total Library Aid	**$83.5**	**$84.9**	**$89.4**	**$91.3**	**$1.9**	**2.1%**
Community Colleges						
Community College Formula	$249.7	$290.1	$355.1	$375.6	$20.5	5.8%
Other Programs	43.9	35.5	35.3	36.4	1.1	3.2%
Subtotal Direct Aid	***$293.6***	***$325.6***	***$390.4***	***$412.0***	***$21.6***	***5.5%***
Retirement Payments	45.4	46.0	45.0	46.3	1.4	3.0%
Total Community College Aid	**$339.0**	**$371.5**	**$435.3**	**$458.3**	**$23.0**	**5.3%**
Local Health Grants	**$69.0**	**$73.9**	**$104.0**	**$113.9**	**$9.9**	**9.5%**
County/Municipal Aid						
Transportation	$264.9	$272.1	$296.9	$349.2	$52.3	17.6%
Public Safety	167.9	186.4	250.8	198.2	-52.6	-21.0%
Disparity Grant	163.3	158.2	161.2	167.7	6.5	4.0%
Gaming Impact Aid	92.2	104.3	105.8	108.4	2.5	2.4%
Other Grants	61.8	66.8	70.2	68.4	-1.8	-2.5%
Total County/Municipal Aid	**$750.1**	**$787.8**	**$885.0**	**$892.0**	**$7.0**	**0.8%**
Total State Aid	**$8,502.7**	**$8,851.3**	**$9,467.2**	**$9,897.1**	**$429.9**	**4.5%**

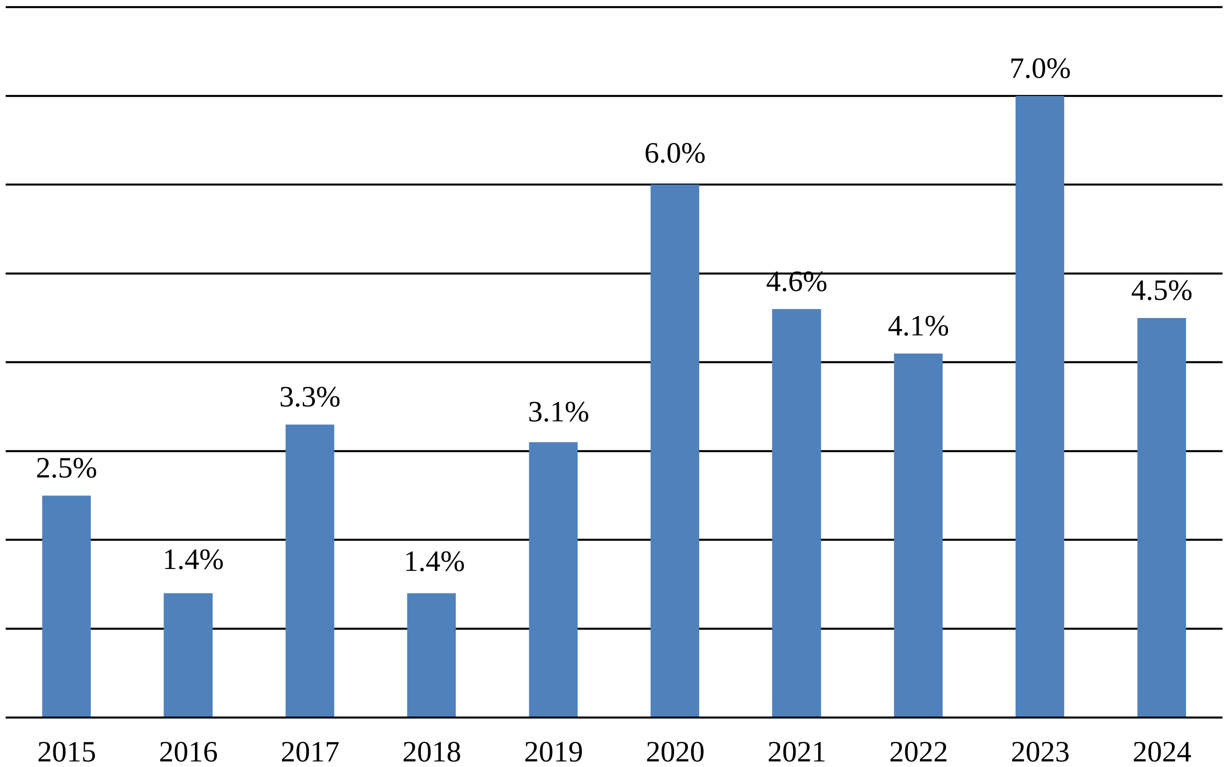
Source: Department of Legislative Services

State Aid Funding Trend

As shown in **Exhibit 3**, the projected 4.5% growth in State aid in fiscal 2024 is within the range of annual growth realized in recent years. The projected increase in State aid in fiscal 2024 is largely due to the substantial reforms to education funding policy enacted during the 2021 legislative session under the Blueprint for Maryland's Future (Chapters 36 and 55 of 2021), which accelerated funding for public schools beginning in fiscal 2023. The per pupil foundation amount increases by 4.0% in fiscal 2024. In total, education funding under the various foundation programs will increase by $100.2 million, or 2.6%, primarily due to the increase in the per pupil foundation amount and projected enrollment increases. Compensatory aid will increase by $71.8 million, or 5.5%; special education formula funding increases by $48.8 million, or 12.2%; and funding for English language learners increases by $47.0 million, or 11.1%. From the programs initiated under the Blueprint for Maryland's Future, education effort adjustments increase by $39.1 million, and concentration of poverty grants increase by $67.9 million; however, transition grants remain constant at $57.7 million and funding for full-day prekindergarten decreases by $46.1 million, from $144.1 million to $97.9 million, due to the resolution of implementation issues that prevented intended targeting of specific prekindergarten students in fiscal 2023.

