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DEPARTMENT OF LEGISLATIVE SERVICES 2023

Issue Papers

2024 Legislative Session

**Presentation to the
Maryland General Assembly**

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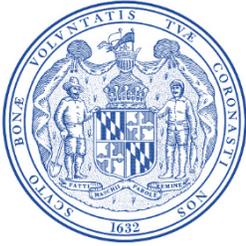
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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

December 2023

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 2023.

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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Operating Budget

Economic and Revenue Outlook

As 2023 began, many economists expected the U.S. economy to slip into a recession. The U.S. economy remained strong, however, growing 2.0% in the first half of 2023. In Maryland, general fund revenues were below the estimate in fiscal 2023 due almost entirely to underattainment related to 2022 tax year filings. The revenue estimate for fiscal 2024 was revised down by \$14 million with ongoing growth expected to be 0.9%.

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 9.1% between the fourth quarter of calendar 2019 and the second quarter of calendar 2020. Growth then resumed, and GDP exceeded the prepandemic 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 2020. Job growth has progressed at a steady pace and in June 2022, U.S. employment exceeded the February 2020 level for the first time. With the recovering economy, wage growth resumed and managed a small 1.5% increase on average for calendar 2020. Wage income increased 9.0% and 7.8% in calendar 2021 and 2022, respectively. As the initial rebound from the pandemic faded, wage growth slowed to 6.4% in the first eight months of 2023. Accelerating inflation has undercut wage growth, however, as the Consumer Price Index increased 4.7% in 2021 and 8.0% in 2022. U.S. inflation-adjusted wages grew 4.1% in 2021 but fell 0.2% in 2022. In 2023, with inflation in the first eight months moderating to 4.5%, inflation adjusted wages grew 1.8% through August.

In Maryland, the impact of the pandemic-induced recession has been similar to the country as a whole. Maryland's inflation-adjusted gross state product fell 9.4% between the fourth quarter of calendar 2019 and the second quarter of calendar 2020. Maryland finally exceeded the prepandemic peak in the first quarter of 2023, two years after the United States achieved that milestone.

Between February and April 2020, the State saw employment fall by 392,500 jobs, or 14.1%, while the unemployment rate jumped from 3.5% to 9.0%. Employment growth resumed, but as of August 2023, total employment was below the prepandemic level by 20,300 jobs, or 0.7%. Wages grew strongly in Maryland in 2021, following the increase in employment. Total aggregate wages were up 6.5% in calendar 2021, 5.8% in 2022, and 7.5% in the first half of 2023. However, with accelerating inflation, real wages were up just 1.8% in calendar 2021, fell 2.0% in 2022, and were up 2.5% in the first half of 2023.

Economic growth in calendar 2023 has been stronger than expected at the beginning of the year. Many economists predicted the U.S. economy would slip into a recession in the face of aggressive interest rate hikes by the Federal Reserve. The Federal Reserve increased the federal funds rate from 0.125% to 5.375% over the course of just 16 months, starting in March 2022. Long-term interest rates also increased significantly with mortgage rates rising from around 3.0% at the beginning of 2022 to 6.5% to 7.0% by late 2022 and early 2023. Yet the economy remained resilient with inflation-adjusted GDP rising by 2.0% in the first half of 2023.

In September 2023, the Board of Revenue Estimates (BRE) issued a revised economic forecast for Maryland, its first since March (**Exhibit 1**). BRE expects economic growth to slow, but the economy will not experience a recession over the forecast period.

Exhibit 1
Maryland Economic Outlook
Year-over-year Percentage Change
Calendar 2020-2026 Est.

<u>Calendar Year</u>	<u>Employment</u>		<u>Wage and Salary Income</u>	
	<u>March 2023</u>	<u>September 2023</u>	<u>March 2023</u>	<u>September 2023</u>
2020	-6.8%	-6.9%	1.4%	1.6%
2021	2.5%	2.7%	6.6%	6.5%
2022	2.5%	2.3%	5.5%	5.8%
2023 Est.	1.1%	1.2%	4.4%	4.2%
2024 Est.	0.6%	0.7%	4.1%	4.1%
2025 Est.	0.5%	0.3%	4.1%	4.0%
2026 Est.	0.2%	0.2%	3.9%	3.8%

Note: The figure for 2022 wage growth under the March 2023 column is an estimate. Wage growth for 2020 through 2022 under the September 2023 column reflects revised data from the U.S. Bureau of Economic Analysis released on September 29, 2023.

Source: Board of Revenue Estimates

Revenue Outlook

Fiscal 2023 general fund revenues were below the estimate by \$39.2 million, or -0.2%. General fund revenues totaled \$23.7 billion in fiscal 2023, a decline of 1.7% over fiscal 2022, reflecting a one-time transfer in 2023 of \$800 million to the Blueprint for Maryland's Future Fund. Although ongoing revenues grew 1.7% in fiscal 2022, they were below the estimate by \$139.2 million (-0.6%) in fiscal 2023.

Among the major revenue sources, the personal income tax was below the estimate by \$333.4 million, or -2.4%. The sales tax was just slightly below the estimate (\$12.8 million, or -0.2%), and the corporate income tax exceeded the estimate by \$84.1 million (4.9%). The State lottery was over the estimate in fiscal 2023 by \$18.9 million (3.0%). Among other sources, there was substantial overattainment for business franchise taxes, the tax on insurance premiums, the estate/inheritance taxes, and interest on investments, but the tobacco tax and miscellaneous revenues were below expectations. Combined, the other revenue sources were over the estimate in fiscal 2023 by \$104.0 million.

Personal income tax performance was driven almost entirely by returns filed for tax year 2022. Payments with returns were below the estimate by 13.6%, while refunds for tax year 2022 were above expectations by 3.0%. Quarterly tax filings in fiscal 2023, covering the third and fourth quarters for tax year 2022 and the first and second quarters for tax year 2023, were below expectations by 2.4%. The one bright spot in the personal income tax was withholding, which grew over fiscal 2022 by a percentage point faster than expected (5.5% versus 4.5%), partially offsetting the underattainment in other sources.

In September 2023, BRE reduced its estimate for fiscal 2024 general fund revenues by \$14.1 million, or -0.1% (**Exhibit 2**). The personal income tax estimate was revised down by \$301.0 million (-2.1%), and revenues are expected to grow 2.7% over fiscal 2023. Total general fund revenues are projected to increase by 3.8% in fiscal 2024, reflecting a one-time transfer in fiscal 2023 of \$800 million to the Blueprint for Maryland’s Future Fund. Ongoing revenues are forecasted to grow 0.9% in fiscal 2024 and 2.2% in fiscal 2025.

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

	Fiscal 2024				Fiscal 2025	
	BRE <u>March 2023</u>	BRE <u>Sept. 2023</u>	<u>\$ Diff.</u>	<u>%Change</u> <u>2024-2023</u>	BRE <u>Sept. 2023</u>	<u>% Change</u> <u>2025-2024</u>
Personal Income Tax	\$14,137	\$13,836	-\$301	2.7%	\$14,448	4.4%
Sales and Use Tax	6,065	6,088	23	1.4%	6,273	3.0%
Corporate Income Tax	1,670	1,752	82	4.9%	1,697	-3.1%
Lottery	638	661	23	3.6%	548	-17.0%
Other	2,070	2,229	159	29.1%	2,115	-5.1%
Total	\$24,580	\$24,566	-\$14	3.8%	\$25,081	2.1%

BRE: Board of Revenue Estimates

Note: Other includes nonrecurring items and the volatility adjustment.

Source: Board of Revenue Estimates

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Operating Budget

Budget Outlook

The general fund closed fiscal 2023 with a \$2.6 billion fund balance. Fiscal 2024 ongoing revenues exceed ongoing spending by \$129 million. From fiscal 2025 to 2027, there is a modest structural deficit. In fiscal 2025, ongoing spending exceeds ongoing revenues by \$322 million. The structural deficit increases sharply at the end of the forecast period, as it jumps from \$436 million in fiscal 2027 to \$1.78 billion in fiscal 2028. This deficit is attributable to exhausting the Blueprint for Maryland's Future Fund (Blueprint) balance in fiscal 2027. General funds for the Blueprint increase in fiscal 2028 from \$201 million to \$1.848 billion.

Fiscal 2023 Closeout

Fiscal 2023 closed with a general fund balance of \$2.58 billion as final general fund revenues were in line with the projected revenues at the end of the 2023 session. As shown in **Exhibit 1**, fiscal 2023 general fund revenues were only \$39.2 million, or 0.2%, less than the prior estimate. Reduced personal income tax revenues drove the underattainment with \$333.4 million less in revenue than anticipated. The decrease was partially offset by the State setting aside \$100 million of the original revenue estimate as a cushion against revenue volatility and increases in other revenues including the corporate income tax and interest earnings.

Exhibit 1 Fiscal 2023 General Fund Revenue Performance (\$ in Millions)

	<u>Estimated</u>	<u>Actual</u>	<u>\$ Change</u>	<u>% Change</u>
Personal Income Tax	\$13,802.9	\$13,469.5	-\$333.4	-2.4%
Sales and Use Tax	6,018.0	6,005.2	-12.8	-0.2%
Corporate Income Tax	1,731.9	1,816.0	84.1	4.9%
State Lottery	636.5	655.4	18.9	3.0%
Other	2,422.5	2,526.5	104.0	4.3%
Subtotal Ongoing Revenues	\$24,611.8	\$24,472.6	-\$139.2	-0.6%
Income Tax Revenues ¹	-800.0	-800.0	0	
Volatility Cap	-100.0	0	100.0	
Total Revenues	\$23,711.8	\$23,672.6	-\$39.2	-0.2%

¹ Chapter 33 of 2022 required a transfer of \$800 million from income tax revenues to the Blueprint for Maryland's Future Fund in fiscal 2023 only.

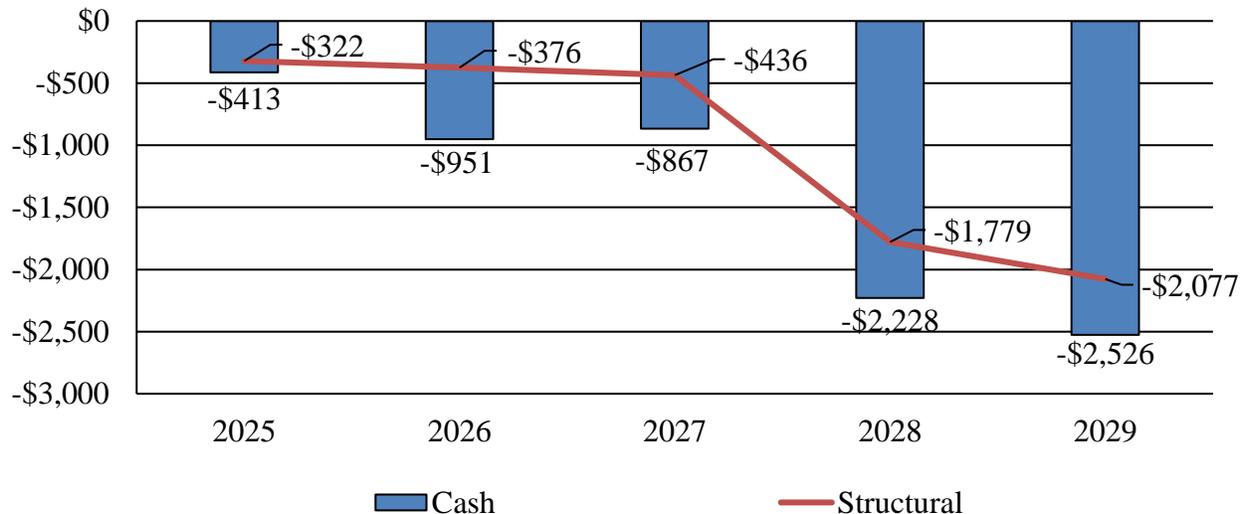
Source: Board of Revenue Estimates; Department of Legislative Services

Significant general fund reversions totaling \$381.3 million from State agencies in fiscal 2023 and prior years contributed to the \$2.58 billion closing general fund balance. Approximately \$173 million of these reversions were expected during the 2023 session, but final reversions surpassed this with the largest share of reversions (\$215.1 million) in the Maryland Department of Health (MDH). Of the MDH reversions, \$108 million was from prior years for Medicaid provider reimbursements and \$104.8 million from fiscal 2023 was due to lower than anticipated spending on behavioral health services.

Fiscal 2024 to 2029 Forecast

As shown in **Exhibit 2**, fiscal 2024 is projected to end with a fund balance of \$449 million, growing \$82 million compared to the forecast prepared after the 2023 session. Ongoing revenues are expected to exceed ongoing spending by \$129 million in fiscal 2024, falling slightly from the structural balance previously estimated. Maryland's budget outlook deteriorates substantially throughout the forecast period, showing cash and structural shortfalls beginning in fiscal 2025 and continuing through fiscal 2029. Despite ongoing revenues having an average annual growth rate of 3.2% between fiscal 2024 and 2029, increases in ongoing spending consistently outpace this growth, with an average annual growth rate of 4.8%. The forecast also assumes maintenance of a Rainy Day Fund balance of approximately, or just under 10%.

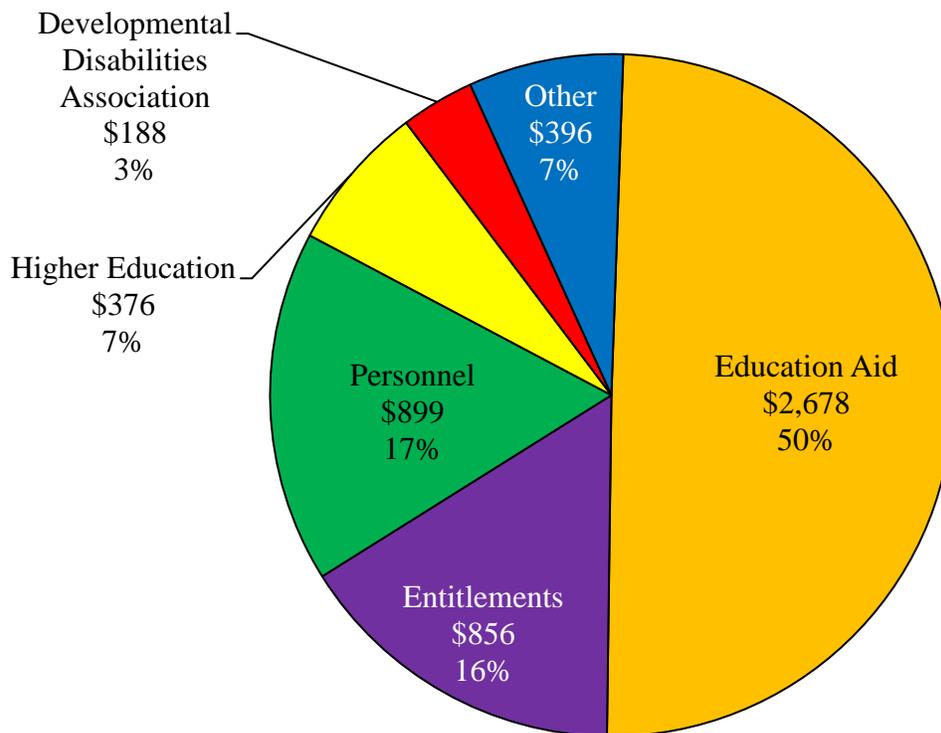
Exhibit 2
Cash and Structural Budget Shortfalls Forecast
with Rainy Day Fund Balance at 10% of Revenues
(\$ in Millions)



Source: Department of Legislative Services

In fiscal 2029, estimated cash and structural shortfalls rise to \$2.5 billion and \$2.1 billion, respectively, mainly due to the costs of ongoing K-12 education enhancements outpacing the availability of special funds in the Blueprint for Maryland’s Future Fund. **Exhibit 3** shows that education aid costs drive 50% of the increase in general fund spending from fiscal 2025 to 2029. For further discussion of education enhancements and associated State aid cost projections, see “State Education Aid” within the Education section of this *Issue Papers of the 2024 Session*.

Exhibit 3
Major Components of General Fund Spending Growth
Fiscal 2025-2029
(\$ in Millions)



Fiscal 2025 to 2029 Cumulative General Fund Spending Increase = \$5.4 Billion

Source: Department of Legislative Services

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Operating Budget

Transportation Trust Fund Overview

The fiscal 2024 to 2029 Transportation Trust Fund forecast shows improved corporate income and motor fuel tax revenues resulting in net revenue for the six-year period that exceeds the prior estimate by over \$246 million. However, higher operating spending and reduced debt financing result in a reduction of nearly \$1.5 billion in special funds available to support the capital program over the forecast period.

Fiscal 2023 Closeout

The Transportation Trust Fund (TTF) ended fiscal 2023 with a fund balance of \$822 million, which is \$274 million higher than the estimated closing balance of \$548 million.

State-source revenues and federal operating assistance closed out \$175 million higher than projected. Corporate income tax revenue closed \$62 million above the estimate, more than offsetting the \$41 million underattainment in motor fuel tax revenues.

Total expenditures were \$99 million lower than projected, comprising increased operating spending more than offset by a \$128 million reduction in capital spending.

Fiscal 2024 to 2029 Transportation Trust Fund Forecast

Exhibit 1 shows the fiscal 2024 to 2029 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, 2023, the DLS forecast projects a net increase of \$246 million in revenues over the six-year period. The DLS forecast projects total revenue of \$28.3 billion, including revenue going to other State agencies to cover transportation-related activities. Strong growth of 6% is projected in tax and fee revenue in fiscal 2024, driven by a 16% increase in the revenues from the corporate income tax and a 10% increase in motor fuel tax revenues. In fiscal 2024, the TTF began receiving an increased share of the corporate income tax pursuant to Chapter 240 of 2022. The motor fuel tax rate also increased more than in recent years due to high gasoline prices and higher inflation. Tax and fee revenues grow at an average annual rate of 2.7% between fiscal 2023 and 2029.

Exhibit 1
Transportation Trust Fund Forecast
Fiscal 2024-2029
(\$ in Millions)

	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>Total 2024-2029</u>
Opening Fund Balance	\$822	\$325	\$325	\$325	\$340	\$340	
Closing Fund Balance	\$325	\$325	\$325	\$340	\$340	\$340	
Net Revenues							
Taxes and Fees	\$3,485	\$3,564	\$3,675	\$3,732	\$3,777	\$3,848	\$22,080
Operating and Miscellaneous	737	653	683	680	710	719	4,182
Subtotal	\$4,222	\$4,217	\$4,358	\$4,412	\$4,487	\$4,567	\$26,262
Bond Proceeds/Premiums	0	96	37	55	48	22	258
General Fund Transfers In	267	287	199	167	167	167	1,254
Fund Balance (Increase)/Use	497	0	0	-15	0	0	482
Total Net Revenues	\$4,986	\$4,600	\$4,594	\$4,619	\$4,702	\$4,756	\$28,256
Expenditures							
Debt Service	\$426	\$432	\$416	\$418	\$415	\$403	\$2,511
Operating Budget	2,651	2,806	2,909	3,160	3,267	3,362	18,154
State Capital (Including State Aid)	1,908	1,362	1,269	1,042	1,020	990	7,591
Total Expenditures	\$4,986	\$4,600	\$4,594	\$4,619	\$4,702	\$4,756	\$28,256
Debt							
Debt Outstanding	\$3,005	\$2,791	\$2,522	\$2,256	\$1,972	\$1,660	
Debt Coverage – Net Income	4.0	3.5	3.3	3.3	2.7	2.5	
Capital Summary							
State Capital (Excluding Local Aid)	\$1,577	\$967	\$810	\$570	\$651	\$614	\$5,190
Mandated Local Aid Capital							
Grants	331	395	459	472	369	376	2,402
Other Funds (Nonbudgeted)	379	355	367	222	183	181	1,687
Net Federal Capital (Cash Flow)	1,275	1,470	1,530	1,485	1,287	1,320	8,367
Total Capital Expenditures	\$3,562	\$3,187	\$3,166	\$2,749	\$2,490	\$2,491	\$17,645

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 just over \$2.5 billion, which is

\$226.6 million less than in the MDOT forecast due to lower levels of debt issuances discussed below. Operating expenses are estimated to total nearly \$18.2 billion, which is \$844 million higher than assumed in the MDOT forecast. The DLS forecast includes just over \$1.1 billion in increased operating support for the Washington Metropolitan Area Transit Authority (WMATA) to address shortfalls projected beginning in fiscal 2025 due to the end of federal COVID-19/stimulus funding. The MDOT forecast does not address these projected shortfalls.

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. The increased operating spending related to WMATA discussed above reduces the capacity to issue bonds. The DLS forecast includes only \$258 million in debt issuances over the six-year period, which is nearly \$1.3 billion less than included in the MDOT forecast. Net income debt ratios decline from 4.0 times maximum future debt service in fiscal 2024 to 2.5 times maximum future debt service in fiscal 2029.

Capital Expenditures

The higher operating spending and reduced debt financing discussed above result in a reduction in special funds available to support the capital program of nearly \$1.5 billion relative to the MDOT forecast.

Local Transportation Aid

Local transportation aid in the form of mandated capital grants totals just over \$2.4 billion over the six-year period. This is \$60.7 million more than assumed in the MDOT forecast and reflects the higher revenue estimates upon which the local aid is calculated.