Highway user revenue grants increase by $52.8 million, or 19.1%, in fiscal 2024 due to the increase in the local government share of Gasoline and Motor Vehicle Revenue Account revenues within the Transportation Trust Fund. Fiscal 2024 Cade formula funding for community colleges increases by $20.5 million, or 5.8%. This results from increased per student funding at selected four-year public higher education institutions. Funding under the disparity grant program increases by $6.5 million, or 4.0%, in fiscal 2024, and gaming impact aid increases by $2.5 million, or 2.4%. Public safety grants decrease by $52.6 million in fiscal 2024 due to the elimination of several one-time only grants, including the police aid enhancement grant that provided law enforcement agencies with $45.9 million in funding in fiscal 2023.

Exhibit 3
Annual Change in State Aid to Local Governments
Fiscal 2015-2024



Source: Department of Legislative Services

Local Government

Local Revenue Trends

The local fiscal outlook continues to improve, with county governments projecting modest growth in local tax revenues in fiscal 2023, following slow growth and declines over the past two years due to the impacts of the COVID-19 pandemic on the State economy. In addition, several counties have revised their original fiscal 2022 budget estimates upward, as the State economy continues to perform better than originally anticipated at the start of the pandemic.

Overview

The local fiscal outlook reflects modest growth as the State's economy continues to rebound from the pandemic. Over the past two years (fiscal 2021 through 2023), total local tax revenue is projected to increase at an average annual rate of 1.6%, while county general fund revenue is projected to increase by 1.2% (**Exhibit 1**). Local property tax revenues continue to experience stable growth, with revenues increasing at an average annual rate of 2.4% between fiscal 2021 and 2023. However, local income tax collections are projected to increase by a minimal amount (0.8%) during this two-year period. Recordation and transfer taxes continue to be negatively affected by the current economic climate, whereas hotel rental taxes and admissions and amusement taxes have mostly rebounded from the effects of the pandemic.

Exhibit 1
County Revenue Projections
Annual Percent Change
Fiscal 2021-2023

	2021-2022	2022-2023	Two-year Average
Property Taxes	1.7%	3.0%	2.4%
Income Taxes	-3.5%	5.4%	0.8%
Recordation Taxes	-9.1%	4.9%	-2.3%
Transfer Taxes	-5.2%	-1.7%	-3.5%
Hotel Rental Taxes	53.7%	12.4%	31.4%
Admissions Taxes	102.7%	8.2%	48.1%
Other Local Taxes	5.2%	0.3%	2.7%
Total Local Taxes	-0.5%	3.8%	1.6%
General Fund Revenues	-0.9%	3.4%	1.2%

Source: Department of Legislative Services

General Fund Revenues

General fund revenues for county governments are projected to total $18.5 billion in fiscal 2023 (**Exhibit 2**). Revenue amounts range from $43.7 million in Somerset County to over $3.8 billion in Montgomery County. On a per capita basis, the amount ranges from $1,467 in Allegany County to $4,195 in Worcester County, with the statewide average at $2,996. General fund revenues (per capita) are the highest in Worcester, Howard, Montgomery, and Calvert counties, and Baltimore City. The lowest per capita amount is in Allegany County, where general fund revenue is below $1,500 per capita.

The revenue trend for most county governments points upward, with general fund revenues increasing statewide by $449.9 million since fiscal 2021. This represents a 1.2% average annual increase over the two-year period. Eight jurisdictions are anticipating a decrease in general fund revenues over the two-year period. In the other counties, the average-annual increase ranges from 0.1% in Howard County to 4.3% in Dorchester County. Two counties are expecting average annual increases of 4% or greater, while four counties are expecting increases between 2% and 4%.

Local Tax Revenues

The projected growth in local tax revenues, which includes both general and special fund revenues, has started to rebound, with local revenues increasing by $577.9 million since fiscal 2021 (**Exhibit 3**). This reflects a 1.6% average annual increase over the two-year period. Statewide, local tax revenues average $3,001 per capita. The highest per capita amounts are in Howard, Montgomery, Worcester, Calvert, and Queen Anne’s counties where local tax revenues exceed $3,000 per capita. The lowest per capita amounts are in Somerset, Allegany, and Wicomico counties, where local tax revenues are below $1,500 per capita.

Nine jurisdictions are realizing average annual increases in local tax revenues of between 1% and 3%. Only Frederick County is anticipating an increase in excess of 3%, while five counties (Allegany, Carroll, Howard, Queen Anne’s, and Worcester) are anticipating increases below 1%. Nine counties anticipate a decrease or no growth in local tax revenues over the two-year period. Increases in total local tax revenues are driven primarily by increases in property tax collections. Additionally, revenues from hotel rental taxes and admissions and amusement taxes are projected to increase and exceed fiscal 2021 levels due to reopenings and resumption of in-person activities following the easing of restrictions put in place to combat the pandemic, resulting in increased economic activity.