Operating Budget

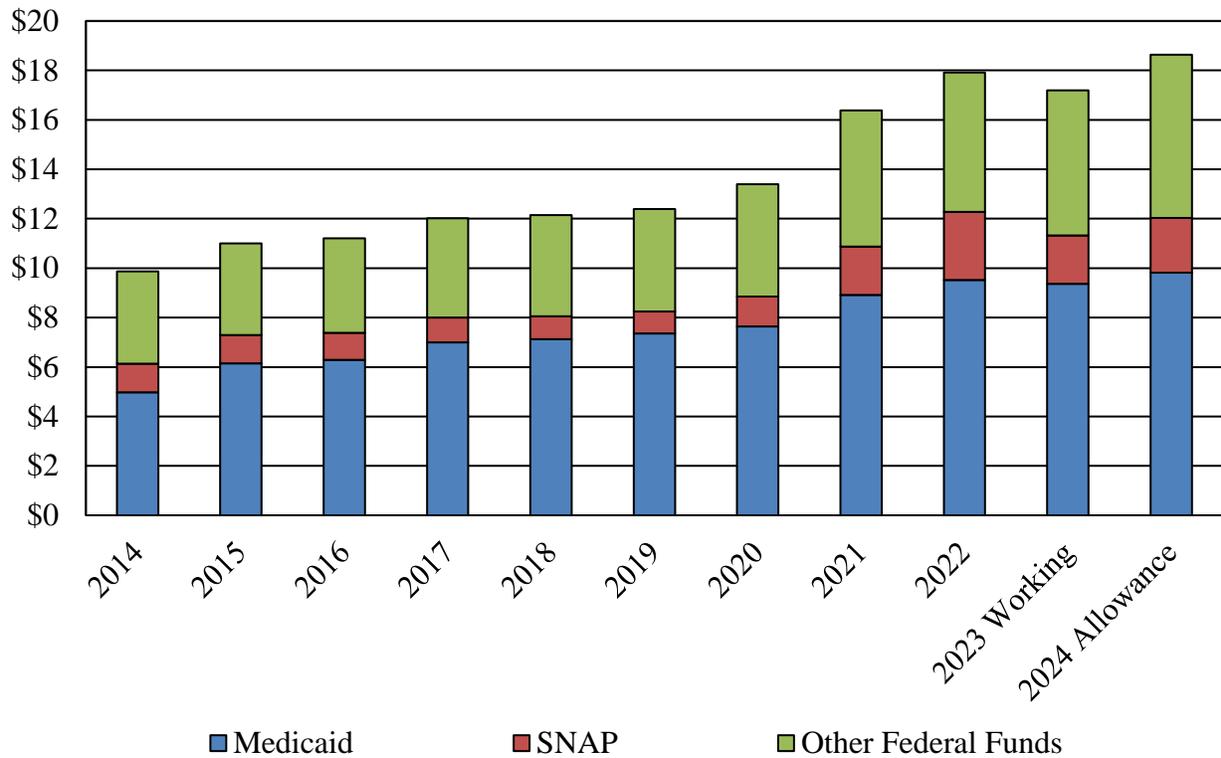
Federal Funds Outlook

The COVID-19 pandemic in fiscal 2020 resulted in a substantial increase in federal aid provided to the State. The fiscal 2024 budget anticipates over \$18.7 billion in federal funds, which is a 50% increase compared to prepandemic levels in fiscal 2019. The federal Infrastructure Investment and Jobs Act and the Inflation Reduction Act will provide billions of additional funding to Maryland over five years through formula and competitive grants. Very little funding from these acts is included in the fiscal 2024 budget as agencies are planning to spend the formula funds over multiple years and the competitive grant process is not complete for many funding opportunities.

Federal Funds to the State of Maryland

Federal funds to the State have grown 7% annually from fiscal 2014 to 2024, with the fiscal 2024 allowance providing \$18.7 billion in federal funds. 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 \$9.8 billion, or 52.7% of total federal funds in fiscal 2024. Other programs with substantial federal funds include the Supplemental Nutrition Assistance Program (\$2.2 billion), Highway Planning and Construction (\$1 billion), and disaster assistance grants (\$671 million).

Exhibit 1
Medicaid, Supplemental Nutrition Assistance Program, and Other Federal Funds
Fiscal 2014-2024
(\$ in Billions)



SNAP: Supplemental Nutrition Assistance Program

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

Anticipated Federal Fund Enhancements

In continued support of 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 fully 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 \$8.4 billion (up from an estimated \$8.1 billion in October 2022) over a five-year period from IIJA authorizations, with nearly 84% of the funding allocated toward transportation.

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

	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2022-2026</u>
Transportation	\$1,456.9	\$1,457.3	\$1,347.9	\$1,372.1	\$1,398.5	\$7,032.6
Environment/Water	159.5	171.8	162.5	171.1	171.1	835.9
Broadband	385.5	4.8	4.8	4.8	4.8	404.8
Energy	67.5	7.6	4.4	4.4	4.4	88.2
Cyber	3.2	6.5	4.9	1.6		16.2
Disaster Mitigation	4.1	6.6				10.6

IIJA: Infrastructure Investment and Jobs Act of 2021

Source: Department of Legislative Services

The fiscal 2023 and 2024 State budgets appropriated \$235 million in IIJA funding for water quality projects, \$1.9 million for the Low-Income Home Energy Assistance Program, and \$8 million for the Weatherization Assistance Program.

In addition to the formula funding shown in Exhibit 2, the State is pursuing further competitively awarded funds. As of August 2023, the Department of Budget and Management (DBM) reports that the State has been awarded \$61.9 million in additional IIJA funding and is pursuing an additional \$7.4 billion in grants, primarily for Intercity Passenger Rail Grants.

The Maryland Department of Transportation draft *Fiscal 2024-2029 Consolidated Transportation Program* recognizes the IIJA authorized spending through fiscal 2027. The Maryland Department of Transportation is assuming a level of federal funding beyond that.

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, amends several tax provisions, and provides 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. Maryland is expected to receive approximately \$145 million in funds for home energy programs, including the High-efficiency Electric Home Rebate Program (\$68.2 million) and the HOMES Rebate Program (\$68.6 million). Most other IRA grants are competitive and will take time to award. As of August 2023, DBM reports the State has been awarded \$6.24 million in forestry grants through the IRA and is pursuing \$71.9 million in agricultural grants.

Capital Budget

Debt Affordability

The Capital Debt Affordability Committee recommends a general obligation debt limit of \$1.75 billion for fiscal 2025, which is \$500 million more than the authorization level recommended by the Spending Affordability Committee in December 2022. 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 ending in fiscal 2029. The State Treasurer's Office estimates that total tax-supported outstanding debt will be \$9.54 billion and debt service will be \$1.43 billion in fiscal 2024.

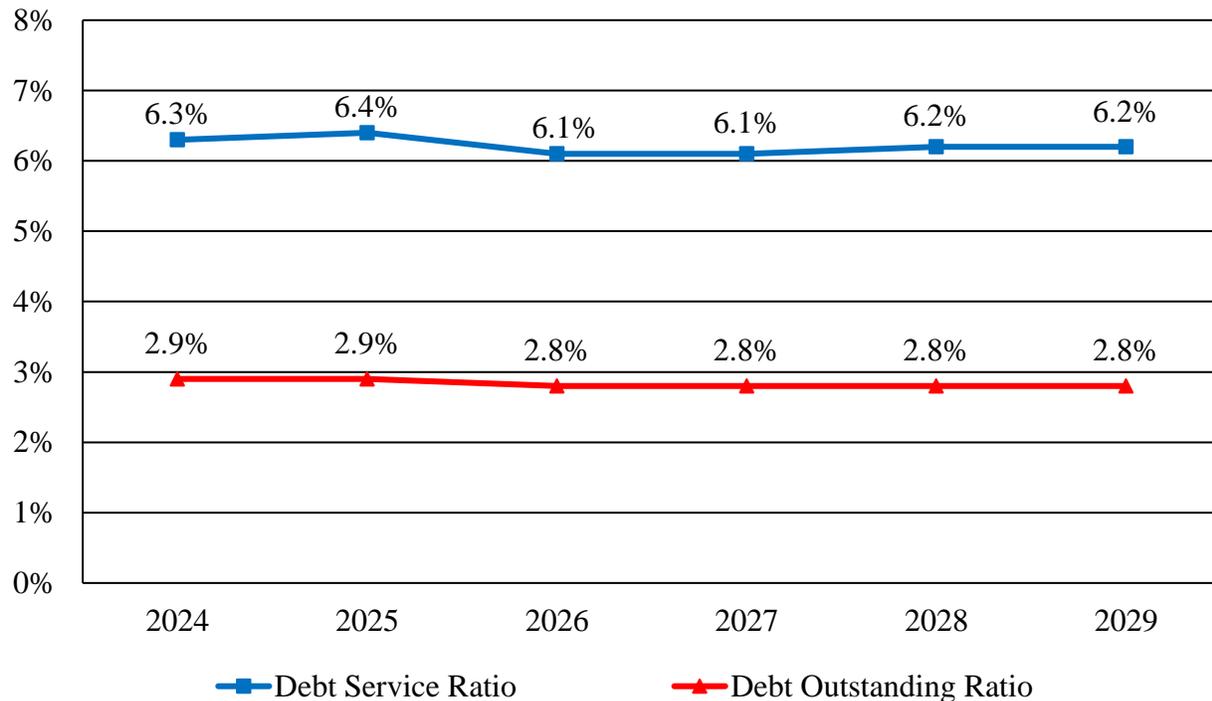
Capital Debt Affordability Committee Process

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 service to 8% of State revenues and State debt outstanding to 4% of State personal income. 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 2023, the Board for Revenue Estimates (BRE) updated its general fund revenue and State personal income estimates. Using BRE's estimates, the State Treasurer's Office (STO) prepared estimates of out-year GO bond debt service costs and debt outstanding that are presented to CDAC. STO estimates that State debt is below the affordability limits. **Exhibit 1** shows STO's estimates with debt service to State revenues peaking at 6.4% and debt outstanding to State personal income peaking at 2.9%.

Exhibit 1
Debt Affordability Ratios
Fiscal 2024-2029



Source: Capital Debt Affordability Committee; Department of Legislative Services

CDAC recommends that GO bond authorizations in fiscal 2025 be limited to \$1.75 billion. The CDAC recommended limit is \$500 million more than the authorization level of \$1.25 billion recommended by the Spending Affordability Committee in December 2022. The committee noted that the increase allows moving pay-as-you-go projects funded by general funds into the GO bond program. The ratios in Exhibit 1 assume the higher GO bond authorization proposed by CDAC.

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. STO projects debt outstanding will be \$9.54 billion and GO bond debt service payments will total \$1.43 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 billion at the end of fiscal 2024. Transportation bond debt service is projected to be \$426 million in fiscal 2024.

Created in 2004, the Bay Restoration Fund provides 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 in bonds will be issued in fiscal 2027. Because the fund's revenues are reduced beginning in fiscal 2031, these bonds will be structured as three-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 \$63 million in fiscal 2028 and 2029. Debt service declines to \$54 million in fiscal 2030.

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 a Maryland Department of Health lab and the Prince George's County Justice Center. STO advises that debt outstanding for leases is expected to be \$137 million at the end of fiscal 2024. Capital lease payments are estimated to be \$30 million in fiscal 2024.

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 2025, CDAC recommends \$30 million for academic facilities on USM campuses. No issuances are anticipated for MSU, SMCM, or BCCC.

Capital Budget

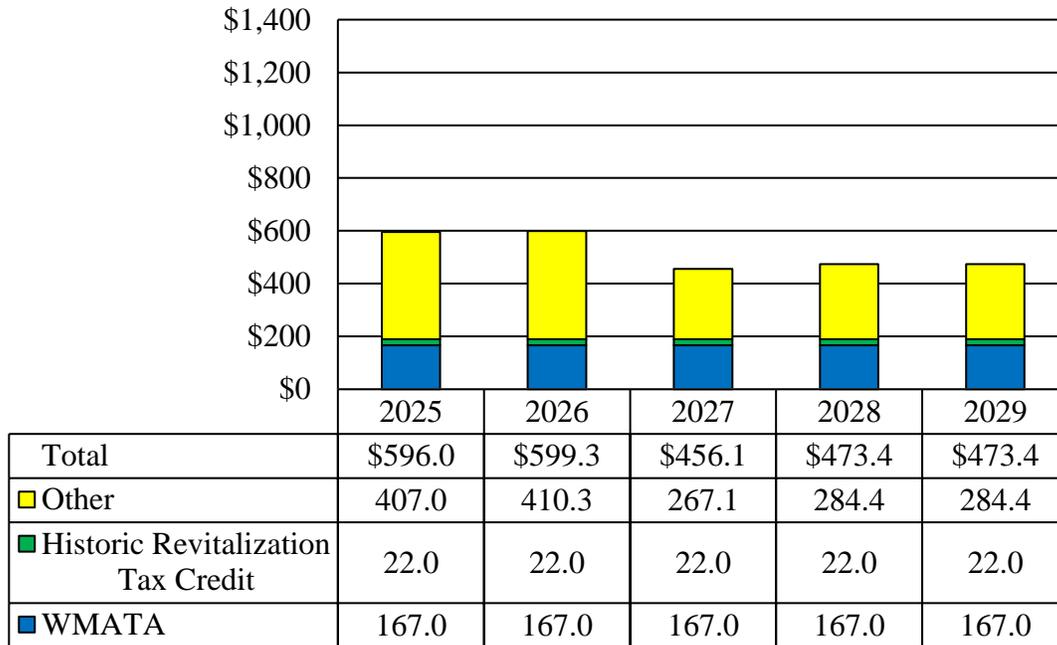
Capital Funding Requests

The State's revenue outlook is not adequate to support the current expenditure forecast. One strategy for minimizing the out-year budget stress is to rely on less general fund support of the capital program. To this end, the Capital Debt Affordability Committee recommended increasing the level of new general obligation bond authorizations by \$500 million above the \$1.25 billion level recommended in 2022 by the Spending Affordability Committee for fiscal 2025 and maintaining that level of authorization for each year of the five-year planning period.

Revenue Outlook Likely to Constrain General Fund Support of Capital Program

Exhibit 1 shows that the Department of Legislative Services' general fund forecast includes \$2.6 billion of general fund support of the capital program through fiscal 2029, of which \$835 million funds Washington Metropolitan Area Transit Authority (WMATA) grants and \$110 million funds Historic Revitalization tax credits. The current revenue outlook and expenditure forecast, however, will make it difficult to achieve this level of general fund capital support. In September 2023, the Board of Revenue Estimates revised the revenue outlook for fiscal 2023 and 2024 and the forecast through fiscal 2028. The revised revenue outlook is insufficient to support the current expenditure forecast with ongoing spending growth outpacing revenue growth.

Exhibit 1
PAYGO General Fund Forecast
Fiscal 2025-2029
(\$ in Millions)



PAYGO: pay-as-you-go

WMATA: Washington Metropolitan Area Transit Authority

Source: 2023 Capital Improvement Program; Department of Budget and Management

Capital Debt Affordability Committee Recommends Increased General Bond Authorization Levels

To minimize the out-year budgetary stress, the Capital Debt Affordability Committee (CDAC) recommended increasing the level of new general obligation (GO) bond authorizations by \$500 million above the \$1.25 billion level recommended in 2022 by the Spending Affordability Committee for fiscal 2025 and to maintain that level of authorization for each year of the five-year planning period.

As shown in **Exhibit 2**, the recommendation adds a total of \$2.5 billion of bond authorizations through fiscal 2029, which creates the capacity to shift \$1.7 billion of general fund pay-as-you-go (excluding WMATA grants, which are not suitable for bonds) to bonds and support

capital commitments beyond those programmed in the State’s *Capital Improvement Program* (CIP).

Exhibit 2
CDAC Recommended and CIP Planned GO Bond
Authorization Levels and Forecasted General Fund Capital
Fiscal 2025-2029
(\$ in Millions)



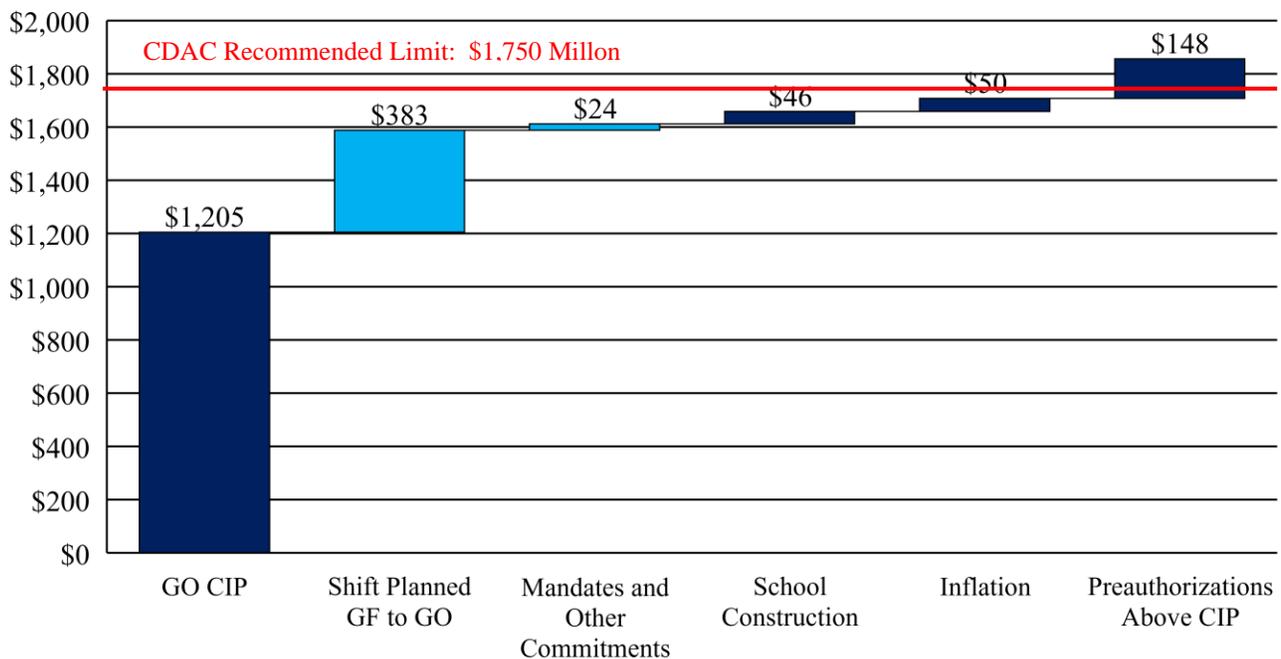
CDAC: Capital Debt Affordability Committee
 CIP: *Capital Improvement Program*
 GO: general obligation
 PAYGO: pay-as-you-go

Source: 2023 *Capital Improvement Program*; Department of Budget and Management

Commitments Exceed Recommended Authorization Levels in Fiscal 2025

Capital commitments, including new capital mandates and preauthorized projects above what is programmed in the CIP, and fiscal pressures, including rising project costs due to inflation, would require approximately \$1.9 billion of GO bond funding for the fiscal 2025 capital program. As shown in **Exhibit 3**, after accounting for approximately \$50 million of inflationary-related construction cost increases above the amounts budgeted and assuming the WMATA grants and Historic Revitalization tax credits continue to be funded with general funds, the CDAC recommended level of \$1.75 billion would not fully fund all the commitments made by the legislature in the 2023 session.

Exhibit 3
Capital Commitments and Other Fiscal Pressures
Fiscal 2025
(\$ in Millions)



CDAC: Capital Debt Affordability Committee
 CIP: *Capital Improvement Program*
 GF: general funds
 GO: general obligation

Source: Department of Legislative Services

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Revenues and Taxes

Evaluation of the Innovation Investment Incentive and Purchase Cybersecurity Tax Credit Programs

The Tax Expenditure Evaluation Act requires an evaluation of the Innovation Investment Incentive Tax Credit (IIITC) and the Purchase Cybersecurity Tax Credit (PCTC). The Department of Legislative Services (DLS) evaluated the tax credits during the 2023 interim. DLS found that the IIITC program has been significantly undersubscribed and made recommendations to increase utilization of the tax credit if extended by the General Assembly. DLS also recommended several changes to improve the effectiveness of the PCTC program if the program is continued by the General Assembly.

Tax Expenditure Evaluation Act

The Tax Expenditure Evaluation Act establishes a process of legislative review to determine whether certain tax credits, exemptions, and preferences are necessary for the public interest. The Act required the Department of Legislative Services (DLS) to evaluate the Innovation Investment Incentive Tax Credit (IIITC) and the Purchase Cybersecurity Tax Credit (PCTC). When evaluating a tax credit under the Act, DLS must address (1) the purpose for which the tax credit was established; (2) whether the original intent of the tax credit is still appropriate; (3) whether the tax credit is meeting its objectives; (4) whether the goals of the tax credit could be more effectively carried out by other means; and (5) the cost of the tax credit to the State and local governments. DLS must then include a recommendation on whether the tax credit should be continued, with or without changes, or terminated.

Innovation Investment Incentive Tax Credit

Background

The IIITC program offers a refundable income tax credit for investments in Qualified Maryland Technology Companies (QMTC). Under the program, an investor may claim a credit equal to 33% of an eligible investment in a qualified QMTC, not to exceed \$250,000. An enhanced credit (equal to 50% of the investment, not to exceed \$500,000) is available for investments in QMTCs located in Allegany, Dorchester, Garrett, or Somerset counties or, under certain circumstances, in a Regional Institution Strategic Enterprise zone. The Department of Commerce (Commerce) may not certify investments in a single technology company or a single technology sector that total more than 15% or 25%, respectively, of the total appropriations to the program for that fiscal year. The Governor must appropriate at least \$2.0 million in the annual budget bill to the IIITC program's reserve fund.

Findings and Recommendations

In its evaluation report, DLS found that the IIITC program is undersubscribed. Commerce awarded tax credit certificates totaling only a little over one-fourth (26.4%) of the \$2.0 million appropriation in fiscal 2022 and only 10.7% of the \$2.0 million appropriation in fiscal 2023. DLS then noted the general lack of diversity in angel investment tax credit programs and high-tech and startup companies and questioned whether the IIITC program is the most appropriate way to achieve the State's goals of growing the State's technology sectors and increasing the participation of minority communities in the State's innovation economy. DLS also found that program limitations on the certification of investments in a single company or sector provide uncertainty to investors, adding to the challenges facing the program's effectiveness.

DLS acknowledged that the IIITC program is in its early stages, and the lack of activity precluded DLS from being able to make more robust recommendations. Nonetheless, in light of the low demand for the IIITC program to date, DLS recommended that the General Assembly allow the program to terminate as scheduled on June 30, 2025, and redirect program funds to other programs that create innovation, such as tech incubators or the Equitech Growth Fund in the Maryland Technology Development Corporation. If the General Assembly decides to extend the tax credit, DLS recommended that Commerce eliminate the limitation on certifying investments in a single technology company or sector, improve efforts to increase awareness of the credit, and conduct outreach in a manner that will attract a wide array of diverse applicants.

Purchase Cybersecurity Tax Credit

Background

Chapter 578 of 2018 created a tax credit against the State income tax for qualified buyers who purchase cybersecurity technology or services from a qualified seller. Also sometimes referred to as the Buy Maryland Cybersecurity Tax Credit program, the PCTC program authorizes a qualified buyer to claim an income tax credit equal to 50% of the eligible costs incurred to purchase the cybersecurity technology or service, not to exceed \$50,000 per buyer. Commerce may not certify purchases from a single qualified seller that total more than \$200,000 in a tax year.