Exhibit 2
Total General Fund Revenues for Fiscal 2021-2023
($ in Millions)

				2021-2022		2022-2023		Average Annual
County	**2021**	**2022**	**2023**	**$ Difference**	**% Difference**	**$ Difference**	**% Difference**	**Difference**
Allegany	$98.9	$95.0	$99.4	-$3.9	-4.0%	$4.4	4.6%	0.2%
Anne Arundel	1,836.4	1,899.6	1,895.1	63.2	3.4%	-4.5	-0.2%	1.6%
Baltimore City	2,045.2	2,094.4	2,075.9	49.1	2.4%	-18.5	-0.9%	0.7%
Baltimore	2,368.7	2,415.2	2,496.1	46.5	2.0%	80.9	3.4%	2.7%
Calvert	348.9	326.7	339.0	-22.2	-6.4%	12.3	3.8%	-1.4%
Caroline	61.0	57.0	58.6	-4.0	-6.6%	1.6	2.9%	-2.0%
Carroll	438.6	418.9	448.7	-19.7	-4.5%	29.8	7.1%	1.1%
Cecil	228.4	209.9	220.4	-18.5	-8.1%	10.4	5.0%	-1.8%
Charles	455.9	441.1	470.5	-14.8	-3.2%	29.4	6.7%	1.6%
Dorchester	58.4	60.3	63.5	1.9	3.3%	3.2	5.2%	4.3%
Frederick	705.1	687.5	762.2	-17.6	-2.5%	74.7	10.9%	4.0%
Garrett	107.4	91.2	94.7	-16.2	-15.1%	3.5	3.8%	-6.1%
Harford	634.8	611.0	653.0	-23.8	-3.7%	42.0	6.9%	1.4%
Howard	1,288.3	1,201.4	1,291.0	-86.9	-6.7%	89.6	7.5%	0.1%
Kent	54.3	51.5	53.5	-2.8	-5.2%	2.0	4.0%	-0.7%
Montgomery	3,769.3	3,763.6	3,834.5	-5.7	-0.2%	70.9	1.9%	0.9%
Prince George’s	2,225.3	2,236.8	2,350.6	11.5	0.5%	113.8	5.1%	2.8%
Queen Anne’s	166.9	152.4	167.0	-14.4	-8.7%	14.6	9.6%	0.0%
St. Mary’s	286.5	277.8	299.8	-8.8	-3.1%	22.1	7.9%	2.3%
Somerset	43.4	40.1	43.7	-3.2	-7.5%	3.5	8.8%	0.3%
Talbot	111.0	107.8	97.3	-3.2	-2.9%	-10.6	-9.8%	-6.4%
Washington	292.7	251.9	262.8	-40.8	-13.9%	10.9	4.3%	-5.2%
Wicomico	156.6	158.1	168.5	1.5	1.0%	10.4	6.6%	3.7%
Worcester	236.8	212.2	222.9	-24.6	-10.4%	10.7	5.0%	-3.0%
Total	**$18,018.8**	**$17,861.5**	**$18,468.8**	**-$157.3**	**-0.9%**	**$607.3**	**3.4%**	**1.2%**

Source: County Budgets; Department of Legislative Services

Exhibit 3
Total Local Taxes for Fiscal 2021-2023
($ in Millions)

				2021-2022		2022-2023		Average Annual
County	**2021**	**2022**	**2023**	**$ Difference**	**%Difference**	**$ Difference**	**% Difference**	**Difference**
Allegany	$79.5	$76.2	$80.0	-$3.2	-4.1%	$3.8	4.9%	0.3%
Anne Arundel	1,715.0	1,760.2	1,757.0	45.2	2.6%	-3.2	-0.2%	1.2%
Baltimore City	1,599.9	1,676.0	1,693.2	76.2	4.8%	17.1	1.0%	2.9%
Baltimore	2,191.0	2,237.0	2,255.5	46.0	2.1%	18.5	0.8%	1.5%
Calvert	328.1	312.7	318.9	-15.4	-4.7%	6.2	2.0%	-1.4%
Caroline	53.7	48.8	51.1	-4.9	-9.1%	2.3	4.7%	-2.4%
Carroll	444.1	421.7	452.5	-22.4	-5.0%	30.8	7.3%	0.9%
Cecil	219.9	201.7	211.6	-18.1	-8.3%	9.9	4.9%	-1.9%
Charles	450.0	434.8	460.0	-15.3	-3.4%	25.2	5.8%	1.1%
Dorchester	55.2	51.6	56.4	-3.7	-6.6%	4.8	9.4%	1.1%
Frederick	715.9	686.4	768.1	-29.5	-4.1%	81.7	11.9%	3.6%
Garrett	88.6	76.2	80.0	-12.4	-14.0%	3.7	4.9%	-5.0%
Harford	675.0	636.0	672.5	-39.1	-5.8%	36.5	5.7%	-0.2%
Howard	1,452.2	1,356.8	1,460.2	-95.4	-6.6%	103.4	7.6%	0.3%
Kent	52.2	49.0	50.9	-3.3	-6.2%	1.9	3.8%	-1.3%
Montgomery	4,220.8	4,286.5	4,452.3	65.7	1.6%	165.8	3.9%	2.7%
Prince George's	2,414.5	2,414.3	2,522.5	-0.2	0.0%	108.2	4.5%	2.2%
Queen Anne's	158.6	145.6	159.1	-13.0	-8.2%	13.4	9.2%	0.1%
St. Mary's	265.7	257.7	275.8	-8.0	-3.0%	18.1	7.0%	1.9%
Somerset	28.6	26.8	28.5	-1.8	-6.2%	1.7	6.3%	-0.2%
Talbot	103.5	101.0	89.6	-2.4	-2.4%	-11.4	-11.3%	-6.9%
Washington	271.2	245.1	256.1	-26.1	-9.6%	11.0	4.5%	-2.8%
Wicomico	135.2	132.1	141.9	-3.1	-2.3%	9.7	7.4%	2.4%
Worcester	204.8	195.2	207.6	-9.6	-4.7%	12.5	6.4%	0.7%
Total	**$17,923.1**	**$17,829.4**	**$18,501.1**	**-$93.7**	**-0.5%**	**$671.7**	**3.8%**	**1.6%**