Findings and Recommendations

Statute does not state a specific goal or intent for the PCTC program, but based on the description of the program on Commerce's website, DLS identified that its objectives are to promote the cybersecurity industry in the State and help Maryland's small businesses purchase cybersecurity technologies and services to protect business information from cyberthreats. In its evaluation report, DLS questioned whether these goals are met given that less than 0.1% of Maryland's small businesses are participating in the program. DLS then theorized that the program is underutilized, in part, due to the nonrefundability of the credit and the high cost of cybersecurity even with the tax credit. In addition, DLS identified several issues with the program, including

having requirements that add unnecessary complexity, a design that is likely to provide windfall credits for activities that would have occurred otherwise, a lack of enhanced credits for industries most at risk of cyberattacks, and errors in the administration of the credit.

In light of its analysis and the findings above, DLS recommended that the General Assembly consider terminating the PCTC program and instead explore other options, such as cybersecurity insurance and grants to improve cybersecurity in the State for small businesses. If the General Assembly decides to continue the program, DLS recommended that Commerce and the Comptroller increase efforts to raise awareness of the program, and that the General Assembly (1) clearly define the intent of the program in statute; (2) eliminate the requirement that Commerce award only 25% of authorized credits for the purchase of services; and (3) provide enhanced credits for industries most at risk of cyberattacks.

Revenues and Taxes

Commercial Gaming Revenue

In fiscal 2023, Maryland's casinos generated \$2.06 billion in revenue, an increase of \$58.5 million compared to fiscal 2022. State revenues from retail and mobile sports wagering totaled \$25.3 million in fiscal 2023 and are anticipated to increase as additional retail locations and mobile sports wagering platforms open and the sports wagering market matures.

Video Lottery Terminal and Table Game Revenues in Maryland

There are six casinos operating in Baltimore City and Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties. Maryland's casinos generated \$2.06 billion in revenue from video lottery terminal (VLT) machines and table games in fiscal 2023, an increase of \$58.5 million compared to fiscal 2022. **Exhibit 1** shows actual and anticipated gross VLT and table game revenues in Maryland for fiscal 2018 through 2025 by facility. **Exhibit 2** shows the same revenues by fund. Approximately two-thirds of total gaming revenues in fiscal 2023 were from VLTs.

Sports Wagering and Fantasy Competition Revenues

Chapter 492 of 2020, a constitutional amendment approved by the voters at the November 2020 general election, authorized sports and event wagering, contingent on implementation of legislation passed by the General Assembly. Chapter 356 of 2021 implemented sports wagering in the State and provides for regulation of sports wagering and fantasy gaming competitions. Licensees receive 85% of proceeds from sports wagering and fantasy gaming, with the remainder distributed to the Blueprint for Maryland's Future Fund (Blueprint, which supports public education.

The first five retail sportsbooks opened in December 2021, and five additional retail locations launched during fiscal 2023, along with 10 mobile sports wagering platforms. Additional retail locations and mobile operators are launching during fiscal 2024. State revenues from sports wagering and fantasy gaming are shown in **Exhibit 3**. The Blueprint received \$37.8 million in fiscal 2023, including \$25.3 million from sports wagering revenues, \$11.4 million from sports wagering license fees, and \$1.2 million from fantasy competition revenues.

Exhibit 1
Gross Gaming Revenues Generated by Facility
Fiscal 2018-2025 Est.
(\$ in Millions)

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Est.</u> <u>2024</u>	<u>Est.</u> <u>2025</u>
VLTs								
Allegany	\$46.5	\$48.9	\$36.8	\$53.4	\$58.5	\$57.2	\$54.8	\$55.6
Anne Arundel	369.5	411.8	315.8	432.7	498.4	498.8	497.9	505.4
Baltimore City	156.3	144.6	96.4	137.4	137.1	135.3	130.9	129.6
Cecil	64.9	65.2	48.2	75.4	80.1	74.2	70.0	70.0
Prince George's	345.3	384.8	279.4	386.6	472.7	493.0	492.3	499.7
Worcester	64.1	69.8	52.6	75.0	85.0	89.3	86.4	87.7
Total VLTs	\$1,046.7	\$1,125.2	\$829.3	\$1,160.4	\$1,331.8	\$1,347.9	\$1,332.4	\$1,348.0
Table Games								
Allegany	\$7.6	\$7.2	\$5.6	\$7.2	\$7.1	\$6.4	\$6.2	\$6.3
Anne Arundel	190.1	177.6	133.7	189.8	215.6	210.2	210.1	213.3
Baltimore City	110.8	105.6	65.8	62.2	74.1	70.0	65.1	64.4
Cecil	10.4	9.6	7.6	11.1	12.8	13.7	13.7	13.7
Prince George's	310.0	326.6	231.5	305.6	350.4	402.6	371.5	377.1
Worcester	3.3	8.6	6.5	9.4	10.0	9.7	10.2	10.3
Total Table Games	\$632.3	\$635.2	\$450.7	\$585.3	\$670.0	\$712.5	\$676.7	\$685.0
Total VLT and Table Games	\$1,679.0	\$1,760.4	\$1,280.0	\$1,745.7	\$2,001.8	\$2,060.3	\$2,009.1	\$2,033.0

VLT: video lottery terminal

Note: Figures may not sum due to rounding.

Source: Department of Legislative Services

Exhibit 2
Gross Gaming Revenues Generated by Fund
Fiscal 2018-2025 Est.
(\$ in Millions)

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>Est.</u> <u>2024</u>	<u>Est.</u> <u>2025</u>
VLTs								
Education Trust Fund	\$401.8	\$447.4	\$329.2	\$443.6	\$511.1	\$515.8	\$503.4	\$509.3
Lottery Operations	10.5	11.2	8.3	11.6	13.3	13.5	13.3	13.5
Purse Dedication Account	61.2	65.9	48.5	67.8	78.0	79.2	79.9	80.9
Racetrack Renewal Account	10.0	10.8	7.9	11.1	12.8	13.0	13.3	13.5
Local Impact Grants	56.8	61.1	45.0	62.9	72.4	73.3	73.3	74.1
Business Investment	0.0	0.0	0.0	17.0	19.6	19.9	20.0	20.2
General Fund	15.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Licensees	491.0	528.8	390.3	546.5	624.6	633.2	629.1	636.6
Total VLTs	\$1,046.7	\$1,125.2	\$829.3	\$1,160.4	\$1,331.8	\$1,347.9	\$1,332.4	\$1,348.0
Table Games								
Education Trust Fund	\$94.8	\$95.3	\$67.6	\$87.8	\$100.5	\$106.9	\$101.5	\$102.8
Local Impact Grants	31.6	31.8	22.5	29.3	33.5	35.6	33.8	34.3
Licensees	505.8	508.2	360.6	468.3	536.0	570.0	541.4	548.0
Total Table Games	\$632.3	\$635.2	\$450.7	\$585.3	\$670.0	\$712.5	\$676.7	\$685.0
Total VLT and Table Games	\$1,679.0	\$1,760.4	\$1,280.0	\$1,745.7	\$2,001.8	\$2,060.3	\$2,009.1	\$2,033.0
Education Trust Fund	\$496.7	\$542.7	\$396.8	\$531.4	\$611.6	\$622.7	\$604.9	\$612.0

VLT: video lottery terminal

Note: Figures may not sum due to rounding.

Source: Department of Legislative Services

Exhibit 3
State Sports Wagering and Fantasy Competition Revenues
Fiscal 2023-2029 Est.
(\$ in Millions)

	Actual	Est.	Est.	Est.	Est.	Est.	Est.
	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>
State Revenues							
Sports Wagering – Retail	\$4.6	\$1.7	\$2.1	\$2.1	\$2.1	\$2.2	\$2.2
Sports Wagering – Mobile	20.7	32.1	45.1	45.8	46.5	47.2	47.9
Sports Wagering License Fees	11.4	0.0	0.0	0.0	0.0	0.1	2.2
Fantasy Competition	1.2	1.0	1.0	1.0	1.0	1.1	1.1
Total	\$37.8	\$34.8	\$48.2	\$48.9	\$49.6	\$50.5	\$53.4

Source: Department of Legislative Services

Problem Gambling

The Problem Gambling Fund (PGF) receives revenue from annual fees on VLTs and table games, unclaimed winnings from sports wagers, and violations of the Voluntary Exclusion Program. The Center of Excellence on Problem Gambling, overseen by the Behavioral Health Administration, uses the PGF to manage a network of treatment services, maintain a 24-hour hotline, and conduct prevalence studies. The Office of Program Evaluation and Government Accountability (OPEGA) within the Department of Legislative Services published a performance evaluation of the center in July 2023. Prevalence studies suggest that Marylanders who have ever had a gambling disorder may be in the hundreds of thousands, while the number of help-seekers assisted by the center numbers in the low thousands. OPEGA made six recommendations, which include improving communications, sharing data with government entities in a timely manner, revising the Voluntary Exclusion Program’s application process, and diversifying revenue sources that contribute to the PGF by dedicating a portion of revenue from each legal type of gambling to the fund.

iGaming

iGaming, or Internet gaming, refers to traditional casino games played electronically over the Internet, usually distinct from online sports betting. Legalized iGaming, online poker, or both are available in seven states: Connecticut; Delaware; Michigan; Nevada; New Jersey;

Pennsylvania; and West Virginia. A growing number of states have considered iGaming measures following the COVID-19 pandemic, which forced brick-and-mortar casinos to temporarily close.

During the 2023 session, the General Assembly considered Senate Bill 267 that would have authorized the expansion of Internet gaming, subject to voter referendum. Although the legislation did not pass, the fiscal 2024 budget required the Maryland Lottery and Gaming Control Agency (MLGCA) to conduct an iGaming study and submit a report on iGaming to the budget committees. MLGCA engaged the Innovation Group to conduct the study. Among other topics, the report discusses the current regulatory landscape for iGaming and the estimated market in Maryland; the potential economic impact of legal regulated iGaming on Maryland’s brick-and-mortar casinos, other gaming venues, and the State Lottery; and the experience of other states.

State and Retiree Health Plan

The State offers health care benefits to State employees and vested retired State employees. Retirees are currently on the same plan as employees. Prescription drug costs declined in fiscal 2023 due to the timing of prescription rebate payments, so the expectation is that spending will continue along long-term trends. A federal lawsuit brought by retirees to block the State from implementing statutory changes to retiree prescription drug benefits was dismissed. By law, the State will transition retirees into Medicare Part D in January 2025.

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 2023 with 64,464 members, or 52.3% 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.

Medical Spending Trends

The State closed fiscal 2023 with a \$153.7 million surplus in the health insurance account, more than the \$107.1 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

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

as much as IBNR, since IBNR includes expenses incurred in fiscal 2023. Overall, fiscal 2023 medical spending grew by 5.2%, after 6.2% growth in fiscal 2022. In fiscal 2023, prescription drug costs (including rebate revenue) decreased by 7.6%. The decline in net spending is due to the timing of prescription rebate payments to the State plan and is not reflective of an ongoing trend; prescription spending is expected to grow by 8% in fiscal 2025. Dental spending increased by 4.9% in fiscal 2023.

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. An \$80 million general fund subsidy and \$11 million in COVID-19 federal funding in fiscal 2023 combined with slower than expected growth in costs and the large increase in prescription rebates have led to a larger than anticipated fund balance. The Department of Legislative Services expects a slow growth in health care spending through fiscal 2026, in part due to changes in retiree prescription drug benefits, as discussed below. For employees, 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 2024. It is possible that this increased revenue to the health insurance account is more than necessary to fund expenses. A potential remedy would be to provide employees with payment “holidays,” in which employee contributions are not collected in a pay period. This also rewards current employees at a time when vacancy rates are high, as discussed in “State Agency Position Vacancies” within the Personnel section of this *Issue Papers of the 2024 Session*.

Transition of State Retiree Prescription Drug Coverage to Medicare Part D Scheduled to Begin in January 2025

A federal court recently dismissed a lawsuit seeking to block the State from implementing statutory changes to the prescription drug benefit for retirees. The statutory changes would transition the available coverage for prescription drug costs for Medicare-eligible State retirees from the State health plan to Medicare Part D and would but also provide State reimbursement for retirees who enroll in Medicare Part D for most of the out-of-pocket expenses incurred in a Part D plan. The changes are not effective until January 1, 2025. Under current law, retiree drug benefits will remain unchanged for calendar 2024.

The following supplemental programs enacted in 2019 will cover most or all of retirees’ out-of-pocket prescription drug costs:

- Effective January 1, 2025, the federal Inflation Reduction Act caps out-of-pocket costs for all Medicare Part D prescription drug plans at \$2,000.

- Also effective January 1, 2025, the Maryland State Retiree Prescription Drug Coverage Program, enacted by Chapter 767 of 2019, reimburses a State retiree who retired on or before December 31, 2019, and is enrolled in a Medicare Part D plan for out-of-pocket prescription drug costs that exceed limits established in the State plan. Currently, those limits are \$1,500 for an individual and \$2,000 for a family.
- The Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program reimburses a Part D recipient for out-of-pocket costs for a life-sustaining medication that is covered by the State plan but is not covered under the individual’s Medicare prescription drug plan.

The Maryland State Retiree Catastrophic Prescription Drug Assistance Program, which is available to specified retirees who have retired or will retire on or after January 1, 2020, will need to be revisited by the General Assembly. It currently references features of Medicare Part D (*i.e.*, “catastrophic coverage”) rendered obsolete by the Inflation Reduction Act.

State Retirement and Pension System – Investment Performance and Contribution Rates

The pension fund's fiscal 2023 return on investment was 3.14%, with an assumed rate of return of 6.8%. The plan's actuarial funded status decreased to 74.7%, compared to 76.6% at the end of fiscal 2022. State law continues to require 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 2023 Investment Performance

The State Retirement and Pension System's (SRPS) investment return for the fiscal year that ended on June 30, 2023, was 3.14%. This failed to meet the assumed rate of return of 6.8%. System assets increased by \$0.6 billion to a market value of \$65.2 billion, as of June 30, 2023. Investment returns have exceeded the assumed rate of return in only one of the last 5 years. The system as a whole outperformed its Investment Policy Benchmark by 0.94% (94 basis points). This benchmark is calculated by the board and allows a comparison between actual performance and a passively managed portfolio. The 5-year weighted average annual return as of June 30, 2023, is 6.93%, which is 0.65% (65 basis points) above the plan return benchmark for that period. The weighted average annual return for the past 10 years is 7.04%, which is 0.54% (54 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 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) decreased from 76.6% at the end of fiscal 2022 to 74.7% at the end of fiscal 2023 (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 in favor of a full actuarial funding method. From fiscal 2022 to 2023, the total State unfunded liability increased from \$18.3 billion to \$21.0 billion.

Chapters 195 and 196 of 2023 altered the State's amortization policy for recognition of gains and losses to the system. The system has been operating under a closed 25-year amortization policy enacted under Chapters 475 and 476 of 2013, where all unfunded liabilities were being amortized to reach full system funding by fiscal 2039. Under the closed amortization policy, as new liabilities (or surpluses) are added to the existing unfunded liabilities each year, they are amortized over an increasingly smaller number of years. This increases the risk that a fiscal shock to the system (such as a severe downturn in financial markets) in the latter years of the closed amortization period would significantly increase unfunded liabilities that would have to be amortized over just a small number of years, resulting in significant increases in State pension contributions.

SRPS and the Department of Legislative Services had been monitoring the progression through the single, closed 25-year amortization and in the 2022 interim, the SPRS actuary and the General Assembly's actuary made recommendations to alter the amortization policy in accordance with current best actuarial practices for the amortization of system gains and losses. These recommendations were presented to the Joint Committee on Pensions, and the committee voted to sponsor legislation to alter the amortization policy to utilize rolling, closed amortization periods for the recognition of system losses and gains. Creating new "tiers" of unfunded liabilities or surpluses each year ensures that any shocks to the system are spread out over 5 to 25 years, with clear guidelines that advise on the amortization period based on the reason for a gain or loss. This enhances transparency regarding the sources of the system's unfunded liabilities and also allows the SRPS board, on the advice of its actuary as established by law, to make adjustments to those tiers to minimize the potential for future volatility in contribution rates. Such adjustments are consistent with the model amortization policy developed by the national Conference of Consulting Actuaries.

Fiscal 2025 Contribution Rates

Exhibit 1 shows that the fiscal 2025 employer contribution rates with reinvestment savings are relatively stable when compared with the fiscal 2024 rates. The aggregate contribution rate for all systems increases from 18.18% in fiscal 2024 to 19.74% in fiscal 2025. Based on projected payroll growth and other factors, the SRPS actuary estimates that total employer pension contributions will increase from \$2.216 billion in fiscal 2024 to \$2.619 billion in fiscal 2025. The funding levels and contribution amounts for fiscal 2025 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 2025 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 2024-2025
(\$ in Millions)

<u>Plan</u>	<u>2024</u>		<u>2025</u>	
	<u>Rate</u>	<u>Contribution</u>	<u>Rate</u>	<u>Contribution</u>
Teachers' Combined	15.15%	\$1,238.9	16.83%	\$1,464.8
Employees' Combined	21.41%	788.9	22.06%	928.2
State Police	79.04%	102.4	86.23%	125.3
Judges	43.00%	24.2	47.22%	28.9
Law Enforcement Officers	46.28%	61.7	46.76%	71.6
Aggregate	18.18%	\$2,216.1	19.74%	\$2,618.7

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. Fiscal 2024 includes a \$35.3 million supplemental contribution, as required by the Fiscal 2024 Budget Bill. Fiscal 2025 includes the \$75 million supplemental contribution required by Chapter 489 of 2015.

Source: Gabriel, Roeder, Smith, & Co., Results of the June 30, 2023 Actuarial Valuation for Fiscal Year 2025

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 investment 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 \$3 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. This amount was reduced to \$35.3 million for fiscal 2024 during the passage of the fiscal 2024 budget during the 2023 legislative session. 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 to the system. This sweeper provision requires the Administration to include up to \$25 million of unspent funds as an additional appropriation for State pension contributions in fiscal 2023.

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 2025 is 4.96%, and the system's actuary projects the local school board normal cost share for fiscal 2025 to be \$397.1 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 2025 will be \$1.068 billion, which consists of \$34.6 million of normal cost,² \$982.3 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).

State Agency Position Vacancies

As with many other state governments, the number of vacant positions is historically high. Vacant Executive Branch positions, excluding higher education, peaked at just under 6,500 in October 2022. A 2022 survey by the Department of Legislative Services suggested low salaries are among the reasons for high vacancies. The Administration has taken action including general salary and consistent step increases. Additionally, the budget committees have asked the Administration to modernize and improve State personnel policies and systems to improve recruitment and retention. A task force has convened with a report planned to be issued by January 2, 2024.

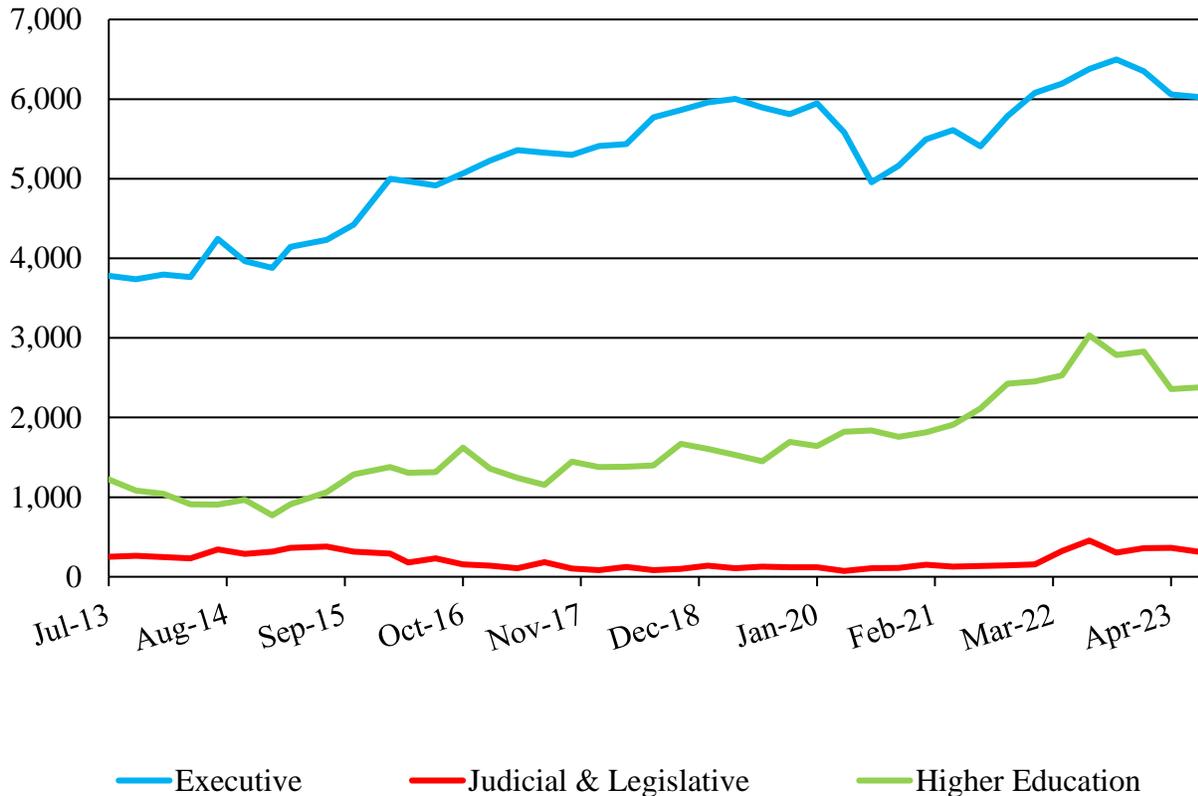
Vacancies in State Agencies

Vacancy rates in Executive Branch State agencies, excluding higher education, remained at historically high levels in fiscal 2023. Quarterly data in **Exhibit 1** shows the number of Executive Branch vacancies excluding higher education hit an all-time high in October 2022, when there were 6,498 unfilled State positions. Since then, vacancy rates have reduced, but a high vacancy rate of 12.3% remained in July 2023. As of July 2023, there are 6,042 vacant State positions in the Executive Branch excluding higher education. This is almost double the number of vacancies in 2010. In the same time period, there has been a decline of approximately 2,500 authorized positions. A survey done by the Department of Legislative Services in fall 2022 suggested that comparatively low salaries are a major reason for high vacancies. The survey estimated that approximately 75% of vacant positions in the 43 job classifications with the highest vacancies earned at least \$5,000 less annually than comparable local and federal government employees.