Source: County Budgets; Department of Legislative Services

Property Taxes

Due to the triennial assessment process and the homestead assessment caps, the property tax remains a relatively stable and predictable revenue source for county governments. Revenue collections are projected to total $9.6 billion in fiscal 2023. This represents a $439.0 million increase over a two-year period. For the most part, the increase in county property tax revenue is driven by the growth in the jurisdiction's property tax base. Based on projections by the State Department of Assessments and Taxation, the county assessable base will increase by 2.9% in fiscal 2023, a decrease from the 3.1% growth rate in fiscal 2022.

The average annual increase in local property tax revenues over the prior two-year period ranges from 0.4% in Washington County to 5.4% in Frederick County. Allegany, Harford, and Somerset counties are the only jurisdictions anticipating a decrease in property tax revenues over the two year period. However, eight counties are experiencing annual increases of less than 2% a year, while four counties are experiencing growth rates of 3% or higher.

Income Taxes

The local income tax is the third largest revenue source for county governments, accounting for 19.0% of total revenue. Local income tax revenues are projected to total $7.0 billion in fiscal 2023. This represents a $117.3 million increase over a two-year period. The average annual increase in local income tax revenues over the prior two-year period ranges from 0.4% in St. Mary's County to 3.0% in Frederick and Worcester counties. However, nine counties are experiencing a decrease in local income tax revenues over the two-year period, and eight counties are experiencing annual growth rates below 2%.

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Local Government

Local Government Tax Actions

County governments made a greater number of tax rate changes for fiscal 2023 than for fiscal 2022. However, tax rate changes were limited overall.

Local Government Tax Rates

Eleven different counties altered local tax rates in fiscal 2023. As shown in **Exhibit 1**, seven counties made changes to local property tax rates with five counties decreasing their rates and two counties increasing them. Six counties altered their income tax rates, with four counties decreasing their rates and two counties, Anne Arundel and Frederick, establishing graduated income tax rates beginning in tax year 2023, as authorized by legislation passed by the General Assembly in the 2021 session. No county altered its recordation, transfer, admissions and amusement, or hotel rental tax rates. A comparison of local tax rates for fiscal 2022 and 2023 is provided in **Exhibit 2**.

Exhibit 1
Counties Changing Local Tax Rates
Fiscal 2021-2023

	2021		2022		2023	
	▲	▼	▲	▼	▲	▼
Real Property	1	3	1	7	2	5
Local Income	0	0	0	2	0	6
Recordation	0	0	1	0	0	0
Transfer	1	0	0	0	0	0
Admissions/Amusement	0	0	0	0	0	0
Hotel Rental	0	0	0	0	0	0

Note: ▲ represents a tax rate increase and ▼ represents a tax rate decrease.

Source: Department of Legislative Services

Exhibit 2
Local Tax Rates – Fiscal 2022 and 2023

	Real Property		Local Income		Recordation		Transfer		Admissions/Amusement		Hotel Rental	
County	**2022**	**2023**	**2022**	**2023**	**2022**	**2023**	**2022**	**2023**	**2022**	**2023**	**2022**	**2023**
Allegany	$0.9750	$0.9750	3.05%	3.03%	$3.50	$3.50	0.5%	0.5%	7.5%	7.5%	8.0%	8.0%
Anne Arundel	0.9330	0.9330	2.81%	2.70%/2.81%	3.50	3.50	1.0%	1.0%	10.0%	10.0%	7.0%	7.0%
Baltimore City	2.2480	2.2480	3.20%	3.20%	5.00	5.00	1.5%	1.5%	10.0%	10.0%	9.5%	9.5%
Baltimore	1.1000	1.1000	3.20%	3.20%	2.50	2.50	1.5%	1.5%	10.0%	10.0%	9.5%	9.5%
Calvert	0.9270	0.9270	3.00%	3.00%	5.00	5.00	0.0%	0.0%	1.0%	1.0%	5.0%	5.0%
Caroline	0.9800	0.9800	3.20%	3.20%	5.00	5.00	0.5%	0.5%	0.0%	0.0%	5.0%	5.0%
Carroll	1.0180	1.0180	3.03%	3.03%	5.00	5.00	0.0%	0.0%	10.0%	10.0%	5.0%	5.0%
Cecil	1.0279	1.0143	3.00%	2.80%	4.10	4.10	0.5%	0.5%	6.0%	6.0%	6.0%	6.0%
Charles	1.2050	1.2050	3.03%	3.03%	5.00	5.00	0.5%	0.5%	10.0%	10.0%	5.0%	5.0%
Dorchester	1.0000	1.0000	3.20%	3.20%	5.00	5.00	0.75%	0.75%	0.5%	0.5%	5.0%	5.0%
Frederick	1.0600	1.0600	2.96%	2.75%/2.96%	7.00	7.00	0.0%	0.0%	0.0%	0.0%	5.0%	5.0%
Garrett	1.0560	1.0560	2.65%	2.65%	3.50	3.50	1.0%	1.0%	6.0%	6.0%	8.0%	8.0%
Harford	1.0279	0.9779	3.06%	3.06%	3.30	3.30	1.0%	1.0%	5.0%	5.0%	6.0%	6.0%
Howard	1.2500	1.2500	3.20%	3.20%	2.50	2.50	1.25%	1.25%	7.5%	7.5%	7.0%	7.0%
Kent	1.0120	1.0120	3.20%	3.20%	3.30	3.30	0.5%	0.5%	4.5%	4.5%	5.0%	5.0%
Montgomery	0.9905	0.9915	3.20%	3.20%	4.45	4.45	1.0%	1.0%	7.0%	7.0%	7.0%	7.0%
Prince George's	1.3740	1.3740	3.20%	3.20%	2.75	2.75	1.4%	1.4%	10.0%	10.0%	7.0%	7.0%
Queen Anne's	0.8471	0.8300	3.20%	3.20%	4.95	4.95	0.5%	0.5%	5.0%	5.0%	5.0%	5.0%
St. Mary's	0.8478	0.8478	3.10%	3.00%	4.00	4.00	1.0%	1.0%	2.0%	2.0%	5.0%	5.0%
Somerset	1.0000	1.0000	3.20%	3.20%	3.30	3.30	0.0%	0.0%	4.0%	4.0%	5.0%	5.0%
Talbot	0.6565	0.6820	2.40%	2.40%	6.00	6.00	1.0%	1.0%	5.0%	5.0%	4.0%	4.0%
Washington	0.9480	0.9280	3.00%	2.95%	3.80	3.80	0.5%	0.5%	5.0%	5.0%	6.0%	6.0%
Wicomico	0.9195	0.9070	3.20%	3.20%	3.50	3.50	0.0%	0.0%	6.0%	6.0%	6.0%	6.0%
Worcester	0.8450	0.8450	2.25%	2.25%	3.30	3.30	0.5%	0.5%	3.0%	3.0%	5.0%	5.0%