State's Response to High Vacancies

The fiscal 2024 Budget Bill contained significant investments in personnel in an effort to increase and retain the State employee workforce through compensation enhancements and the addition of 735 positions for a total of 82,582 positions in fiscal 2024. Historically high vacancy rates and understaffing for critical classes of positions despite salary increases led the Spending Affordability Committee to recommend that the Administration restaff and adequately fund State government. In response to the challenges of recruiting and retaining State employees, the fiscal 2024 Budget Bill approved by the legislature included \$929 million for the following salary actions: a 2% general salary increase effective July 1, 2023, and increments for most State employees; a 5% general salary increase and increments for employees represented by the State Law Enforcement Officers Labor Alliance, effective July 1, 2023; and funding for annual salary reviews that increased salaries for nearly 6,000 positions across State government in classifications with particularly high vacancy rates.

Exhibit 1
Vacant Positions in State Government
July 2013 to July 2023



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

Task Force on the Modernization of the State Personnel Management System

In the 2023 *Joint Chairmen's Report* (JCR), the budget committees of the Maryland General Assembly expressed intent that the Department of Budget and Management (DBM) convene a task force to evaluate opportunities to modernize and improve recruitment, hiring, and retention in the State Personnel Management System. The task force should identify current State hiring practices that hinder recruitment and hiring consider the following improvements:

- proactive recruitment strategies, including in high schools and in cooperation with workforce agency career counselors;

- rewriting position titles and job descriptions to be more attractive to potential applicants;
- continuous posting of appropriate positions;
- streamlining the hiring process to reduce the time from application to hiring;
- expanding career ladders, beginning with a low experience level and integrating on-the-job and classroom training;
- sponsorship of registered apprenticeships;
- focusing applicant requirements on relevant skills rather than degrees; and
- other improvements identified by task force members.

In response to the topics specified by the JCR narrative, task force meetings are focusing on the following: (1) statutory changes to simplify and streamline the hiring process; (2) recruitment strategies; (3) methods to increase job attractiveness; and (4) entry-level pathways and degree requirements. DBM will submit a report on the task force's findings and recommendations to the budget committees by January 2, 2024.

Education

State Education Aid and Blueprint for Maryland's Future Fund

State education aid is projected to increase significantly in fiscal 2025, primarily due to projected enrollment increases and higher per pupil funding amounts set by the Blueprint for Maryland's Future (Blueprint). The Blueprint Fund is projected to almost have sufficient revenues to cover both State and non-State aid expenditures attributable to the Blueprint through fiscal 2027, with an estimated shortfall of approximately \$200 million that year. As of October 2023, the Maryland State Department of Education has certified that the school appropriations of 20 counties have met or exceeded the fiscal 2024 local effort requirement.

Direct Aid for Public Schools Projected to Increase by \$215 Million

In fiscal 2025, public schools are expected to receive an estimated total of \$9.0 billion in State aid, which represents a 4.5% increase over fiscal 2024. Of this amount, \$8.1 billion will flow directly to local school systems. Total funding changes are largely attributable to projected changes in student enrollment and greater per pupil funding amounts for major aid programs. **Exhibit 1** shows estimated State aid for education in fiscal 2024 and 2025.

In fiscal 2025, foundation program formula aid is estimated to increase by \$28.1 million (0.7%), for a total of \$3.8 billion. This modest increase is due to a projected slight decrease of 0.2% in the enrollment count for the foundation program, which is more than offset by a 1.7% increase in the per pupil foundation amount from \$8,642 per student in fiscal 2024 to \$8,789 per student in fiscal 2025, as required under Chapters 36 and 55 of 2021. Fiscal 2023 marked the final year of funding through the Geographic Cost of Education Index (GCEI). Fiscal 2025 funding for the Comparable Wage Index (CWI), the effective successor to GCEI, is estimated to total \$157.1 million, a 1.2% increase compared to fiscal 2024 CWI funding.

Compensatory aid is estimated to decrease by \$18.4 million (1.1%). This funding decrease is primarily due to a projected decline in free and reduced-price meal student enrollment, which is assumed to have peaked for fiscal 2024 funding and is only partially offset by a \$40 (0.5%) increase in per pupil funding. Funding for special education and English learners increases in fiscal 2025. Special education formula funding is estimated to increase by \$43.7 million (9.4%), largely due to a \$750 (9.4%) increase in per pupil funding. English learner funding increases by \$55.5 million (11.7%), which reflects a \$323 (3.7%) per pupil funding increase and projected enrollment growth of 8.5%.

Exhibit 1
Estimated State Aid for Education
Fiscal 2024-2025
(\$ in Millions)

<u>Program</u>	<u>2024</u>	<u>2025</u>	<u>\$ Change</u>	<u>% Change</u>
Foundation Program	\$3,768.3	\$3,796.5	\$28.1	0.7%
Comparable Wage Index	155.3	157.1	1.8	1.2%
Compensatory Education Program	1,686.1	1,667.7	-18.4	-1.1%
Special Education – Formula Aid	466.0	509.6	43.7	9.4%
Special Education – Nonpublic Placements	149.1	156.5	7.3	4.9%
English Learners	473.5	529.0	55.5	11.7%
Guaranteed Tax Base	56.8	61.6	4.8	8.4%
Student Transportation	363.4	367.6	4.2	1.2%
Head Start/Prekindergarten Expansion	29.6	29.6	0.0	0.0%
Infants and Toddlers	15.8	17.0	1.1	7.2%
Blueprint Programs ¹	561.4	705.8	144.5	25.7%
<i>Concentration of Poverty Grants</i>	227.3	332.5	105.3	46.3%
<i>Transitional Supplemental Instruction</i>	51.3	39.4	-11.9	-23.2%
<i>Full-day Prekindergarten</i>	105.7	122.3	16.6	15.7%
<i>Career Ladder</i>	9.5	18.8	9.2	96.8%
<i>College and Career Ready</i>	19.9	23.3	3.5	17.4%
<i>Education Effort Adjustment</i>	88.0	120.5	32.5	36.9%
<i>Transition Grants</i>	57.7	49.0	-8.7	-15.0%
<i>Blueprint Coordinators</i>	2.0	0.0	-2.0	-100.0%
School Safety	23.6	20.6	-3.0	-12.7%
Other Education Programs	149.3	94.8	-54.5	-36.5%
<i>Direct Aid Subtotal</i>	\$7,898.2	\$8,113.3	\$215.1	2.7%
Teachers' Retirement	\$745.0	\$915.7	\$170.7	22.9%
Grand Total	\$8,643.2	\$9,028.9	\$385.8	4.5%

¹ The Blueprint for Maryland's Future Fund covers funding for these programs and for portions of additional State aid and non-State aid programs.

Note: Numbers may not sum due to rounding.

Source: Department of Legislative Services

Student transportation funding is expected to increase by \$4.2 million, or 1.2%, to \$367.6 million in fiscal 2025. This amount reflects low inflation (projected to be equivalent to the

1.0% floor in statute), increased FTE enrollment, and a 2.4% increase in the student count for special transportation.

Overall funding for the Blueprint for Maryland’s Future (Blueprint) programs, which include Concentration of Poverty Grants, Transitional Supplemental Instruction, Full-day Prekindergarten, Career Ladder, College and Career Readiness, Blueprint Coordinator funding (in fiscal 2024 only), Education Effort Adjustment, and Transition Grants, totals \$705.8 million in fiscal 2025, an increase of 25.7% over fiscal 2024. This overall increase in Blueprint program funding is largely driven by an estimated \$105.3 million increase in Concentration of Poverty Grants and is somewhat mitigated by a decrease of \$8.7 million in Transition Grants and an estimated decrease of \$11.9 million in Transitional Supplemental Instruction, which are designed to decline until being fully phased-out after fiscal 2026.

Under the Blueprint, early childhood funding expands substantially 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. Fiscal 2025 funding will total an estimated \$122.3 million, an increase of \$16.6 million (15.7%) over fiscal 2024.

State Retirement Costs and Local Contributions Increase

State retirement costs for public school teachers and other professional personnel will total an estimated \$915.7 million in fiscal 2025, which is a \$170.7 million (22.9%) increase from fiscal 2024. This increase can be attributed to several factors, including (1) local education payrolls increasing substantially more than previously projected (6.1% vs. 2.75% assumed); (2) investment performance falling below the assumed rate of return for the second straight year (3.1% vs. 6.8% assumed); and (3) higher-than-expected inflation causing cost-of-living-adjustments to be greater than expected.

Local school systems are responsible for paying the normal cost (which represents the cost of pension benefits accrued in the current year). While the normal cost rate declines for fiscal 2025, this decline is more than offset by payroll increases, resulting in local payments increasing from \$380.2 million in fiscal 2024 to \$397.1 million in fiscal 2025. Increases are projected through fiscal 2026, after which local costs largely level off at about \$405 million annually. Local school systems also contribute toward State Retirement Agency administrative costs, totaling approximately \$19.4 million in fiscal 2025.

Blueprint for Maryland’s Future Fund

The 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; sports betting revenues; certain sales tax

revenues; federal funds for COVID-19 relief swapped with Blueprint special funds; and some one-time revenues.

In fiscal 2024, Blueprint Fund revenues total \$4.3 billion. This amount includes a starting balance of approximately \$2.0 billion and a diversion of \$900 million from the State Reserve Fund, of which \$500 million was in the Governor’s fiscal 2024 budget as introduced and \$400 million was added by the General Assembly. In fiscal 2025, revenues are projected to total approximately \$4.0 billion, which includes an estimated starting balance of \$2.6 billion.

In addition to State aid programs (discussed above and shown in Exhibit 1), some non-State aid categorical programs are funded by the Blueprint Fund. In fiscal 2024, \$142.4 million in non-State aid programs are covered. In fiscal 2025, \$162.4 million in non-State aid programs are covered and focus primarily on Blueprint implementation, including the Accountability and Implementation Board (\$1.8 million), the behavioral health community support consortium (\$110.0 million), early childhood programs (\$19.4 million), and teaching fellow scholarships (\$18.0 million).

As shown in **Exhibit 2**, in fiscal 2024, the Blueprint Fund covers approximately \$1.7 billion in State aid and non-State aid expenditures with an ending fund balance of \$2.6 billion. In fiscal 2025, approximately \$1.9 billion in expenditures is covered with an ending fund balance of \$2.1 billion. Based on current projections, the fund will almost have sufficient revenues to cover expenditures through fiscal 2027, with an estimated shortfall in that fiscal year of approximately \$200 million.

Exhibit 2
Blueprint for Maryland’s Future Fund
Fiscal 2024-2025
(\$ in Millions)

	<u>2024</u>	<u>2025</u>
Total Revenues Available	\$4,265	\$4,000
Blueprint for Maryland’s Future – State Aid	\$1,508	\$1,765
Blueprint for Maryland’s Future – Non-State Aid	142	162
Total Expenditures	\$1,650	\$1,927
Ending Fund Balance	\$2,615	\$2,073

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 system 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 the Blueprint, counties must provide the *greater of* the per pupil MOE and the combined local share (accounting for local share relief) of multiple major aid programs.

As of October 2023, certified local appropriations are not available for 4 jurisdictions (Baltimore City and Calvert, Queen Anne’s, and Somerset counties), and the Maryland State Department of Education has certified that the school appropriations of 20 counties have met or exceeded the fiscal 2024 local effort requirement. In total, 9 of these counties (Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, and St. Mary’s) exceeded their local effort requirement by 2.0% or more.

Learning Loss and Learning Gaps in K-12 Education

COVID-19 pandemic-related student learning loss remains persistent and problematic, particularly for underserved and disadvantaged students. Standardized assessments for grades 4 and 8 show that for English and language arts, proficiency has returned to prepandemic levels, whereas for mathematics, proficiency continues to lag. Mitigating programs have been funded by State and federal pandemic relief initiatives, but the last round of federal stimulus funds is expiring, so additional actions may be needed.

COVID-19 Pandemic-related Student Learning Loss Persists

A difficult problem facing states after experiencing COVID-19-related school closures is persistent student learning loss. Learning loss is a well-documented phenomenon usually associated with the loss in academic skills that students experience between school years due to summer break. Learning loss is prevalent with economically disadvantaged students, who are more likely to have low standardized assessment scores relative to their peers. Recent State assessment results show improvement in proficiency in English and language arts but persistent lags in proficiency in mathematics. State programs have received funding to address learning loss, but additional actions may need to be taken, particularly due to the expiration of federal stimulus funding.

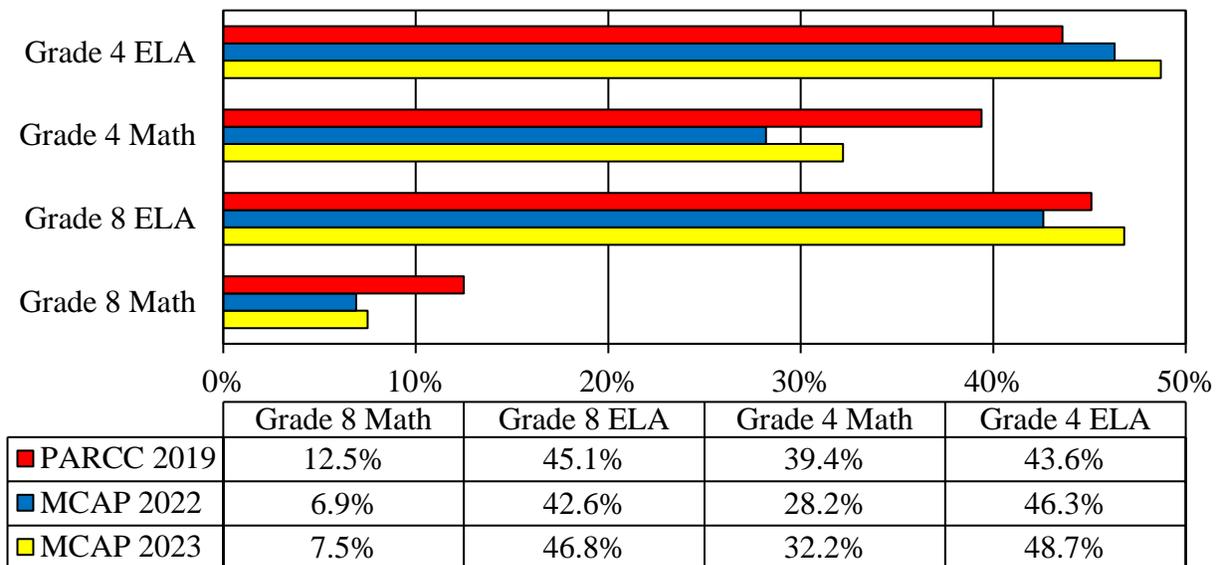
English/Language Arts Scores Show Progress While Mathematics Scores Lag

Under federal law, states must administer annual, summative assessments to students in English/language arts (ELA) and mathematics in grades 3 through 8 and high school; science in each grade span (grades 3 to 5, grades 6 to 8, and high school); and English language proficiency assessments in grades K-12 for all students considered as English Learners. The Maryland State Department of Education (MSDE) is in the process of transitioning from the Partnership for Assessment of Readiness for College and Careers (PARCC) to the Maryland Comprehensive Assessment Program (MCAP). Implementation of a full transition to MCAP assessments has been delayed due to COVID-19-related school closures. But with federal approval, MSDE is moving forward under a staggered assessment schedule. Results from spring 2023 assessments were released in August 2023 and provided MSDE and local education agencies (LEA) with information about student progress and pandemic learning loss in certain areas for the second time since calendar 2019.

Exhibit 1 shows statewide percentages for students scoring proficient and distinguished on spring 2019 PARCC, 2022 MCAP, and 2023 MCAP assessments in ELA and mathematics. Compared to spring 2022, spring 2023 grade 4 ELA MCAP scores increased by 2.4%, and

grade 8 ELA scores increased by 4.2%, which exceeds 2019 results by 5.1% and 1.7%, respectively. Similarly, grade 4 and grade 8 mathematics scores increased from spring 2022 to spring 2023 by 4.0% and 0.6%, respectively. However, when compared to 2019 results, grade 4 mathematics scores remained 7.2% below 2019 proficiency levels, and grade 8 mathematics scores remained 5.0% below 2019 proficiency levels. In particular, grade 8 mathematics scores on both PARCC and MCAP remain very low with students scoring 12.5% in spring 2019 and 7.5% in spring 2023.

**Exhibit 1
Comparison of PARCC and MCAP Scores
Calendar 2019-2023**



ELA: English/language arts

MCAP: Maryland Comprehensive Assessment Program

PARCC: Partnership for Assessment of Readiness for College and Careers

Source: Maryland State Department of Education

State Programs to Address Student Learning Loss

Exhibit 2 shows that between fiscal 2021 and 2023, the State allocated a total of \$555.2 million in federal funding to address student learning loss. Of this, \$399.2 million (72%) was for student programs; \$129.6 million (23%) was for educator programs for professional development, recruitment, and retention; and \$26.4 million (5%) was for LEA programs for time management, innovative school models, and transforming neighborhoods. Legislatively directed programs received federal Elementary and Secondary School Emergency Relief (ESSER) education funds (ESSER II). The Governor’s tutoring program received federal Coronavirus Relief

Funds, and MSDE programs received federal American Rescue Plan Act State Education Agency ESSER III funds, used for initiatives under the Maryland Leads initiative. LEAs spent ESSER II funds by September 2023; ESSER III funds must be spent by September 2024.

Exhibit 2
State Programs to Address Student Learning Loss
Fiscal 2021-2023
(\$ in Millions)

<u>Fiscal Year</u>	<u>Source</u>	<u>Program</u>	<u>Total</u>	<u>% of Total</u>
Student Programs				
2022	Legislatively Directed	Tutoring	\$151.6	27%
2021	Governor	Tutoring	100.0	18%
2023	Legislatively Directed	Transitional Supplemental Instruction	50.0	9%
2021	Legislatively Directed	Summer School	25.0	5%
2022	Legislatively Directed	Summer School	25.0	5%
2022	Legislatively Directed	Transitional Supplemental Instruction	20.0	4%
2022	MSDE	High-quality School-day Tutoring	27.6	5%
Subtotal			\$399.2	72%
Educator Programs				
2022	MSDE	Science of Reading	\$47.1	8%
2022	MSDE	Grow Your Own Staff	39.0	7%
2022	MSDE	Staff Support and Retention	43.5	8%
Subtotal			\$129.6	23%
LEA Programs				
2022	MSDE	Reimagining the Use of Time	\$15.0	3%
2022	MSDE	Transforming Neighborhoods	8.8	2%
2022	MSDE	Innovative School Models	2.6	0%
Subtotal			\$26.4	5%
Total			\$555.2	100%

LEA: local education agency

MSDE: Maryland State Department of Education

Source: Department of Legislative Services

LEAs are required to report on expenditures allocated for tutoring and summer school programs. For tutoring, reports showed that LEAs offered a mix of school-day small group, after school, and summer school tutoring at all grade levels. Students tutored included English Learner and special education students, as well as students who need additional instruction to remain at grade level in mathematics, science, and social studies. For summer school, reports showed that

LEAs offered academic enrichment programs for students struggling with learning loss at all grade levels. These programs prioritized disadvantaged students and included recovery and remediation in English and mathematics, individualized support and assessment, and socio-emotional learning activities and supports. As part of the Maryland Leads initiative, MSDE's high-leverage strategy for high-quality school day tutoring includes individualized instruction and funding for the Maryland Tutoring Corps, which offers high-quality, school day tutoring for secondary mathematics.

LEA programs for teacher and staff recruitment and retention under Maryland Leads include hiring and certifying new teachers and professional staff, paid retention incentives, and programs to improve school climate. LEA professional development for the Science of Reading program helps K-3 educators, special education teachers, and school principals learn best practices in reading and literacy. LEA local programs include flexible scheduling, community schools, and approaches to integrating traditional academic programs with career and technology education.

Additional Actions

Federal stimulus funding for LEA summer school and tutoring expired in September 2023, meaning fiscal 2024 is the last year these funds will impact pandemic-related student learning loss. Though recent assessment results suggest LEAs have returned ELA scores to prepandemic levels, students may need more tutoring and summer school to reverse learning loss in mathematics and maintain improvement in ELA. Over time, innovative approaches, such as flexible school scheduling and continued investment in teacher recruitment, retention, and professional development, may positively impact student outcomes. Additional research on the impact of these programs on disadvantaged students, as well as other methods to measure student success besides standardized testing, could provide insight into how these interventions improve student achievement.

Artificial Intelligence Issues in Education

Students, educators, administrators, and leaders at all levels in education are using artificial intelligence (AI) tools for student learning, administrative tasks, predictive analysis, and professional practice improvement. While AI has many beneficial uses, there are concerns about its use in educational settings, particularly relating to student data privacy, transparency, academic integrity, and ethical use.

Background

The rapid emergence of highly accessible artificial intelligence (AI) technologies raises significant issues for its use in education. In its inaugural report on AI in May 2023, the U.S. Department of Education Office of Educational Technology defined AI as automation based on associations; AI being an umbrella term for an expanding set of capabilities, including knowledge-based systems, machine learning, robotics, and natural language processing. Although students, educators, administrators, and leaders from early childhood education through higher education already engage with AI as a tool for learning, assistance with administrative tasks, predictive analysis, and providing students with real-time access to school services, there are concerns about its use in educational settings, particularly relating to transparency, student data privacy, and academic integrity and ethical use.

Uses of AI in Education

Student Learning

A primary use and benefit of AI in PreK-12 education is as a tool for student learning. AI programs can provide interactive learning experiences that are personalized to the student, including students with disabilities and English language learners. Programs can provide content that is adapted and paced to a student's learning style and level of comprehension. For example, in mathematics instruction, an educator can first teach the initial mathematics concepts and skills and use AI tools as practice support or for tutoring. A program can provide immediate feedback to students, a component deemed essential in helping students master mathematical skills, and have nonjudgmental, endless patience for student questions. However, AI tools are not a substitute for qualified educators. AI tools have the ability to show students the right steps to solve mathematical problems but need human monitoring to verify that the students themselves can "do the math" and obtain the right answer.

AI tools can be useful to improve equity and inclusivity in classrooms. Students with disabilities, whether with mental, physical, visual, or hearing impairments, can get assistance

performing tasks, both everyday and complex. For example, AI voice technologies, such as Siri, Alexa, and Echo, help make communication easier for people with impairments. These programs can describe text and images to people with visual disabilities, and text-to-speech (or vice versa) technologies can help individuals with brain injuries communicate or understand things more easily. These types of tools could improve the integration of students with disabilities in regular classrooms.