Note: The real property tax rates shown for Charles, Howard, Montgomery, and Prince George's counties include special tax rates. Real property tax is $100 of assessed value. Income tax is a percentage of income. Recordation tax is per $500 of transaction.

Source: Maryland Association of Counties; Department of Legislative Services

Property Tax

For fiscal 2023, five counties (Cecil, Harford, Queen Anne's, Washington, and Wicomico) decreased their real property tax rates. Montgomery and Talbot counties increased their real property tax rates. Real property tax rates range from $0.682 per $100 of assessed value in Talbot County to $2.248 in Baltimore City.

Income Tax

Six counties (Allegany, Anne Arundel, Cecil, Frederick, St. Mary's and Washington) altered their local income tax rates for calendar 2023. Anne Arundel and Frederick counties adopted graduated income tax rates beginning in tax year 2023, while Allegany, Cecil, St. Mary's and Washington counties decreased their local income tax rates. The maximum local income tax rate allowed by State law is 3.2%. Local income tax rates range from 2.25% in Worcester County to 3.2% in 11 jurisdictions (Baltimore City and Baltimore, Caroline, Dorchester, Howard, Kent, Montgomery, Prince George's, Queen Anne's, Somerset, and Wicomico counties). Approximately two-thirds of the State's population resides in a jurisdiction with a 3.2% local income tax rate.

The local income tax rate in Anne Arundel County is 2.70% of taxable income ≤ $50,000 and 2.81% of taxable income greater than $50,000. The local income tax rate in Frederick County is 2.75% of taxable income ≤ $50,000 for single filers and ≤ $100,000 for all other taxpayer classifications. Taxable income that exceeds $100,000 (or $50,000 for single filers) is taxed at a rate of 2.96%.

Recordation Tax

No county altered its recordation tax rate for fiscal 2023. Recordation tax rates range from $2.50 per $500 of transaction in Baltimore and Howard counties to $7.00 per $500 of transaction in Frederick County.

Transfer Tax

No county altered its transfer tax rate for fiscal 2023. Local transfer tax rates range from 0.5% in eight counties (Allegany, Caroline, Cecil, Charles, Kent, Queen Anne's, Washington, and Worcester) to 1.5% in Baltimore City and Baltimore County. Five counties (Calvert, Carroll, Frederick, Somerset, and Wicomico) do not impose a tax on property transfers.

Admissions and Amusement Tax

No county altered its admissions and amusement tax rate for fiscal 2023. Caroline and Frederick counties are the only jurisdictions that do not impose an admissions and amusement tax. Currently, admissions and amusement tax rates range from 0.5% in Dorchester County to 10.0%

in six jurisdictions (Baltimore City and Anne Arundel, Baltimore, Carroll, Charles, and Prince George's counties).

Hotel Rental Tax

No county altered its hotel rental tax rate for fiscal 2023. Hotel rental tax rates range from 4.0% in Talbot County to 9.5% in Baltimore City and Baltimore County.

Tax Limitation Measures

Five charter counties (Anne Arundel, Montgomery, Prince George's, Talbot, and Wicomico) have amended their charters to limit property tax rates or revenues. In Anne Arundel County, the total annual increase in property tax revenues is limited to the lesser of 4.5% or the increase in the Consumer Price Index. In Montgomery County, a real property tax rate that exceeds the real property tax rate approved for the previous year may only be adopted if approved by all members of the county council. In Prince George's County, the general property tax rate is capped at $0.96 per $100 of assessed value. Special taxing districts, such as the Maryland-National Capital Park and Planning Commission, are not included under the tax cap. In Wicomico County, the total annual increase in property tax revenues is limited to the lesser of 2% or the increase in the Consumer Price Index. In Talbot County, the total annual increase in property tax revenues is limited to 2%. However, in fiscal 2022 through 2026, the property tax rate set by the county council can exceed the charter limit by one cent.