Support for Educators

Rather than replacing instructors, AI tools can support educators in the classroom by alleviating repetitive administrative tasks such as scheduling, attendance tracking, drafting communications, and some grading. Educators are already using AI tools to improve and support their professional practice. Teachers can ask AI to simulate different teaching scenarios, identify the best way to teach a particular concept and the questions students typically ask about a topic, and provide prompts for writing and research and problems for differentiated instruction. New teachers, in particular, can get help with lesson planning. For example, a teacher can provide a high-quality lesson plan as a prompt and get recommendations on lesson plans on other topics aligned with curriculum standards and pedagogical practice. While the AI tool provides answers to prompts, human teachers use their experience and judgment to interpret answers and make decisions on their use in their own practice. Providing educators access to high-quality AI resources and training is likely to increase user confidence in the use of these tools that could free up valuable time to further overarching educational goals such as the implementation of innovative scheduling models or the reimagining of the use of school time, outcomes that align with objectives of the Blueprint for Maryland's Future and the Maryland State Department of Education's Maryland Leads initiative.

Use in Higher Education

In higher education, colleges and universities are struggling with declining enrollment and competition. Many small private colleges and regional public universities are using AI tools to employ more targeted enrollment management strategies. For prospective students, chatbots can provide immediate, personalized responses to admissions inquiries and help students navigate the application process. Predictive analytics and other AI tools can help admissions officers sort applications, identify students who match admissions standards, prioritize students who are most likely to enroll, calculate the amount of financial aid students need, and estimate the probability they will graduate. AI tools can also assist in processing student visas, student housing assignments, and course registration, as well as providing students with access to school services 24 hours a day, including academic advising, health and mental health services, and career counseling.

Concerns Regarding the Use of AI Tools

Although AI tools have many beneficial uses, there are concerns that AI tools may be used in a way that does not benefit all students and educators and does not protect their rights. Specific areas of concern include data privacy and security, algorithmic bias and discrimination, inaccurate outputs, transparency, academic integrity, and ethical use.

- ***Data Privacy and Security:*** AI systems are trained on large datasets of students and other data from across the Internet that can include personal information, such as names, grades, and test scores. There are questions about the collection, usage, and storage of this data and whether there is a need for statutory protections for student data privacy that specifically include AI tools.
- ***Algorithmic Bias and Discrimination:*** AI systems are trained on human data, which can reflect existing biases and prejudices. This means that AI systems have the potential to perpetuate and amplify bias in education because it provides answers based on the probabilities of only the information to which it has access.
- ***Inaccurate Outputs:*** AI models that generate responses to queries may produce inaccurate or out-of-date results if the content in which it is grounded is old, incomplete, or inaccurate. Users may need to be educated to be skeptical of results and verify information produced by the AI tool.
- ***Transparency, Academic Integrity, and Ethical Use:*** AI tools can be used to modify or produce audio or video recordings, images, or other media or written work product that would seem to present real depictions of people, events, or work products that are actually fake depictions made with an intent to mislead or cause harm. A regulatory framework may be needed to ensure transparency and accountability of the use of AI tools, especially in the areas of intellectual property and academic integrity. School systems and universities may need to develop and implement clear and comprehensive policies and guidelines on the use of AI in student and educator work.

Education

Impacts of the Expiration of Federal American Rescue Plan Funding for Child Care

The affordability of child care and a shortage of qualified child care workers are challenges in Maryland and nationwide. The expiration of the federal Child Care Stabilization Grant Program on September 30, 2023, presents potential challenges for Maryland’s child care community, impacting providers, working families, and the State’s economy.

Child Care Challenges in Maryland and Nationwide

Across the United States, notable challenges surround the child care landscape. The cost of child care is increasingly unaffordable for many families, and a shortage of qualified child care workers, especially in rural areas, compounds the challenges. The COVID-19 pandemic intensified these challenges, forcing many providers to shutter or scale down operations. This led to an uptick in child care costs, making affordable care an even more difficult prospect for families.

A recent study by NetCredit revealed that in 28 states, including Maryland, the average cost of child care surpassed the cost of public in-State college tuition. The same study found that in 25 states, including Maryland, average child care costs exceed 14% of the average annual wage in the state. Using different data, the Maryland Family Network estimates child care costs in Maryland to be between 16.2% (Queen Anne’s County) and 31.4% (Baltimore City) of a family’s median income. In addition, employment in the child care sector is recovering more slowly than in other pandemic-affected industries. The inability to hire sufficient staff may result in child care providers serving fewer children and existing staff leaving the profession due to the difficulties of providing care under the working conditions.

Like other states, Maryland faces significant challenges in child care funding and the availability of child care slots. Enduring repercussions of the COVID-19 pandemic, an acute shortage of qualified child care workers, and rising operational costs have contributed to a decline in the number of licensed child care slots, and child care providers have experienced financial hardship. Before the pandemic, the Maryland State Department of Education (MSDE) consistently reported a decline in licensed child care slots across the State, primarily due to the closure of family child care programs. Between fiscal 2020 and 2021, during the pandemic, Maryland experienced a significant reduction of 10,570 licensed child care slots, a 4.9% decrease. In fiscal 2022, the decline in child care capacity slowed to 0.7%, and by fiscal 2023, capacity increased slightly by 0.6%. However, despite this improvement, the State still faces a gap of more than 10,000 child care slots compared to pre-pandemic levels.

Federal and State Funding for Child Care

Expiration of Federal American Rescue Plan Act Funding

To address child care affordability and staffing challenges and to help providers keep their doors open in the wake of the pandemic, the federal American Rescue Plan Act (ARPA) allotted \$24 billion in supplementary funding to states for the distribution of child care stabilization grants. Maryland received a total of \$502.3 million in funding. This allocation comprised \$309.1 million explicitly earmarked for grants intended to enhance the financial stability of child care providers, covering both operational and personnel costs. These funds were also intended to ensure the creation of safe and healthy learning environments while offering mental health support for staff and children. Additionally, Maryland received a discretionary Child Care and Development Block Grant award of \$193.2 million. These funds were authorized for expenditures to make child care more affordable and accessible for families, increase wages for early childhood workers, or address other needs pertinent to the State's child care system. However, the federal Child Care Stabilization Grant Program, which was a crucial support system for child care providers during the pandemic, expired on September 30, 2023. With this funding source no longer available, existing child care challenges could increase.

State Funding for Child Care

Legislation has been enacted in Maryland in recent years to address child care affordability and availability challenges in the State. Chapters 206 and 207 of 2022 established the Child Care Stabilization Grant Program to provide financial assistance to child care providers, helping them offset pandemic-related costs. Additionally, Chapter 484 of 2022 mandated funding for child care programs to support providers, make child care more affordable for families, and improve early childhood education. Chapter 594 of 2022 mandated a one-time distribution of \$16 million in fiscal 2023 for child care provider and employee bonuses to enhance retention and recruitment.

In fiscal 2023, Maryland allocated \$445 million primarily toward early childhood program expansion in accordance with the Blueprint for Maryland's Future. These initiatives aim to enhance the accessibility and affordability of full-day prekindergarten. A substantial portion of this funding was specifically dedicated to facilitating low-income children and families' access to early childhood programs. This included \$151.8 million in total funds designated for financial assistance for child care through Child Care Scholarship payments. An additional \$144.1 million in special funds was allocated for full-day prekindergarten slots within public school-based programs under the Publicly Funded Prekindergarten Program. Furthermore, \$26.6 million in special funds was earmarked for prekindergarten slots within community-based programs, supported by prekindergarten expansion grants. MSDE also dedicated \$32.5 million for grants to the Judith P. Hoyer Center Early Learning Hubs, Patty Centers, and Head Start programs, focusing on wraparound and supportive services.

Potential Impacts from the Expiration of the Federal American Rescue Plan Act Funding for Child Care

The expiration of the federal child care funding under the ARPA holds the potential for several consequences for Maryland’s child care providers, including:

- ***Decline in Available Providers:*** According to survey data collected by the National Association for the Education of Young Children, approximately a third of Maryland child care providers surveyed in 2022 considered leaving their job or closing their family child care home. According to an analysis by the Century Foundation, if approximately one-third of providers closed, over 69,000 Maryland children could lose access to child care.
- ***Financial Strain on Providers:*** Child care providers may increase prices to compensate for the loss of federal funding. This action has the potential to render child care services less affordable for working families, many of whom are already contending with the challenge of meeting their basic financial needs.
- ***Recruiting and Retaining Staff:*** Child care workers, who are currently confronted with issues like low wages and substantial workloads, could encounter heightened difficulties in attracting and retaining skilled staff. This scenario could potentially impact the overall quality of child care services.
- ***Economic Impact:*** Child care services play an essential role in Maryland’s economy by enabling parents to work and contribute to the workforce. Without child care, parents may be forced to reduce their work hours or leave their jobs altogether, which could have a detrimental financial impact on their families, especially for families living paycheck to paycheck.

Child Care Providers Are Increasing Rates and Exploring New Models

Maryland child care providers are implementing various strategies to address the challenges posed by the expiration of the federal funding:

- ***Increasing Rates:*** Some providers find it necessary to raise rates to remain financially viable. They are also exploring cost reduction measures and resource sharing.
- ***Exploring New Business Models:*** Some providers are investigating innovative business models, such as offering part-time care or services for older children and seeking partnerships with other businesses and organizations to expand child care offerings.

Strategies Adopted by Other States to Address Child Care Challenges

Other states have employed various strategies and policies to confront the challenges associated with the child care landscape. These strategies include:

- ***Increasing Child Care Funding:*** In 2023, California and other states augmented their financial support for child care to expand access to affordable child care and support child care providers.
- ***Employer-supported Child Care:*** Colorado, Connecticut, and Georgia offer tax breaks or other incentives to employers who provide child care benefits to their employees. Colorado offers a tax credit equivalent to 50% of the amount contributed toward child care, with a maximum credit of \$100,000 per taxpayer each tax year. Georgia offers a tax deduction to employers who provide child care benefits to their employees, typically amounting to 75% of the employer's operational costs. Connecticut provides an income tax credit to businesses that invest in daycare facilities for their Connecticut-based employees or offer subsidies for in-state child care. This tax credit allows businesses to claim 5% of the total amount paid for child care initiatives in a given tax year.
- ***Financial Assistance to Child Care Workers:*** Vermont initiated a program that provides scholarships to child care workers pursuing degrees in early childhood education to facilitate the recruitment and retention of qualified professionals.

Higher Education

End of Affirmative Action in University Admissions

The June 2023 U.S. Supreme Court opinion in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* overturned two decades of legal precedent by finding race-based college admissions processes unconstitutional. Nationally many institutions expressed concerns about the effect on their admissions process, however, the majority of Maryland institutions indicate that their existing admissions processes are already compliant with the court's ruling.

The Supreme Court Decision

Background

Students for Fair Admissions, Inc. (SFFA) is a nonprofit organization that describes its purpose as “defend[ing] human rights secured by law, including the right of individuals to equal protection under the law.” In 2014, SFFA filed a lawsuit against the University of North Carolina, at Chapel Hill (UNC) and Harvard College alleging that each institution’s admissions process violated the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution by using race as a factor in admissions. Both UNC and Harvard admitted that they used race as one of the many factors in their admissions process. However, both argued that the process was constitutional under the Supreme Court’s decision in *Grutter v. Bollinger* (2003). In *Grutter*, the Supreme Court held that a race-conscious admissions process can be constitutional if it is narrowly tailored to achieve the compelling interest of promoting racial diversity on campus.

A federal district court in North Carolina initially ruled in favor of UNC, finding that UNC’s admissions process was narrowly tailored to achieve the compelling interest of promoting racial diversity on campus. However, the Fourth Circuit Court of Appeals reversed the District Court’s decision, finding that UNC’s admissions process was not narrowly tailored enough. SFFA appealed the lower courts’ decisions in both cases to the Supreme Court, to which they were consolidated and heard by the court during the October 2022 term.

The Ruling

In June 2023, the Supreme Court ruled in favor of SFFA, holding that UNC’s and Harvard College’s admissions processes violated the Equal Protection Clause of the Fourteenth Amendment. The Supreme Court found that both institutions’ admissions processes “lacked sufficiently focused and measurable objectives warranting the use of race, unavoidably employ race in a negative manner, involve racial stereotyping, and lack meaningful end points” and, therefore, were unconstitutional.

Supreme Court precedent has held that any exceptions to the Equal Protection Clause of the Fourteenth Amendment must survive a two-part test of strict scrutiny: (1) whether the racial classification is used to further a compelling governmental interest; and (2) whether the government's use of race is narrowly tailored, meaning necessary to achieve that interest. In *Grutter v. Bollinger* (2003), the Supreme Court added further considerations for courts to consider when analyzing a race-based college admissions process under the Equal Protection Clause of the Fourteenth Amendment. The Supreme Court held that a race-based college admissions process may never use race as a stereotype or as a negative and that, at some point, the race-based college admission process must end. Writing for the majority in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, Chief Justice John G. Roberts, Jr. explained that the admissions processes at both UNC and Harvard College fail each of these criteria and do not survive the strict scrutiny two-part test.

First, the Supreme Court found that the compelling interests that the institutions cited for using a race-based admissions process, like “training future leaders,” “acquiring new knowledge based on diverse outlooks,” and “promoting a robust marketplace of ideas,” could not be subject to judicial review because it was unclear how courts were supposed to measure these goals. Additionally, the Supreme Court found that the respondents failed to articulate a meaningful connection between the means the institutions employed and the goals they pursued.

Second, the Supreme Court found that the admissions processes failed to comply with the mandate that race may never be used “as a negative and that it may not operate as a stereotype.” The Supreme Court held that when any university admits students on the basis of race, “it engages in the offensive and demeaning assumption that [students] of a particular race, because of their race, think alike.” Additionally, the Supreme Court found that “college admissions are zero-sum, and a benefit provided to some applicants but not to others necessarily advantages the former at the expense of the latter.”

Third, the Supreme Court found that the admissions processes lacked a logical end point. Although the institutions argued that the end of race-based admissions process will occur once meaningful representation and diversity are achieved on college campuses, the Supreme Court found that to measure the success of a race-based admissions process institutions would have to compare the racial breakdown of the incoming class to another metric such as the previous class or the population as a whole. The Supreme Court held that this approach would be unconstitutional and could not be used to determine an end point for the race-based admissions process.

Despite the holding that both UNC's and Harvard College's admissions processes were unconstitutional under the Equal Protection Clause of the Fourteenth Amendment, Chief Justice Roberts stressed that nothing prohibited a university from considering an applicant's discussion of how race affected the applicant's life “be it through discrimination, inspiration, or otherwise.” However, that discussion must be tied to the student on an individual level in discussing that specific student's courage and determination or ability to contribute to the university.

The Future of College Admission Process

Due to the timing of the Supreme Court’s opinion in *Students for Fair Admissions, Inc.*, in June 2023, all institutions of higher education across the country were left with very little time to consider how the ruling would affect their admissions processes. Each institution needed to determine whether to make any changes to its admissions policy to comply with the ruling or to ensure that the ruling would not hinder the institution’s effort to achieve a certain level of diversity moving forward.

Inside Higher Ed sent a survey to 2,645 presidents and chancellors this summer regarding the Supreme Court’s decision. Only 7% of respondents thought that the decision would result in a change in their institution’s admissions policies. Additionally, 7% of respondents were “very” or “extremely optimistic” that essay questions or interviews would help institutions achieve diversity. Most respondents were either “slightly” (32%) or “moderately” (40%) optimistic about these solutions.

The Department of Legislative Services (DLS) surveyed all senior higher education institutions in Maryland on how the Supreme Court’s decision impacted the institution’s admissions process. The department received a response rate of 93%.¹

In response to whether the institution updated its admissions process after the Supreme Court’s decision, 60% of senior higher education institutions in Maryland indicated that the admission’s process had not been updated. Examples of why institutions chose not to update their process are (1) an institution has historically viewed answers to questions around race and ethnicity as optional or those answers have “carried no weight in the admissions process” or (2) institutions viewed the admission process as a “holistic application review” so no changes were needed. Of the 28% of institutions that made a change to the admission’s process, such changes included (1) adding a short answer question; (2) making the decision to completely remove race and ethnicity from the application all together; or (3) keeping race and ethnicity questions in the application but removing that information from the data set for review by an admissions panel.

In response to whether the institution added an essay prompt that “considers an applicant’s discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise” as stated by Chief Justice Roberts in the majority opinion in *Students for Fair Admissions, Inc.*, only 12% of institutions indicated the intention to add a similar essay. A majority of institutions were not considering adding a similar essay because they utilize the Common Application, which includes essay prompts similar to the prompt suggested by Chief Justice Roberts and, therefore, a change would be unnecessary.

¹ While DLS surveyed community colleges in the State, community colleges operate under an open admissions process and, therefore, the Supreme Court’s recent decision had no effect on their admissions processes.

With the application process currently ongoing at all institutions of higher education, it remains to be seen whether institutions will maintain their current level of diversity under the race-neutral admissions process outlined in the *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* decision.

Health and Health Insurance

Behavioral Health

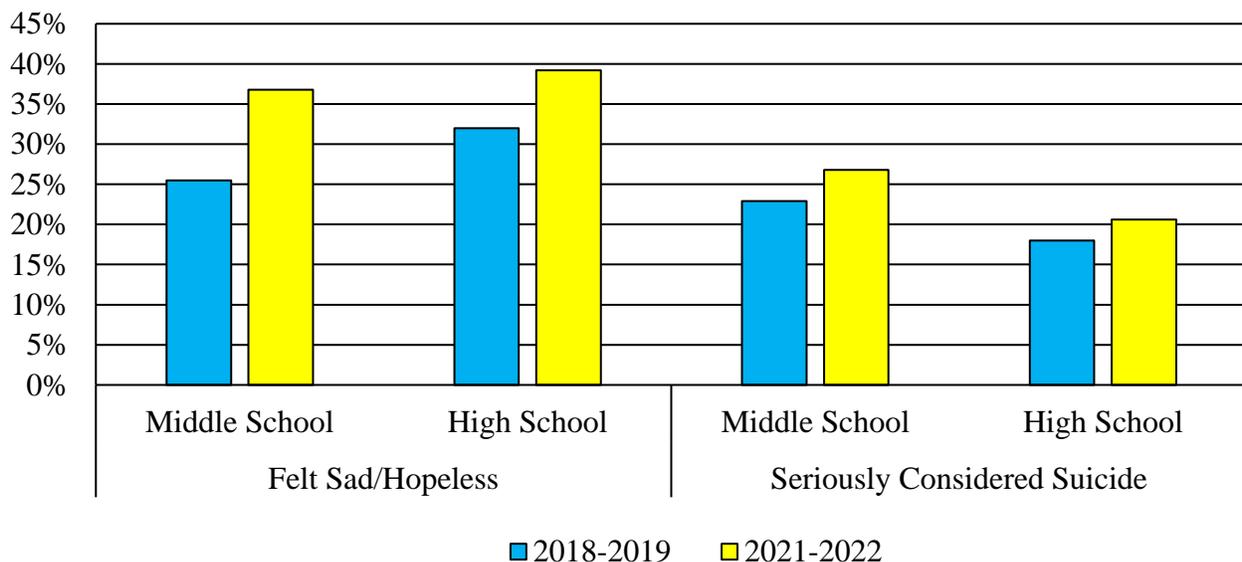
According to survey data, the mental health needs of adults and youth have remained elevated or underserved since the pandemic. The impact of social media on youth mental health is also of concern. The opioid epidemic persists, though the primary substances involved in overdose fatalities are evolving. State efforts are in place to address continued behavioral health needs.

Elevated Behavioral Health Needs Continue Post-pandemic

Youth Mental Health Needs

The *Youth Risk Behavior Survey* for the 2021-2022 school year shows that mental health in middle and high schoolers has worsened since the 2018-2019 survey. **Exhibit 1** displays the data for students reporting feeling sad/hopeless and having seriously considered suicide.

Exhibit 1
Mental Health Indicators for Maryland’s Middle and High Schoolers



Source: Maryland Department of Health, *Youth Risk Behavior Survey*; Department of Legislative Services

Impact of Social Media

The U.S. Surgeon General's Advisory from 2023 reports that social media use by youth aged 13 through 17 is nearly universal with 95% reporting use of a social media platform, and more than one-third reporting almost constant use. In 2021, students in grade 8 and grade 10 spent an average of 3.5 hours per day on social media. Research shows that adolescents who spend more than 3 hours per day on social media face double the risk of experiencing poor mental health outcomes, including symptoms of depression and anxiety.

In response, Maryland school districts in Baltimore City and Anne Arundel, Carroll, Cecil, Charles, Harford, Howard, Montgomery, Prince George's, and Talbot counties joined a complaint filed in October 2023 in the U.S. District Court for Maryland against Google, Meta, ByteDance, and Snap, Inc. alleging that the platforms target and manipulate youth to stay engaged for excessive amounts of time causing classroom distractions, child developmental delays, and mental health issues.