Counties may exceed the charter limitations on local property taxes for the purpose of funding the approved budget of the local boards of education. If a local property tax rate is set above the charter limit, the county governing body may not reduce funding provided to the local board of education from any other local source and must appropriate to the local board of education all of the revenues generated from any increase beyond the existing charter limit. This authority was adopted at the 2012 regular session to ensure that counties have the fiscal ability to meet education maintenance of effort requirements.

In fiscal 2013, Talbot County became the first jurisdiction to exercise this new authority by establishing a $0.026 supplemental property tax rate for the local board of education. In fiscal 2016, Prince George's County became the second county to exercise this authority by enacting a $0.04 supplemental property tax rate to fund its schools. Talbot County also exceeded its charter limit by establishing a supplemental property tax rate for public schools in fiscal 2017 through 2020, 2022, and 2023. Montgomery County exceeded its charter limit through a unanimous vote by the county council in 2017. In fiscal 2020, Anne Arundel County exceeded its charter limit by enacting a supplemental tax rate of $0.034 for the county board of education.

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Local Government

Local Government Salary Actions

All county governments and boards of education are providing salary enhancements to their employees in fiscal 2023. They are all providing cost-of-living adjustments/general salary increases and 18 counties and 23 boards of education are further providing step/merit increases.

The State, all 24 counties, and all 24 school systems are providing salary enhancements in fiscal 2023. Every county and board of education is providing a cost-of-living adjustment (COLA) or general salary increase (GSI) and most are awarding step or merit increases. In some instances, the salary enhancements are limited to certain groups of employees. The number of counties and boards of education providing a COLA or GSI increased from fiscal 2022, when 18 counties and 23 boards of education provided a COLA or GSI. The number of counties and boards of education providing step or merit increases remained the same from fiscal 2022 to 2023, with 18 counties and 23 boards of education providing step or merit increases in both years.

Exhibit 1 compares State and local salary actions in fiscal 2022 and 2023 and provides the actual/estimated increase in the Consumer Price Index for those years. **Exhibit 2** and **Exhibit 3** detail the fiscal 2023 salary actions by the counties and boards of education, respectively.

Exhibit 1
State and Local Government Salary Actions
Fiscal 2022 and 2023

	County Government		Public Schools	
Salary Action[1]	**2022**	**2023**	**2022**	**2023**
COLA/GSI	18	24	23	24
Step/Merit Increases	18	18	23	23
	State Government		**CPI-Urban Consumers**[5]	
	2022	**2023**	**2022**	**2023**
COLA Amount	1.0%[2]	3.0%[3]; 4.5%[4]	7.2%	6.4%
Step/Merit Increases	Yes	Yes		

COLA: cost-of-living adjustment GSI: general salary increase
CPI: Consumer Price Index

[1] Counties and school systems are counted as providing the salary actions if a COLA/GSI or step/merit increase is provided to at least a relatively broad portion of the county's or school system's overall employees.
[2] Effective January 1, 2022.
[3] Effective July 1, 2022.
[4] Effective November 1, 2022.
[5] CPI for fiscal 2023 is an average of estimates from Moody's Analytics and IHS Markit. CPI for fiscal 2022 is actual.

Source: Department of Legislative Services

Exhibit 2
County Government Salary Actions in Fiscal 2023

County	COLA/GSI	Step/Merit	Additional Comments
Allegany	2.0%	No	County employees, generally, and Roads-AFSCME, Transit-AFSCME, and Corrections-FOP receive a 2.0% COLA. 911-AFSCME receives a 5.0% COLA. Sheriff's-FOP, EMS-1715FF, and Transit-AFSCME receive step increases.
Anne Arundel	4.5%	Yes	All units receive a COLA of 3.0-4.5%, with AFSCME 582 and 2563 receiving an additional 1.5% COLA mid-year. All employees/bargaining units receive step or merit increases (amount varies). Various units receive bonuses and additional units receive scale adjustments.
Baltimore City	Varies	No	Most bargaining units receive a COLA of 2.0-4.0%. FOP Lodge 3 does not receive a COLA but receives a pay scale adjustment. AFSCME Local 558 also receives a one-time bonus of $1,000. Negotiations with two other Baltimore City bargaining units on fiscal matters had not been completed by the deadline for submitting responses for this report.
Baltimore	3.0%	Yes	All employees, generally, receive a 3.0% GSI as well as steps ranging from 3.0% to 5.0%, with the amount varying based on pay scale. Police and firefighters assigned to certain, specialized units (*e.g.*, SWAT, K-9, and Arson) also receive a stipend.
Calvert	4.0%	Yes	All employees, including Sheriff and Correctional Deputies, receive a 4.0% COLA and a 1 step merit increase. The county is also providing a longevity bonus based on certain factors, including performance and length of employment. Additionally, the county is making market adjustments to salaries ranging from 14.05% to 17.0%.
Caroline	5.0%	No	All employees except the sworn officers in the Sheriff’s Department receive a 5.0% COLA. The pay scale for the sworn officers in the Sheriff's Department was altered to increase base pay and make incremental increases for more senior positions.
Carroll	10.0%	Yes	County Government employees receive a COLA of 10.0% in August 2022 and a merit increase based on years of service. Additional planned fiscal 2023 enhancements were processed in fiscal 2022.
Cecil	1.25%	Yes	County employees, generally, receive a 1.25% COLA and 1 step. IUPA and FOP each receive COLAs of 2.0% and 1 step. Negotiations with IAFF had not been completed by the deadline for submitting responses for this report.