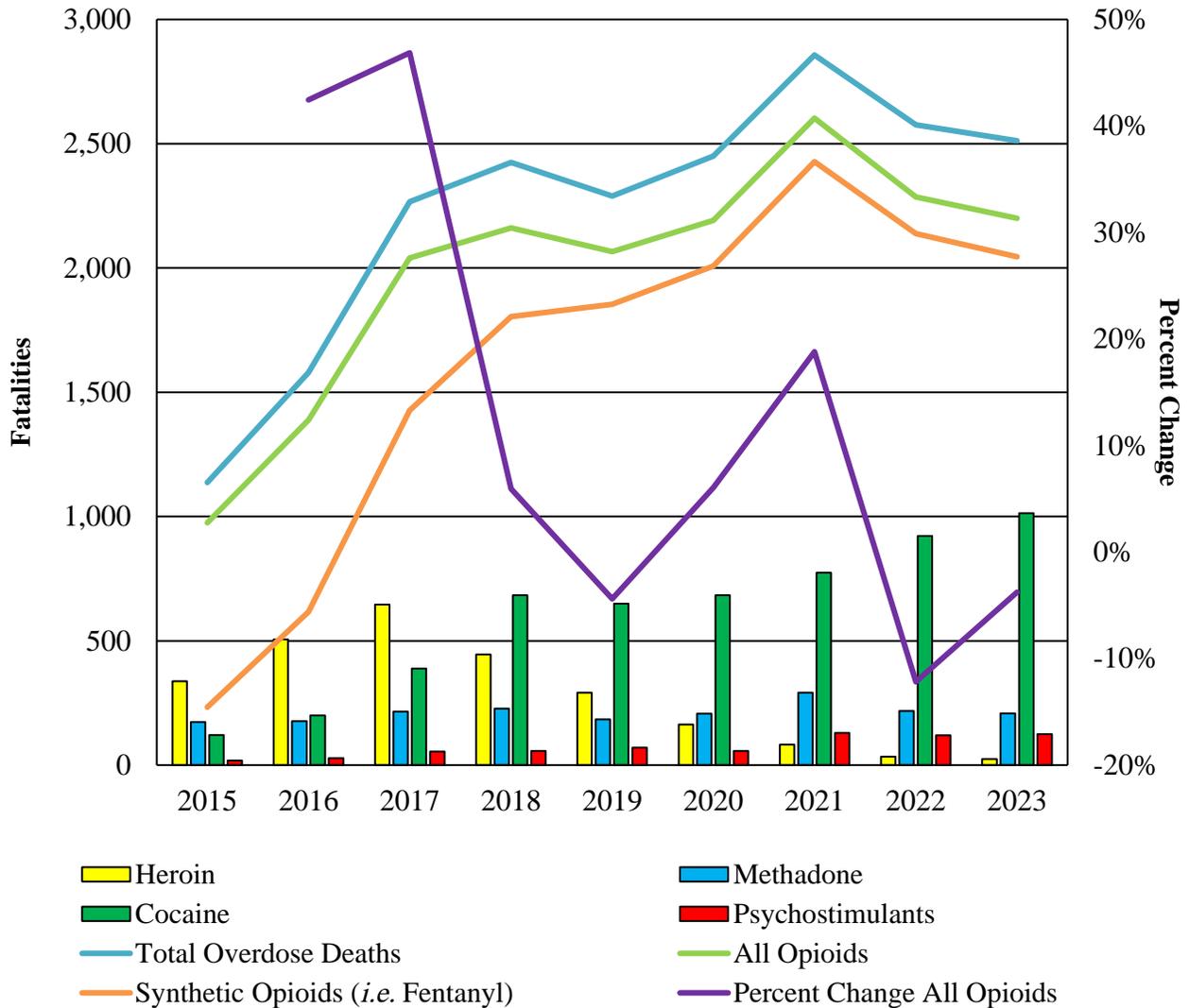
Adult Mental Health Needs

According to the U.S. Census Bureau's 2023 Household Pulse Survey (as summarized by the Kaiser Family Foundation), 27.3% of adults in Maryland reported symptoms of an anxiety and/or depressive disorder compared to 32.3% of adults nationwide. This is a decrease from the approximately 4 in 10 adults who reported these symptoms in early 2021 during the COVID-19 pandemic. However, of the adults in Maryland reporting these symptoms, 30.3% reported having an unmet need for counseling or therapy, compared to 28.2% of adults nationwide.

Opioid Epidemic and Fentanyl Overdoses

The opioid epidemic continues to persist in Maryland. Nationally, overdose fatalities involving fentanyl and stimulants (largely cocaine and methamphetamine), known as the "fourth wave" of the opioid crisis, have increased sharply. **Exhibit 2** shows yearly total overdose deaths and specific opioid and stimulant overdose deaths in Maryland for each year ending in May as well as the percentage change in opioid overdose deaths for each year.

Exhibit 2
Overdose Fatalities for Each Year Ending in May



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

While preliminary data shows that overall overdose deaths are down in Maryland from June 2022 through May 2023, there has been a significant rise in cocaine-related overdoses, which increased by 737.2% from 2015 to 2023 and 30.8% from 2021 (the State’s previous drug-related overdose fatality highwater mark) to 2023.

Over-the-counter Access to Naloxone

In March 2023, the U.S. Food and Drug Administration approved over-the-counter marketing and sales of Narcan (a nasal spray version of naloxone) that can reverse an opioid overdose when administered to a person experiencing an active overdose. Narcan began arriving on drugstore and pharmacy shelves nationwide in September 2023. However, its unpredictable retail price and general consumer confusion about whether it will be on shelves or behind the counter may mean fewer people in need will ultimately have access to it. Additionally, the rise in stimulant-related overdoses, for which naloxone is ineffective, means such that overall overdose-related deaths may continue to rise.

State Efforts to Address Continued Treatment Needs

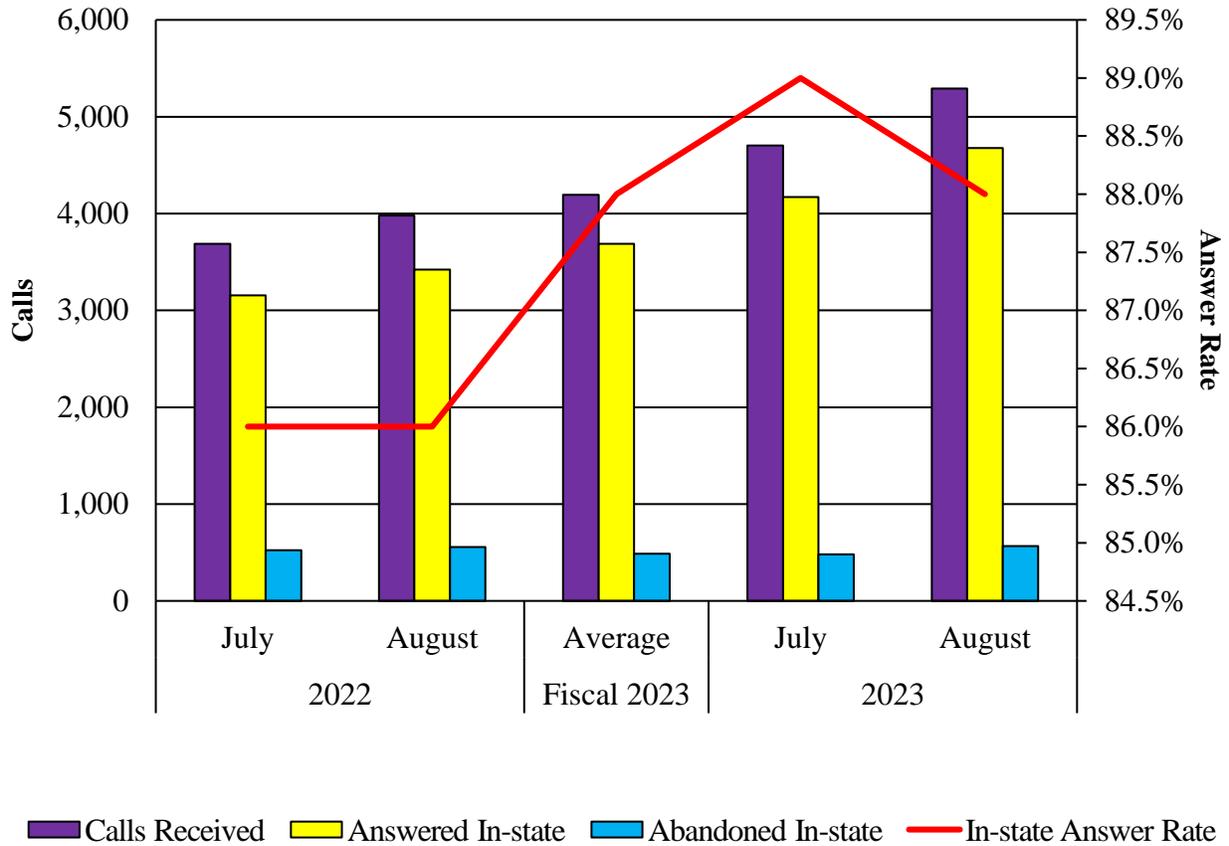
Maryland Consortium on Coordinated Community Supports

Chapter 36 of 2022 established the Maryland Consortium on Coordinated Community Supports within the Maryland Community Health Resources Commission (MCHRC). The consortium must complete certain tasks related to the development of coordinated community support partnerships to meet students' behavioral health needs and other related challenges. In August 2023, MCHRC issued its first call for proposals to expand access to student mental health services statewide, with up to \$120 million in grants available. The grant application period closed in October 2023, and the first awards are expected to be made in January 2024.

Maryland 9-8-8

Chapters 145 and 146 of 2022 required the Maryland Department of Health to designate 9-8-8 as the State's behavioral health crisis hotline by July 16, 2022, in accordance with the federal National Suicide Hotline Designation Act of 2020. **Exhibit 3** displays call data for the State's 9-8-8 hotline during fiscal 2023, and for July and August of both 2022 and 2023.

Exhibit 3
Maryland 9-8-8 Calls Received, Answered, and Abandoned



Source: Substance Abuse and Mental Health Services Administration; Department of Legislative Services

The number of calls received during July and August 2023 significantly increased from the number of calls received in July and August 2022. But even as call volumes have increased, the answer rate also increased and held steady around 88.5%.

Behavioral Health Care Coordination

2-1-1 Maryland and the Behavioral Health Administration have partnered to facilitate referrals of emergency department patients in need of community-based behavioral health services, including resources for substance use disorders and mental health conditions. The Behavioral Health Hospital Coordination Dashboard provides resources for providers, including psychiatric bed availability to assist discharge planners in locating available beds in real-time;

crisis bed facilities to indicate the availability and location of short-term community-based stabilization services; and behavioral health walk-in and urgent care centers to display information for available walk-in and same-day appointment resources. The 2-1-1 Behavioral Health Care Coordination program supports and connects hospital staff, discharge planners, and social workers in emergency departments to behavioral health resources across Maryland. An individual may also be connected to a care coordinator by dialing 2-1-1, press 4.

Commission on Behavioral Health Care Treatment

Chapters 290 and 291 of 2023 established the Commission on Behavioral Health Care Treatment and Access to make recommendations and to provide appropriate, accessible, and comprehensive behavioral health services that are available on-demand to individuals in the State across the behavioral health continuum. The commission's first report, including legislative recommendations and findings from an assessment of behavioral health services in the State identifying needs and gaps in services across the continuum, is due by January 1, 2024.

Health and Health Insurance

Unwinding the Public Health Emergency: Impacts on Medicaid and Other Assistance Programs

Program flexibilities and supplemental federal funding under the COVID-19 public health emergency have ended or are in the process of phasing out. In response, states have begun “unwinding” associated policies, with potentially significant implications for participants in Medicaid, the Maryland Children’s Health Program, and the Supplemental Nutrition Assistance Program.

Medicaid Continuous Enrollment

During the national COVID-19 public health emergency (PHE), states were eligible for an enhanced federal match on qualified Medicaid and Maryland Children’s Health Program (MCHP) spending. To qualify, states were required to freeze disenrollment with limited exceptions. Under this continuous enrollment policy, Medicaid and MCHP participants remained covered even if they were no longer eligible. As a result, caseloads increased substantially. The federal Consolidated Appropriations Act of 2023 ended continuous enrollment on March 31, 2023, and established a phase-down of the enhanced match through December 2023. Beginning April 1, 2023, states could resume Medicaid disenrollments.

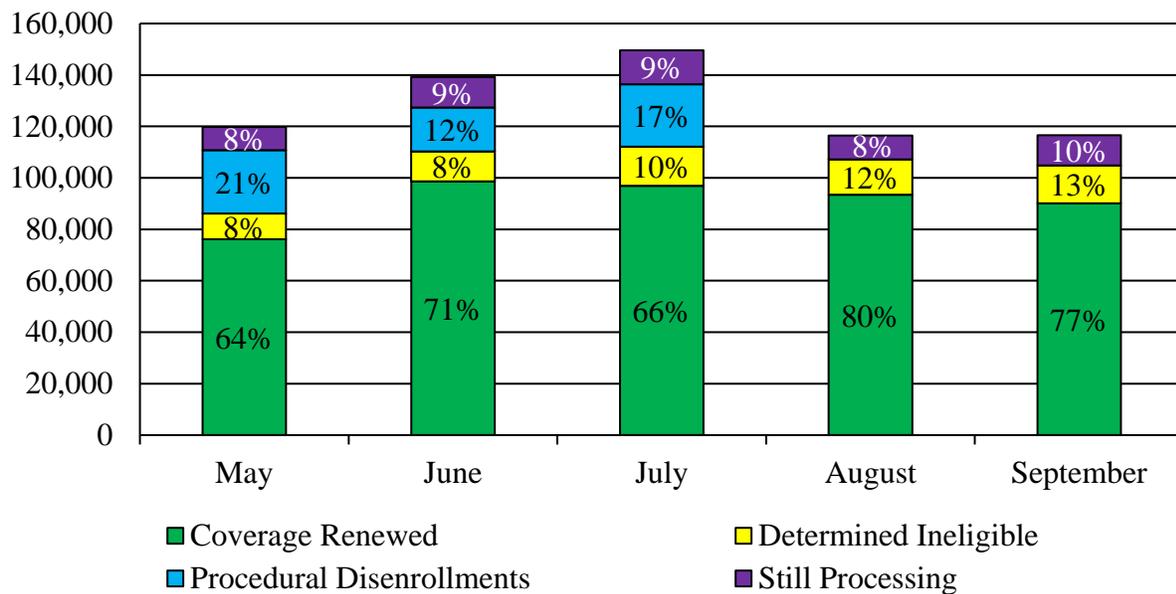
Unwinding Continuous Enrollment

The Maryland Department of Health (MDH) outlined a 12-month eligibility redetermination schedule in which Maryland will complete renewals over 12 cohorts, with the first disenrolled individuals losing their Medicaid or MCHP coverage at the end of May 2023. The department’s schedule follows federal guidance discouraging states from initiating renewals for more than one-ninth of the total caseload each month. Additionally, MDH is prioritizing participants who appear to be ineligible due to reporting increases in income or aging out. These individuals’ eligibility will be redetermined within the first 7 months of the unwinding period.

From May through September 2023, MDH completed a total of 638,602 renewals. As shown in **Exhibit 1**, of the total renewals completed each month, at least 64% were renewed for coverage. However, procedural disenrollments (loss of coverage due to a renewal not being completed, outstanding verification documents, or returned mail) accounted for 17% to 21% of renewal outcomes in May through July 2023. In August 2023, the federal Centers for Medicare and Medicaid Services noted that many state systems were processing automatic eligibility determinations (referred to as ex parte renewals) at the household rather than the individual level. This process could lead to unnecessary procedural terminations, especially among children who have higher income thresholds, to be considered eligible for Medicaid or MCHP. In response,

MDH paused all procedural disenrollments from August through November 2023, reinstated coverage for approximately 5,000 children, and began making system changes to the automatic enrollment process.

Exhibit 1
Eligibility Redetermination Results by Month
May 2023 to September 2023

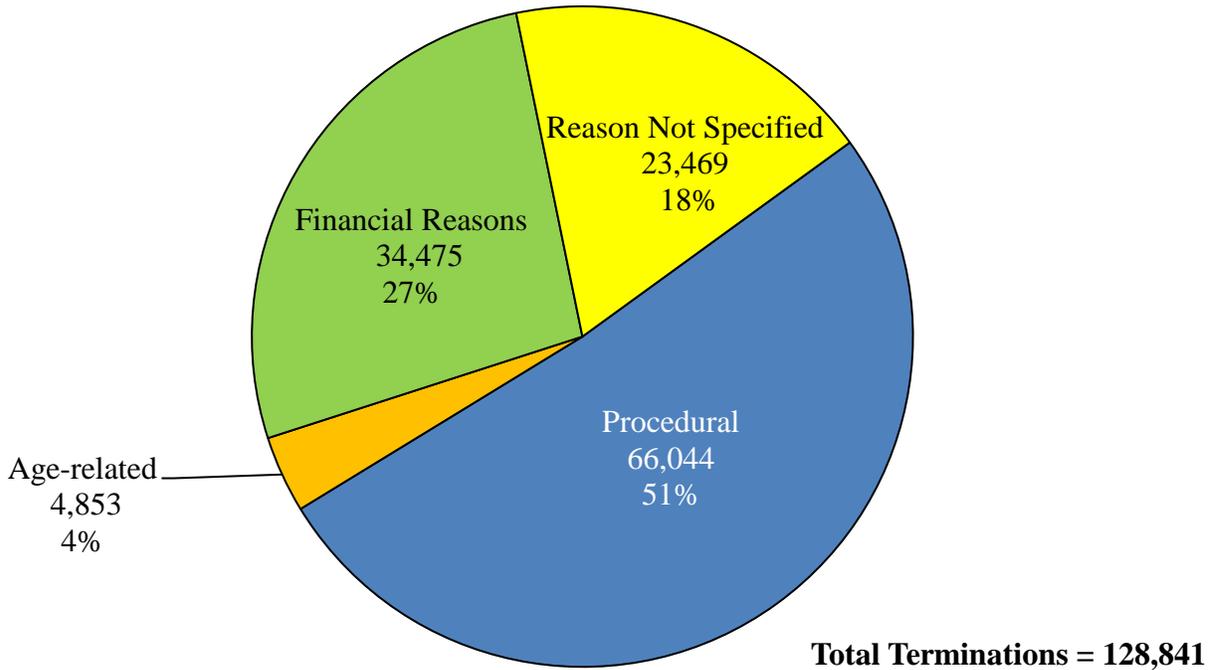


Note: Percentages may not sum to 100% due to rounding. Percentages show the share of individuals receiving each determination out of total renewals that month. Procedural terminations were suspended from August through November 2023.

Source: Maryland Department of Health; Department of Legislative Services

As shown in **Exhibit 2**, Maryland disenrolled a total of 128,841 participants from Medicaid and MCHP between May and September 2023. Approximately 51% of all disenrollments were due to procedural reasons, rather than MDH finding the participants ineligible. However, some individuals who were determined ineligible for procedural reasons, such as not reapplying, may have chosen not to reapply due to anticipated ineligibility. The leading reasons for disenrollment among ineligible participants were financial, such as income over scale, accounting for 27% of terminations. Prior to the continuous eligibility requirement, individuals temporarily losing Medicaid coverage and later reenrolling was common.

Exhibit 2
Medicaid Coverage Terminations by Reason
May 2023 to September 2023



Source: Maryland Department of Health; Department of Legislative Services.

While a total of 128,841 participants were terminated from coverage between May and September 2023, new and returning enrollees partially offset the disenrollments. Total Medicaid and MCHP enrollment declined by a net of 3.1% or 54,741 participants during that time period.

Maryland Department of Health Efforts

During the unwinding of continuous enrollment, MDH has requested federal flexibilities to ensure eligible individuals stay covered by Medicaid/MCHP or transition to other appropriate coverage. MDH has numerous federal waivers that allow the department to, among other things: (1) temporarily renew Medicaid/MCHP eligibility for Supplemental Nutrition Assistance Program (SNAP) participants using gross income as determined by SNAP; (2) temporarily “easy enroll” individuals into a qualified health plan (QHP) and conduct federal advanced premium tax credit/cost-sharing reduction determinations using third-party data; (3) complete ex parte renewals for certain individuals without further verification of assets or income documentation; and (4) temporarily waive asset requirements for certain beneficiaries.

MDH has also adopted strategies that do not require federal approval. Non-Modified Adjusted Gross Income cases will be granted an additional 30 days to return renewal applications. The reconsideration period has been extended to 120 days, enabling participants disenrolled for procedural reasons to complete their renewal without needing to begin a new application. A special enrollment period has opened for individuals who are no longer eligible due to income to enroll in low-cost QHPs through Maryland Health Connection. MDH has partnered with enrollment brokers to update beneficiary contact information without additional confirmation from the individual. In addition, MDH has a targeted marketing and media plan, as well as grassroots outreach efforts.

Supplemental Nutrition Assistance Program

During the COVID-19 PHE, SNAP included emergency allotments that provided recipients with the maximum benefit for a household's size. These allotments ended after February 2023 issuances, resulting in an average monthly benefit decline of approximately \$100 per month per benefit case.

The federal government also temporarily issued numerous administrative waivers and flexibilities regarding SNAP, including a waiver of the able-bodied adults without dependents (ABAWD) three-month time limit, an extension of administrative disqualification of hearing timelines and fair hearing timelines, a waiver of establishment of claims resulting from pandemic-caused overissuances, an adjustment of timeframes for establishing or disposing of new claims, and conducting quality control interviews via telephone. With the exception of telephone quality control interviews, which are permitted through September 2024, these flexibilities generally ended June 30, 2023.

ABAWDs began reaching their three-month time limits in October 2023. The Department of Human Services (DHS) advises that it has 75,000 exemptions that will cover affected individuals through December 30, 2023; therefore, the earliest date by which ABAWDs may be subject to case closure is January 2024. DHS further advises that while there are approximately 35,000 ABAWDs statewide, 21,000 (60%) live in Baltimore City or Prince George's, Somerset, Wicomico, or Worcester counties. These jurisdictions are covered by new ABAWD waivers through June 30, 2024. However, the federal Financial Responsibility Act expands ABAWD requirements, which currently apply to individuals aged 18 to 49, to include individuals aged 50 through 54 between September 2023 and October 2024. This change is estimated to increase Maryland's ABAWD population by 12,500 individuals.

Health and Health Insurance

Status of Health Care Reform and Maryland's Insurance Market

Health insurance rates will increase an average of 4.7% in the individual market and 6.9% in the small group market in 2024. Aetna will enter the individual market in 2024, which will provide a choice of at least three insurance carriers in every jurisdiction. In July 2023, the federal waiver renewal request for the State Reinsurance Program was approved, extending the waiver through 2028. 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 has declined from 11.3% in 2010 to 6.1% in 2022. Contrary to expectations that the COVID-19 pandemic would increase the number of uninsured, Maryland's uninsured rate has remained essentially unchanged since 2020. The largest gains in health care coverage in Maryland since passage of the ACA have occurred through the expansion of Medicaid, with 455,948 individuals enrolled under the expansion as of September 30, 2023.

Enrollment in qualified health plans (QHP) through the Maryland Health Benefit Exchange (MHBE) increased in 2023, with 189,855 individuals enrolled as of September 30, 2023, – a 13% increase over the 167,716 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 (78%) receive a federal advanced premium tax credit (APTC) to help pay their monthly premiums. At 239,572 enrollees in 2023, enrollment in the small group market is down by 4.0%, following a 2.5% decline in 2022, a trend that has continued since 2018 when enrollment was 270,267.

Individual and Small Group Market Rates

For the third year in a row, individual market premium rates approved by the Maryland Insurance Administration will increase in 2024. Calendar 2023 rates increased by an average of 6.6%. Calendar 2024 rates will increase by an average of 4.7%. 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). For calendar 2024, deductibles range from \$0 to \$9,450 for bronze plans, \$0 to \$8,200 for silver plans, and \$0 to \$1,750 for gold plans (the most purchased plan).

Existing carriers in the State's individual exchange (CareFirst, UnitedHealthcare, and Kaiser Permanente) will continue to offer the same number of bronze, silver, and gold QHPs in 2024. Aetna, a new entrant to the individual market, will offer consumers an additional nine QHPs from which to choose. With the entry of Aetna, all Maryland individual market consumers will be able to select from at least three insurance carriers compared to 2020, when only CareFirst plans were available to consumers in 13 counties.

Small group market rates will increase by an average of 6.9% in calendar 2024, which follows an increase of 7.6% in calendar 2023. The primary driver of rate increases is higher than anticipated trend levels that have produced an average pricing trend of 7.8% 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), Maryland's SRP, the State-Based Young Adult Health Insurance Subsidies Pilot Program, the Easy Enrollment Health Insurance Program, an enrollment initiative for unemployment insurance (UI) claimants, and State efforts to study options for offering health care coverage to noncitizens.

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, ARPA made APTCs available for individuals with incomes above 400% FPL and significantly increased APTCs. IRA extended these enhanced federal premium subsidies through calendar 2025.

State Reinsurance Program

SRP is authorized under a federal State Innovation Waiver. Initially granted in August 2018 and set to expire at the end of calendar 2023, the waiver was renewed in July 2023 for an additional five-year period, beginning in calendar 2024 and continuing through calendar 2028.

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 \$20,000 and \$250,000. Payments to carriers are made after the plan year ends and all costs have been reconciled. Over a five-year period, SRP has reduced individual market premiums by more than 20% and helped stabilize the individual market, which had experienced double-digit rate increases – as high as 50% – before the program took effect. According to the federal Centers for Medicare and Medicaid Services, in 2023, Maryland offered the third lowest average monthly premiums in the nation (\$472) for households that purchase coverage through a state marketplace, behind only Utah (\$431) and New Hampshire (\$469).

SRP paid out approximately \$485 million in 2022 and is projected to pay out \$544 million in 2023 and \$579 million in 2024. Through calendar 2021, federal pass-through funding alone was sufficient to cover reinsurance costs. In calendar 2022, program costs (\$485 million) exceeded federal funding (\$344 million), requiring SRP to begin spending down the program's State funds. While the balance of State funds fell from \$544 million in 2021 to \$459 million in 2022, the balance is forecasted to increase from 2023 through 2025 and reach \$496 million by the end of 2025. The balance is projected to decline steadily over the subsequent three years, falling to \$336 million by the end of 2028.

The current forecast reflects the State's receipt of federal pass-through funding in 2023 that was 7.8% higher than projected and assumes increased federal pass-through funding in subsequent years. Additionally, the forecast projects lower annual reinsurance costs, based on the following factors: (1) 2022 reinsurance costs came in 6.7% lower than projected (\$485 million vs. \$520 million); (2) MHBE increased the attachment point to \$20,000 in 2024; and (3) an assumption that the attachment point will be increased further (by \$1,000 annually) beginning in 2025.

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; Chapters 256 and 257 of 2023 extended the program through calendar 2025. MHBE may designate a maximum of \$20.0 million in annual subsidies from the MHBE Fund – in fiscal 2024 through 2026 – to young adults under the pilot program. In 2023, young adults ages 18 to 34 with incomes between 133% and 400% FPL were eligible for State premium assistance subsidies that reduced their maximum expected premium contribution. The highest subsidies were available to those age 30 or younger. For 2024, MHBE is expanding the program to include individuals up to age 37, while also extending eligibility for the maximum subsidy available under the program to enrollees aged 33 or younger.

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 of Maryland 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. As of June 16, 2023, more than 16,800 eligible individuals expressed interest in coverage on their tax year 2022 State income tax return, and 1,493 individuals (8.9%) enrolled in a special enrollment period during tax time with more expected to enroll during the 2024 open enrollment period. Overall, during the first four years of the program, more than 117,000 individuals checked the box on their State income tax returns, and more than 11,000 individuals enrolled in coverage, approximately three-quarters of whom enrolled in Medicaid.

Enrollment Initiative for Unemployment Claimants

Chapter 49 of 2021 requires the Maryland Department of Labor (MDL) to operate 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 (MDH) to determine whether the individual qualifies for free or low-cost health insurance and, if so, to help the individual enroll. MHBE and MDL launched an easy enrollment process for UI claimants in May 2022. From the initiative's inception through May 31, 2023, more than 57,500 eligible households checked the box on their UI form indicating an interest in obtaining health insurance, and nearly 7,000 individuals either enrolled in Medicaid or a QHP.

Extending Health Care Coverage to Noncitizens

According to MHBE, as of 2021, approximately 364,000 Marylanders were uninsured. Nearly one-third of the uninsured (112,400) are noncitizens who generally do not qualify for Medicaid or the Maryland Children's Health Program (MCHP) and cannot buy QHPs or receive related federal financial assistance. Maryland extended Medicaid coverage to noncitizen pregnant women who would be eligible for Medicaid but for their immigration status effective July 1, 2023.

As of September 2023, 12 states and the District of Columbia provide comprehensive state-funded coverage to all income-eligible children regardless of immigration status, while five states and the District of Columbia provide state-funded coverage or subsidies to eligible adults regardless of immigration status (some with limited benefits or to limited age groups). Two states (Colorado and Washington) secured federal waivers that allow noncitizens to purchase QHPs with state-funded subsidies. Chapter 384 of 2023 requires MHBE and MDH to develop a report comparing options for offering affordable health care and dental care coverage to State residents who are ineligible for Medicaid, MCHP, QHPs, or stand-alone dental plans through MHBE due to immigration status. This report is anticipated in November 2023.

Health and Health Insurance

Medicaid Enrollment and Programmatic Changes

Suspension of eligibility redetermination and disenrollment during the COVID-19 pandemic resulted in significant caseload increases. While redeterminations have resumed, enrollment in fiscal 2024 is expected to be higher than budgeted and require additional funding. Given resumption of redeterminations and general economic improvement, fiscal 2024 and 2025 caseloads are projected to decline along with associated spending. Several pieces of legislation enacted in 2023 altered program requirements.

Enrollment Trends and Resumption of Eligibility Redetermination

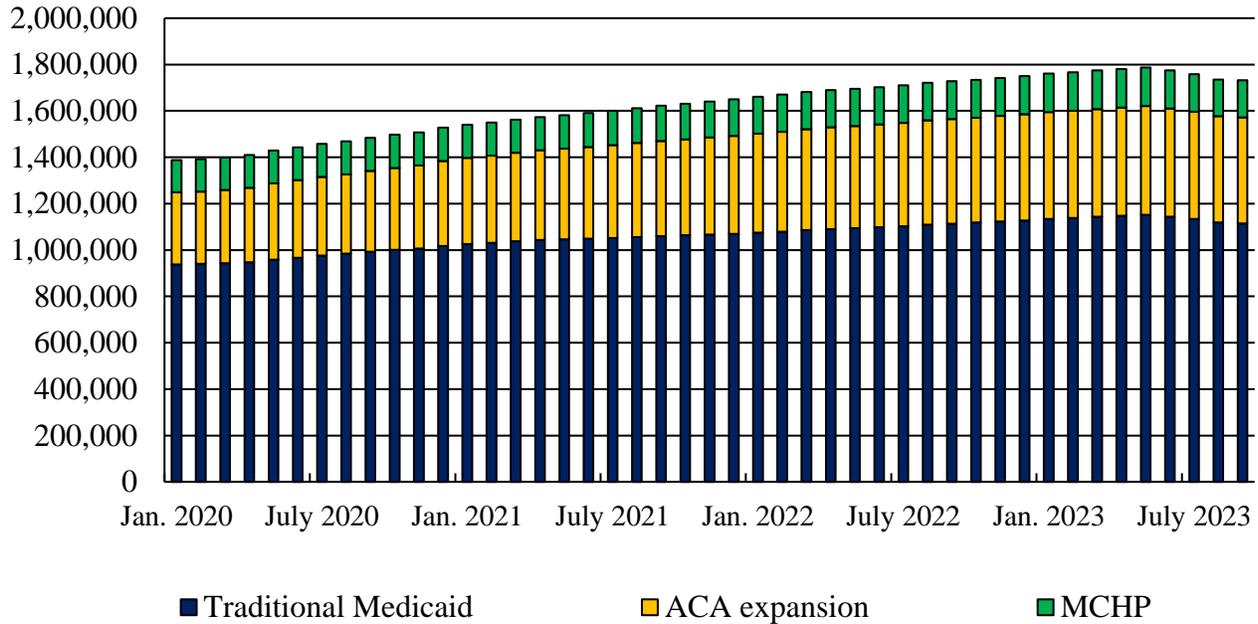
Maryland's Medical Care programs (including Medicaid, the Maryland Children's Health Program (MCHP), and other programs) provide eligible low-income individuals with comprehensive health care coverage. Both State and federal funds support the programs. Fiscal 2025 federal fund participation rates are 50% to 90% for Medicaid (depending on the eligibility category) and 65% for MCHP.

Per Chapter 28 of 2022, effective July 1, 2023, noncitizen pregnant women who qualify for Medicaid but for their immigration status are eligible for coverage with a 65% federal matching rate. As of September 2023, 4,725 noncitizen pregnant women were enrolled, quickly approaching the Maryland Department of Health's (MDH) estimate of 6,000 women gaining coverage in the first year.

As a condition of receiving enhanced federal matching funds during the COVID-19 public health emergency (PHE), MDH was required to freeze disenrollment with limited exceptions. The continuous enrollment requirement ended April 1, 2023. MDH initiated a 12-month unwinding period on that date and resumed eligibility redetermination that could result in disenrollment, with the first disenrolled individuals losing coverage at the end of May 2023.

During the PHE's continuous enrollment requirement, Medicaid and MCHP caseloads increased significantly. As shown in **Exhibit 1**, caseloads grew from 1.39 million participants in January 2020 to 1.79 million in May 2023 (28.8%). Adults served under the Affordable Care Act expansion experienced the highest enrollment growth rate (50.7%) as monthly enrollment increased from 311,202 in January 2020 to 468,979 in May 2023.

**Exhibit 1
Monthly Medicaid and MCHP Enrollment
January 2020 to September 2023**



ACA: Affordable Care Act
MCHP: Maryland Children’s Health Program

Note: Beginning in July 2023, MCHP includes noncitizen pregnant women receiving Medicaid coverage as required by Chapter 28 of 2022.

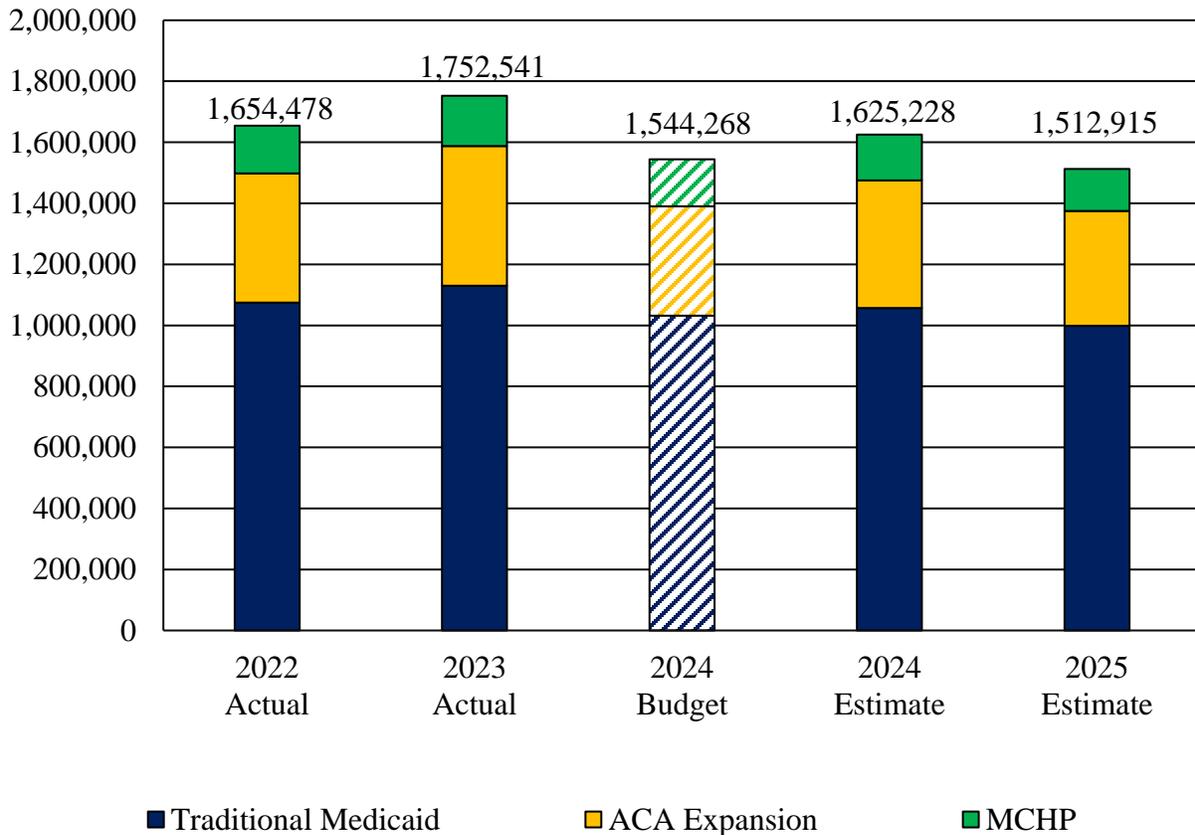
Source: Maryland Department of Health; Department of Legislative Services

Fiscal 2024 and 2025 Outlook

From May to September 2023, MDH reported a net decrease of about 55,000 monthly Medicaid and MCHP participants. These early redetermination results yielded fewer disenrollments than expected in prior projections, partially due to a system error causing MDH to temporarily pause procedural disenrollments (cases in which participants did not complete their renewals or had outstanding verification documents). As a result, the Department of Legislative Services (DLS) estimates that there will be about 81,000 more participants per month in fiscal 2024 compared to what was budgeted in the fiscal 2024 legislative appropriation. A deficiency appropriation will be needed to cover the additional enrollees.

Given the ongoing unwinding process and general economic improvement, DLS projects that fiscal 2024 and 2025 Medicaid and MCHP caseloads will decline substantially (at least 7%) from fiscal 2023 actual enrollment. As shown in **Exhibit 2**, fiscal 2024 and 2025 estimated average monthly enrollment is 1.63 million and 1.51 million, respectively. Anticipated caseload declines and changes in utilization drive DLS’s baseline estimate that Medicaid and MCHP spending, including Medicaid-funded behavioral health services, will decrease from \$14.75 billion in the fiscal 2024 appropriation (adjusted for projected deficiencies) to \$14.56 billion in fiscal 2025, a reduction of \$190 million in total funds.

Exhibit 2
Medicaid and MCHP Average Monthly Enrollment
Fiscal 2022-2025 Estimate



ACA: Affordable Care Act
 MCHP: Maryland Children’s Health Program

Source: Maryland Department of Health; Department of Legislative Services

State Legislation Impacting Medicaid

Legislation from the 2023 session altered program coverage and requirements, with select changes described as follows.

- ***Biomarker Testing:*** Chapters 322 and 323 of 2023 require Medicaid, beginning July 1, 2025, to provide coverage for biomarker testing for the diagnosis, treatment, appropriate management, or ongoing monitoring of a disease or condition that is supported by medical and scientific evidence.
- ***Gender-affirming Treatment:*** Chapters 252 and 253 of 2023 express the intent of the General Assembly that Medicaid provide gender-affirming treatment to all Medicaid recipients for whom gender-affirming treatment is medically necessary, including transgender, nonbinary, intersex, two-spirit, and other gender diverse individuals. Beginning January 1, 2024, Medicaid must provide coverage for gender-affirming treatment, meaning any medically necessary treatment consistent with current clinical standards of care prescribed by a licensed health care provider for the treatment of a condition related to the individual's gender identity.
- ***Express Lane Eligibility:*** Chapters 282 and 283 of 2023 require MDH, by January 1, 2025, to establish an Express Lane Eligibility Program to enroll individuals in Medicaid and MCHP based on eligibility findings by the Supplemental Nutrition Assistance Program (SNAP). During the unwinding period (April 1, 2023, to April 1, 2024) MDH is using a federal waiver to renew Medicaid eligibility based on SNAP participation.
- ***Collaborative Care:*** Chapters 284 and 285 of 2023 repeal the Collaborative Care Pilot Program and instead require MDH to implement and provide reimbursement for services rendered in accordance with the Collaborative Care Model statewide in primary care settings that provide health care services to Medicaid recipients.
- ***Reimbursement for Prescription Drugs:*** Chapter 217 of 2023 requires MDH and the Prescription Drug Affordability Board to jointly study, by October 31, 2023, the total amount that managed care organizations paid pharmacies for prescription drug claims in calendar 2021 and 2022; what the total amount paid to pharmacies would have been if claims had been reimbursed at fee-for-service rates; and how to best address the inconsistency between these amounts by considering the total cost to the State and recommending a methodology for determining the most accurate ingredient cost of a drug and an appropriate dispensing fee.
- ***Medicaid Waiver Programs:*** Chapters 635 and 636 of 2023 authorize funding provided in the fiscal 2023 budget for Autism Waiver expansions to instead be used more broadly for Medicaid waiver expansions. A portion of funds (1) must be used to provide community

services to individuals waiting for services through the Community Pathways Waiver, the Community Supports Waiver, the Family Supports Waiver, the Brain Injury Waiver, the Home- and Community-based Options Waiver, the Medical Day Care Services Waiver, and the Model Waiver for Medically Fragile Children and (2) may be used to expand provider capacity in these waivers and the Autism Waiver, including hiring and retaining staff and providers, increasing provider rates, and addressing other issues that limit provider capacity.

Health and Health Insurance

Health Care Workforce Issues

Workforce shortages continue to be a pervasive issue limiting access to health care in the State. While a variety of steps have been taken to address problems contributing to the shortage, regulatory changes, administrative difficulties, and other factors continue to impact the health care workforce.

Workforce Shortages

A significant issue impacting the delivery of health care in Maryland is the nationwide workforce shortage. Shortages have been observed throughout the health care industry, including in hospitals, nursing homes, and primary care settings, and within nearly every health care occupation.

Maryland Hospital Association Health Care Workforce Report

In August 2022, the Maryland Hospital Association (MHA) issued a report on the State's health care workforce that identified an overall hospital occupations vacancy rate of more than 21%. As of December 31, 2021, the vacancy rate for registered nurses (RN), nursing assistive personnel, and nurse practitioners (NP) exceeded 25%, 23%, and 21%, respectively. The vacancy rate for licensed practical nurses (LPN) was more than 37%. By June 2023, vacancy rates decreased but remained high. The vacancy rate for LPNs fell to 19%, and rates for RNs, nursing assistive personnel, and NPs decreased by more moderate amounts. The overall hospital vacancy rate fell to 12%. Other data collected by MHA showed a turnover rate of nearly 29% among all hospital occupations in fiscal 2023. Turnover among patient care-related staff was highest among LPNs and nursing assistive personnel, both with a turnover rate exceeding 40%. Of licensees who responded to the 2022 survey, 62% had thought about leaving nursing, with 40% of those citing feelings of being overworked, burned out, and underappreciated as the primary reason for leaving the field.

Labor Disputes

Issues related to workforce shortages have contributed to labor disputes. In October 2023, 75,000 nurses, medical technicians, and support staff employed by Kaiser Permanente went on a 72-hour strike seeking better pay and measures to ease chronic staff shortages and high turnover that, according to union officials, had undermined patient care. In the weeks following the strike, nurses at Allegheny General Hospital in Pittsburgh, Pennsylvania, also voted to authorize a strike. According to the union representing the nurses, the vote came after nurses asked the hospital to

address compensation, staff shortages, and the need for other improvements involving patient and nurse safety.

Proposed Minimum Staffing Levels

Regulatory requirements also impact workforce shortages. Recent proposed changes to nursing home staffing requirements have raised concerns about the availability of appropriately trained personnel. In September 2023, the federal Centers for Medicare and Medicaid Services (CMS) published proposed regulations that would alter nursing home staffing requirements, adjusting the skill levels of workers required for appropriate supervision of residents. Trade groups in Maryland have raised concerns about the current workforce's ability to meet those requirements. While State regulations currently require the same number of hours of bedside care each day as the CMS proposal, State requirements allow greater flexibility as to who can provide that care. Specifically, the proposed federal standards would increase the need for RNs, already in short supply. Meanwhile, many nursing programs are already at full capacity due to a lack of qualified instructors and on-the-job learning opportunities for nursing students.

While facilities are concerned that they will not be able to find or train the required number of staff, labor organizations and advocates for health care workers have been supportive of the requirements, as such minimum standards may reduce strain on the employees who have struggled with high workloads and a lack of appropriate training.

Loan Repayment Assistance

The cost of education has been cited as a barrier to entry into many health occupations. The Maryland Loan Assistance Repayment Program (MLARP) for physicians and physician assistants provides student loan repayment assistance in exchange for service commitments to help ensure that underserved areas of the State have sufficient numbers of primary care physicians and physician assistants. Chapters 395 and 396 of 2022 expanded eligibility for the program to include a part-time physician or part-time physician assistant and authorized the Maryland Department of Health (MDH) to establish prorated loan repayment for part-time practitioners. Chapters 395 and 396 also established the MLARP Advisory Council for Physicians and Physician Assistants as a permanent advisory council modeled on recommendations issued by a stakeholder workgroup established in 2020. The advisory council must, among other things, seek permanent and diverse revenue sources to aid in the stability and further development of the program.

Chapter 314 of 2022 established the MLARP for nurses and nursing support staff modeled after the physician and physician assistant program and required MDH to convene a stakeholder workgroup to examine how to further incentivize nursing and nursing support staff students to practice in specified areas. The workgroup's final report is due December 1, 2023.

Health Occupations Boards

Several health occupations boards in the State have experienced significant issues in recent years that have been linked to workforce shortages.

Board of Nursing

The State Board of Nursing, which regulates RNs, LPNs, certified nursing assistants, and other related health occupations, has faced reports of dysfunction due to administrative problems, including delays in processing new and renewal licenses. Chapters 222 and 223 of 2023 transferred authority over the “infrastructure operations” of the board to the Secretary of Health through June 30, 2025, and required MDH to provide additional financial support for the board. Chapters 222 and 223 also required the board to hire an external consultant to conduct an independent evaluation of the board and develop an action plan. The consultant hired, Ernst and Young, submitted the action plan report on September 1, 2023. In addition, the Office of Program Evaluation and Government Accountability in the Department of Legislative Services is conducting a performance evaluation of the board that will be completed before the 2024 session.