County	COLA/GSI	Step/Merit	Additional Comments
Charles	4.0%	Yes	County Government employees, IAFF, and CCCOA receive a 2.0% COLA. County Government employees receive an additional 2.0% COLA in the middle of the fiscal year. These employees/bargaining units also receive a merit increase. FOP receives a 7.0% salary increase to create parity with Maryland State Police salaries.
Dorchester	1.0%	Yes	The county indicates that the value of the step increase is 2.5%.
Frederick	3.5%	Yes	County employees receive a 3.5% COLA and a merit increase of 3.0%. Corrections and Law Enforcement each receive a 6.5% COLA, while Fire and Rescue Services receives a 1.5% COLA.
Garrett	6.0%	No	County employees do not receive a merit/step increase, with the exception of Sheriff's Office employees, which the county indicates receive a 5.0% merit/step increase.
Harford	7.0%	Yes	All employees receive a 7.0% COLA and 3.0% merit increase.
Howard	3.0%	Yes	County employees, generally, receive a 3.0% GSI and a step increase with an average value of 3.0%. Bargaining units receive COLAs varying from 3.0 to 9.0%. Bargaining units also receive step increases, if eligible.
Kent	$800	No	All employees receive an $800 COLA. Additionally, employees serving as of June 30, 2022, receive an additional $800 bonus.
Montgomery	$4,333	Yes	A GSI is provided to all employees; however, the amount varies. Most employees receive a GSI totaling $4,333. FOP and Police Management receive a 6.5% GSI. IAFF/Fire Management receive a 5.0% GSI. In addition to a GSI, a bonus of $600 is indicated for members of MCGEO. Employees receive varying merit/step increases.
Prince George’s	3.0%	Yes	County employees, generally, receive a 3.0% COLA and a 3.5% merit increase. AFSCME 1170, 2462, 2735, and 3389 also receive a one-time bonus of $1,850. AFSCME 241 receives a $4.00 increase in hourly rate of pay only. PCEA receives a 3.5% merit increase. Several bargaining units were still in negotiations at the deadline for submitting responses for this report.
Queen Anne’s	2.0%	Yes	All employees receive a 2.0% COLA and a merit increase in the amount of 2.0%, 4.0%, or 6.0%, depending on the results of a performance evaluation.
St. Mary’s	1.4%	Yes	County employees, generally, receive a 1.4% COLA and a 2.5% merit/step increase. Employees at the top of their pay grade receive a stipend/bonus equivalent to 2.5% of their annual salary. Sworn officers receive a pay scale increase of 6.5% and a 2.5% to 5.0% merit/step increase. Corrections employees receive a pay scale increase of 6.5% and a 2.5% to 3.0% merit/step increase. Hourly workers receive a pay scale increase of 6.0%.
Somerset	6.0%	Yes	The county indicates the value of the step increase is 2.5%.

County	COLA/GSI	Step/Merit	Additional Comments
Talbot	5.0%	Yes	The county indicates the value of the step increase is 1.0% to 3.0%.
Washington	1.0%	Yes	The county indicates the value of the step increase is 2.5%.
Wicomico	Varies	No	Following a salary study, the county implemented a new salary schedule in fiscal 2023 that results in varying pay increases for employees. FOP receives a step increase or, in some cases, a $1,500 retention bonus.
Worcester	4.0%	Yes	The county indicates the value of the step is 2.5%. The county continues its longevity bonus program – $500 for 20-24 years of service; $1,000 for 25-29 years of service; $1,500 for 30-34 years of service; and $2,000 for 35+ years of service.
Total Jurisdictions Granting Increases	**24**	**18**	

AFSCME: American Federation of State, County and Municipal Employees
CCCOA: Charles County Correctional Officers Association
COLA: cost-of-living adjustment
EMS: emergency medical services
FOP: Fraternal Order of Police
GSI: general salary increase
IAFF: International Association of Fire Fighters
IUPA: International Union of Police Associations
MCGEO: Municipal and County Government Employees Organization
PCEA: Police Civilian Employees Association
SWAT: Special Weapons and Tactics

Source: Department of Legislative Services

Exhibit 3
Board of Education Salary Actions in Fiscal 2023

School System	COLA/GSI	Step/Merit	Additional Comments
Allegany	4.0%	Yes	All bargaining units receive a 4.0% COLA and merit/step increase (amount varies).
Anne Arundel	4.0%	Yes	Teachers receive a 4.0% COLA and 1 step; special educators also receive a $1,500 bonus. Most other bargaining units receive a 4.0% COLA plus 1 step and, for certain employees, an additional catch-up step.
Baltimore City	2.25%	Yes	Teachers, school administrators, and CUB receive a 2.25% COLA and varying merit increases; school administrators also receive longevity bonuses. Negotiations with other Baltimore City Public School bargaining units on fiscal matters had not been completed by the deadline for submitting responses for this report.
Baltimore	3.0%	Yes	All bargaining units, with the exception of AFSCME and ESPBC, receive a 3.0% COLA and 2 steps. ESPBC receives a 3.0% COLA and 1 step and a new scale. AFSCME receives a new scale, in lieu of a COLA and no step. All bargaining units receive a $1,000 retention bonus.
Calvert	1.0%	Yes	The 1.0% COLA is for administrators and support staff. All bargaining units receive 1 step.
Caroline	TBD	Yes	Negotiations with Caroline County teachers on fiscal matters had not been completed by the deadline for submitting responses for this report. School administrators receive a 2.0% COLA and a $1,500 grant; support staff receive a COLA that the school system indicates will be equal to 1.0% more than the COLA for teachers, 1 increment step, and a $1,000 grant.
Carroll	2.5%	Yes	Teachers receive a 2.5% COLA, 1 step, and a 1.0% bonus; school administrators receive a 1.0% COLA, 1 step, and a 2.0% bonus; CASE receives a 3.0% COLA, no steps, and a 2.5% bonus; food service receives a 3.0% COLA, steps based on longevity, and no bonus; and AFSCME receives a 3.0% COLA with no steps or bonus.
Cecil	3.75%	Yes	With the exception of paraprofessionals, who receive a 7.0% COLA, and certain kitchen staff who receive higher increases, all employees receive a 3.75% COLA. All employees receive 1 step.
Charles	2.75%	Yes	Teachers, school administrators, and support personnel receive 2.75%, 1.75% and 5.0% COLAs, respectively, and all receive 1 step.

School System	COLA/GSI	Step/Merit	Additional Comments
Dorchester	2.0%	No	All employees receive a 2.0% COLA, two retention bonuses ($1,350 each), and, for six pay periods, coverage of health care premiums.
Frederick	5.0%	Yes	Teachers receive a 5.0% COLA, an average 2.14% step, and a $1,300 retention bonus. School administrators receive a 7.14% COLA and a $1,300 retention bonus. Support staff receive an average 7.14% COLA and a $1,300 retention bonus. New support staff hires receive a $1,500 hiring bonus.
Garrett	$1,650	Yes	The following bargaining units receive GSIs: teachers ($1,650); school administrators ($1,850); and support staff ($1,075). These units also receive a mid-year step. The head custodian and cafe managers bargaining unit receives a 3.5% COLA, but no mid-year step. All bargaining units receive a Maryland Leads stipend, which equals $1,295 for full-time staff. The stipend is prorated for staff working less than full-time hours.
Harford	7.0%	Yes	All bargaining units receive a 7.0% COLA. Teachers, school administrators, and HCEA-ESP (educational support) all receive 1 step. AFSCME (support, custodians, and bus) and AHCATSP (noncertified professionals) had pay scales restructured.
Howard	3.0%	Yes	Teachers and HCEA-ESP (educational support) receive a 3.0% COLA and 1 step. AFSCME (custodial and maintenance staff) receives a 3.5% COLA and 1 step. School administrators receive a 2.0% COLA and 1 step. Administrative (non-union) staff and noncertificated supervisors receive COLAs of 2.5% and 2.0%, respectively, and no step.
Kent	4.25%	Yes	All employees receive a 4.25% COLA, 1 step, and a $1,400 retention stipend.
Montgomery	3.35%	Yes	All employees receive a 3.35% COLA and 1 step.
Prince George’s	6.0%	Yes	Teachers receive a 6.0% COLA and 1 step, while all other bargaining units receive a 5.0% COLA and 1 step. SEIU receives, in addition to the step increase, a 1% differential for those at the top of the pay scale. All employees are eligible for a $1,000 retention bonus if they worked, without a break in service, from June 1, 2022, to September 16, 2022.
Queen Anne’s	3.0%	Yes	Teachers receive a 3.0% COLA. School administrators receive $1,850 and a 1.0% COLA. Support staff units 207 and 215 receive a 4.0% COLA, while 261 receives a 1.0% COLA; however, the scale for 261 was updated. Teachers, and support staff units 207 and 215, receive a 1 step increase; school administrators receive no step, but do receive a $1,000 stipend.
St. Mary’s	2.0%	Yes	All units receive a 2.0% COLA and 1 step.

School System	COLA/GSI	Step/Merit	Additional Comments
Somerset	4.75%	Yes	Teachers receive a 4.75% COLA, School administrators receive a 2.0% to 4.0% COLA, and support staff receive a 5.0% COLA. Teachers and support staff receive a 1 step increase while school administrators receive a step increase of $2,500 to $4,500.
Talbot	3.25%	Yes	Teachers receive a 3.25% COLA. School administrators and support staff receive a 3.75% COLA. Teachers and support staff receive 1 step. School administrators receive a regular increase for each year they are in the role; for principals and supervisors, it is $500 per year, and for assistant principals it is $300 per year.
Washington	1.0%	Yes	Teachers receive a GSI of 1.0%, while school administrators and support staff receive a GSI of 3.5%. All bargaining units receive a step increase, ranging from 2.59% to 4.63%.
Wicomico	6.8%	Yes	Teachers, school administrators, and support staff/classifieds receive COLAs of 6.8%, 7.0%, and 7.3%, respectively. All bargaining units receive 1 step and a $2,500 bonus.
Worcester	4.0%	Yes	Teachers receive a 4.0% COLA, while support staff receive a 4.5% COLA. Additionally, teachers and support staff receive 1 step. No COLA or step is reported for school administrators.
Total Jurisdictions Granting Increases	**24**	**23**	

AFSCME: American Federation of State, County and Municipal Employees
AHCATSP: Association of Harford County Administrative, Technical and Supervisory Professionals
CASE: Carroll Association of School Employees
COLA: cost-of-living adjustment
CUB: City Union of Baltimore
ESPBC: Education Support Professionals of Baltimore County
GSI: general salary increase
HCEA-ESP: Howard County Education Association – Educational Support Professionals
SEIU: Service Employees International Union
TBD: to be determined

Source: Department of Legislative Services

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