Board of Social Work Examiners

In September 2022, data revealed significant racial disparities in the pass rates for the nationally recognized social work licensing exam developed by the Association of Social Work Boards. Chapter 228 of 2023 established the Workgroup on Social Worker Requirements for Licensure, which must determine (1) whether the State should continue to use the examinations developed by the Association of Social Work Boards as a requirement for a bachelor social worker or master social worker license; (2) whether the State should establish a temporary license for applicants who complete all of the licensure requirements except for passing the examination; and (3) how to provide supervision at no cost to bachelor social worker and master social worker licensees. Additionally, the workgroup must examine each type of license issued by the board and make recommendations to eliminate bias and make the process for licensing social workers in the State more fair, diverse, and efficient. The workgroup was required to submit a preliminary report of its findings and recommendations by September 1, 2023, but had not yet begun meeting. The workgroup is further required to submit an interim report by December 1, 2023, including a timeline for phasing in any determinations made in the findings of the preliminary report and an outline and timeline for conducting a specified study, and a final report of its findings from the study and recommendations by December 1, 2024.

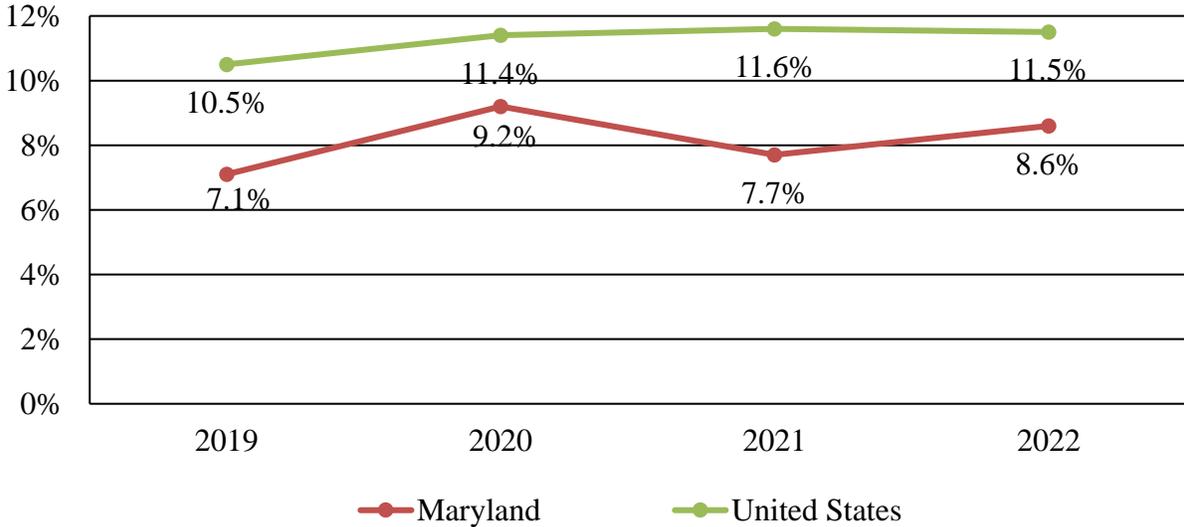
Poverty Measures

In 2022, the official poverty rate in both Maryland and the nation exceeded prepandemic levels. After declining in 2021, Maryland’s child poverty rate grew significantly in 2022. Disparities in child poverty persist among jurisdictions. The return to prepandemic poverty levels can be attributed primarily to the expiration of pandemic-related economic relief. Maryland has taken recent legislative actions intended to reduce poverty in the State.

Overall Poverty Rates Exceed Prepandemic Levels

The U.S. Census Bureau measures the official poverty rate by comparing pretax income to a poverty threshold based on family size (\$23,280 for a family of three in 2022). The Supplemental Poverty Measure (SPM) also considers noncash benefits and tax credits and illustrates the impact of such programs on reducing poverty rates. As shown in Exhibit 1, the 2022 official poverty rates in both Maryland and the United States exceeded prepandemic levels.

Exhibit 1
Official Poverty Rates in Maryland and the United States
Calendar 2019-2022



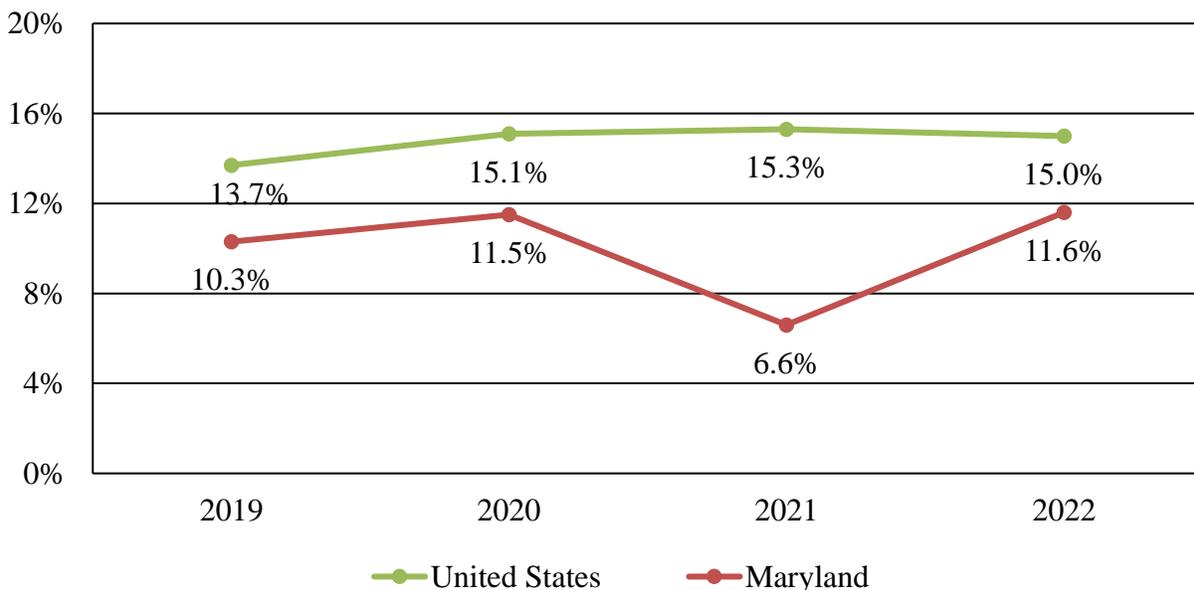
Source: U.S. Census Bureau

In 2022, the national official poverty rate was 11.5%, nearly unchanged from 2020 and 2021, but higher than 2019 (10.5%). The national SPM was 12.4% in 2022, which is 4.6 percentage points higher than 2021, and is the first increase in the overall SPM since 2010. Between 2019 and 2022, Maryland's official poverty rate remained lower than the national rate but increased from 7.1% to 8.6%. Based on a three-year average during calendar 2020-2022, the U. S. Census Bureau reports that Maryland's SPM was higher than the State's official poverty measure.

Child Poverty Rates Increase after Historic Lows

Child poverty rates are measured as a proportion of children younger than 18 living in families with income at or below 100% of the federal poverty level. While the national child poverty rate remained relatively unchanged from 2020 through 2022, the national SPM child poverty rate was 12.4% in 2022, which is more than twice the record low rate in 2021 (5.2%). Maryland's official child poverty rate was 11.6% in 2022, which is 5 percentage points higher than the record low in 2021 (6.6%). As shown in **Exhibit 2**, after a sharp decline in 2021, Maryland's child poverty rate grew significantly in 2022.

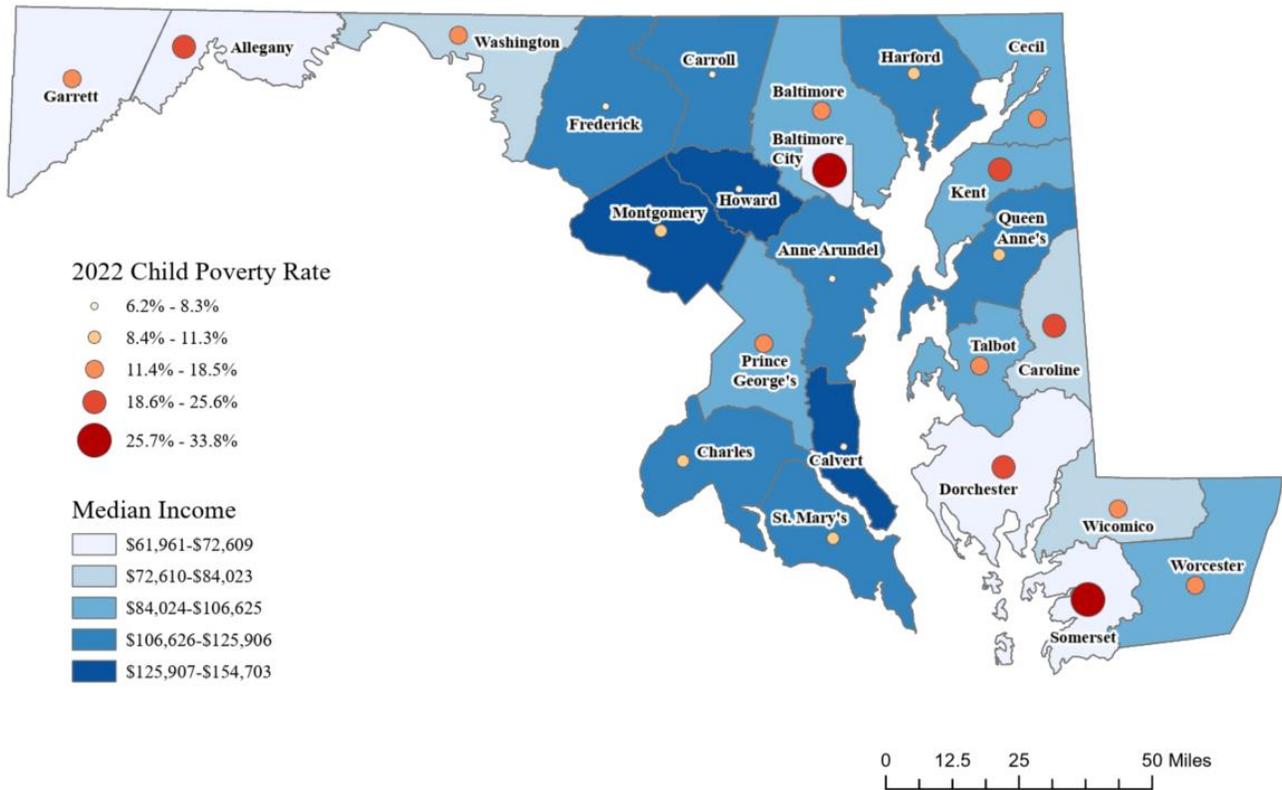
Exhibit 2
Child Poverty Rates in Maryland and the United States
Calendar 2019-2022



Source: U.S. Census Bureau

Within Maryland, disparities in child poverty rates continue among jurisdictions. As shown in **Exhibit 3**, in 2022, child poverty rates ranged from 6% in Carroll County to 34% in Baltimore City. In 2022, 12 of Maryland’s 24 jurisdictions had child poverty rates above the national official child poverty rate of 15.0%, and 14 jurisdictions had child poverty rates above the State average. The dimensions contributing to child poverty are complex, but Maryland jurisdictions with the highest child poverty rates typically correspond with lower median income and high rates of unemployment.

Exhibit 3
Child Poverty Rates and Median Income in Maryland Jurisdictions
Calendar 2021-2022



Note: Income data is from calendar 2021. Child poverty rate data is from 2022.

Source: U.S. Census Bureau; Department of Legislative Services

Poverty Rates Rise as Pandemic Stimulus Measures End

The U.S. Census Bureau measures the impact of cash, noncash transfers, and taxes on the SPM. Their analysis indicates that Social Security benefits play a major role in mitigating poverty,

particularly among those 65 and older. Other significant factors in reducing poverty are refundable tax credits, Supplemental Nutrition Assistance Program (SNAP) and school lunch benefits, housing subsidies, Supplemental Security Income, and the federal Child Tax Credit (CTC).

In 2021, the federal American Rescue Plan Act provided significant pandemic-related economic relief, including stimulus payments, enhanced SNAP and school lunch benefits, and an expansion of the federal CTC and the federal Child and Dependent Care Tax Credit (both of which were made fully refundable in 2021). These benefits led to a sharp decline in the poverty rate, including a 4-percentage point reduction in the child poverty rate (the largest one-year decline on record). The U.S. Census Bureau estimates that the federal CTC kept 5.3 million individuals (including 2.9 million children) out of poverty in 2021 as families accessed earned income to spend on food, housing, and other necessities. With the expiration of temporary pandemic assistance in 2022, poverty rates were predicted to grow, which the most recent poverty data confirms occurred. In addition to the loss of pandemic-related assistance, consumer prices increased by 7.8% between 2021 and 2022.

Recent Legislative Actions in Maryland That May Reduce Poverty

Although expansion of the federal CTC expired in 2022, Chapter 4 of 2023 (The Family Prosperity Act) permanently extended the temporary expansion of the Maryland earned income tax credit (EITC) under Chapters 39 and 40 of 2021, eliminated an existing limit on the value of the State refundable EITC for individuals without qualifying children, and permanently extended and altered eligibility for the State CTC. Maryland is among 18 states that have altered their CTC or other tax programs to provide additional support to low-income families.

Chapters 10 and 11 of 2019 established a trajectory toward a \$15.00 per hour minimum wage by 2025 or 2026 (depending on the number of employees). Chapter 2 of 2023 (the Fair Wage Act) accelerated the increase in the State minimum wage rate for all employers to \$15.00 per hour beginning January 1, 2024. As of October 2023, 30 states (including Maryland) and the District of Columbia have minimum wages above the federal minimum wage of \$7.25 per hour. The Congressional Budget Office published research in 2021 indicating that raising the federal minimum wage to \$15.00 per hour would reduce the number of people in poverty in the United States by 900,000.

Although it is too soon to evaluate the impact of Maryland's permanent extension of the State CTC and accelerated increases in the minimum wage, the impact of pandemic-related economic relief on poverty rates suggests that these actions will likely help reduce poverty in Maryland in the future.

Human Services

Public Assistance Trends

Caseloads in the State's Temporary Cash Assistance (TCA) program, Temporary Disability Assistance Program (TDAP), and Supplemental Nutrition Assistance Program (SNAP) have increased following an initial decline in January 2022, when recipients were recertified. The number of TCA and TDAP recipients is above prepandemic levels, while the number of SNAP recipients remains below prepandemic levels. Recent federal legislation creating a new Summer Electronic Benefit Transfer program and altering requirements for able-bodied adults without dependents in SNAP is expected to impact State programs.

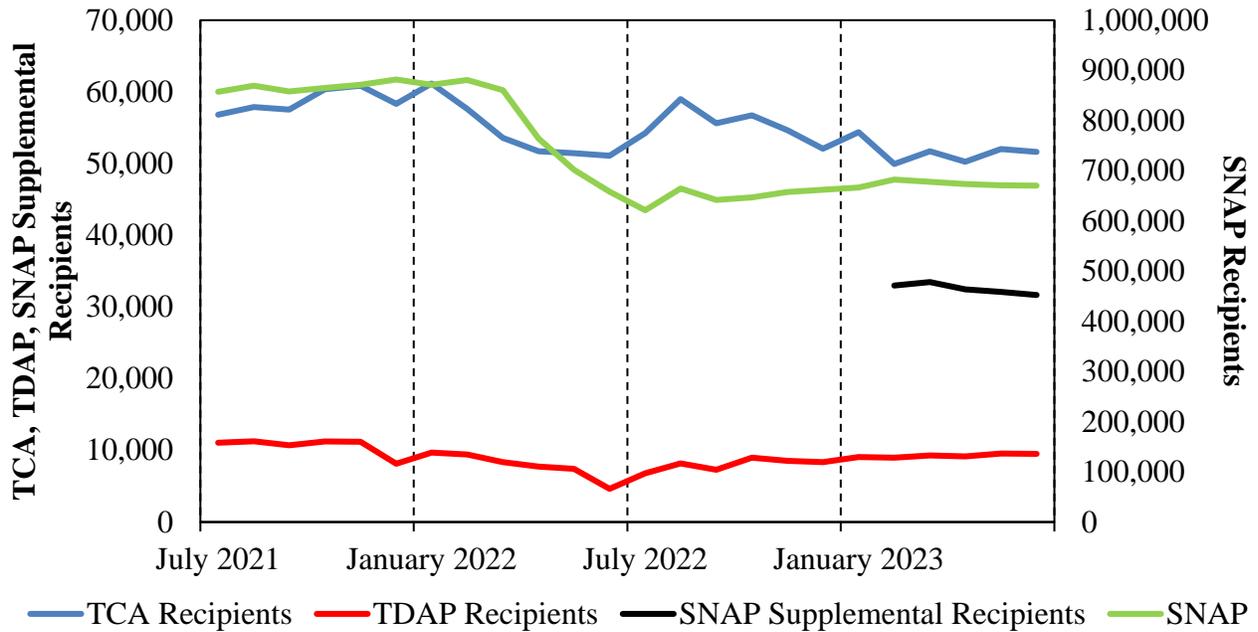
Public Assistance Programs

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 federally funded benefit that helps low-income households purchase food.

Caseload Trends

After extending recertifications across public benefit programs for much of the period since March 2020, the Department of Human Services (DHS) began recertifying benefits in January 2022. The number of TCA, TDAP, and SNAP recipients initially declined following the restart of recertifications. As shown in **Exhibit 1**, the number of TCA recipients rebounded in August 2022, in part due to returns after initial disenrollment for procedural reasons, before declining again. The number of TCA recipients stabilized around 51,000 from March through June 2023. The number of SNAP recipients also increased after the initial decline with the restart of recertifications, before stabilizing around 670,000 from May through June 2023. Despite the declines, in June 2023, the number of TCA recipients was 30% higher, and the number of SNAP recipients was 13% higher than in February 2020.

**Exhibit 1
Public Assistance Recipients
July 2021 to July 2023**



SNAP: Supplemental Nutrition Assistance Program
 TCA: Temporary Cash Assistance
 TDAP: Temporary Disability Assistance Program

Source: Department of Human Services; Department of Legislative Services

In June 2022, the number of TDAP recipients was the lowest in program history (less than 5,000). As with TCA and SNAP, beginning in July 2022, the number of recipients began to increase, reaching nearly 9,000 in October 2022. However, unlike TCA and SNAP, the number of TDAP recipients has continued to slightly increase through June 2023. Despite the increase, the number of TDAP recipients in June 2023 was approximately 20% below prepandemic levels.

From April 2020 through February 2023, emergency allotments in SNAP provided all SNAP recipients the maximum benefit for their household size. As a result, the State’s supplemental SNAP benefit for seniors, which provides benefits to ensure all households with individuals aged 62 and older receive benefits of a certain level (\$30 prior to fiscal 2024 and \$40 beginning with fiscal 2024), was effectively suspended. Emergency allotments ended after February 2023, and DHS resumed issuing the supplemental benefit. In February 2023, the number of supplemental benefit recipients was 32,976, which is approximately 28% higher than in February 2020.

Federal Legislation to Impact Benefit Programs

Summer Electronic Benefit Transfer Program

The federal Consolidated Appropriations Act of 2023 authorized a new nationwide Summer Electronic Benefit Transfer (EBT) program. Beginning in summer 2024, the benefit will provide children eligible for free and reduced-price meals (FRPM) in the prior school year with a \$40 per month federal benefit. In subsequent years, the monthly benefit will increase with inflation. States must submit an annual state plan to administer the program, the first of which is due by February 15, 2024. The U.S. Department of Agriculture is expected to provide additional guidance on the program by the end of calendar 2023.

Chapters 635 and 636 of 2019 established a Summer SNAP for Children program, which provides a \$30 per month benefit in June, July, and August and a \$10 benefit in December to certain children. Under the program, local jurisdictions must apply to participate and contribute funding based on the local cost-share formula in the public school construction program. The funding mandate for the program is \$200,000, although the fiscal 2023 and 2024 budgets each provided \$5.0 million. The level of funding and local cost-share has generally limited participation among jurisdictions and the number of children receiving benefits. In fiscal 2023, 15 jurisdictions participated but only 4 planned to serve all eligible children. Three jurisdictions provided more funding than would have been required under the cost-share formula.

The State Summer SNAP for Children program largely duplicates the new federal benefit with certain exceptions. The State program provides a lower summer benefit (\$30 versus \$40), is available to fewer children, requires local jurisdictions to apply to participate, and requires participating jurisdictions to contribute funding. In addition, the State program supports benefits in December when children are also out of school, while the federal program does not. DHS and the General Assembly may wish to evaluate the duplication of these benefit programs for potential changes to the State program.

Able-bodied Adults without Dependents

Under SNAP, able-bodied adults without dependents (ABAWD) between the ages of 18 and 49 are limited to receiving benefits for 3 months in a 36-month period unless they are working or participating in an employment or training program. This requirement was waived during the COVID-19 public health emergency (PHE). The federal Fiscal Responsibility Act of 2023 increases the number of recipients subject to the time limit by temporarily raising the upper age limit to 50 in September 2023, 52 in October 2023, and 54 in October 2024. However, the legislation also excepted additional recipients from the time limit (homeless individuals, veterans, and individuals who are age 24 or younger and were in foster care on their eighteenth birthday or later). Both the higher age limit and new exceptions sunset September 30, 2030. The legislation also decreases states' discretionary exemptions and will reduce the ability to carryover unused exemptions.

DHS currently has a waiver of ABAWD requirements for Prince George's, Somerset, Wicomico, and Worcester counties and Baltimore City. In addition, as part of its plan for phasing in the requirements after the end of the PHE, DHS is using discretionary exemptions to delay the restart of the requirements. As a result, no State impact from the Fiscal Responsibility Act is anticipated until January 2024. DHS estimates that increasing the number of individuals subject to the ABAWD requirements from 49 through 54 by October 2024 will increase the number of SNAP recipients subject to the limit by 12,500.

Transportation

Overview of Draft *Consolidated Transportation Program*

The Maryland Department of Transportation's draft 2024 *Consolidated Transportation Program* (CTP), covering fiscal 2024-2029, 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 2024 CTP totals \$21.2 billion, a \$728.3 million increase from the 2023 CTP.

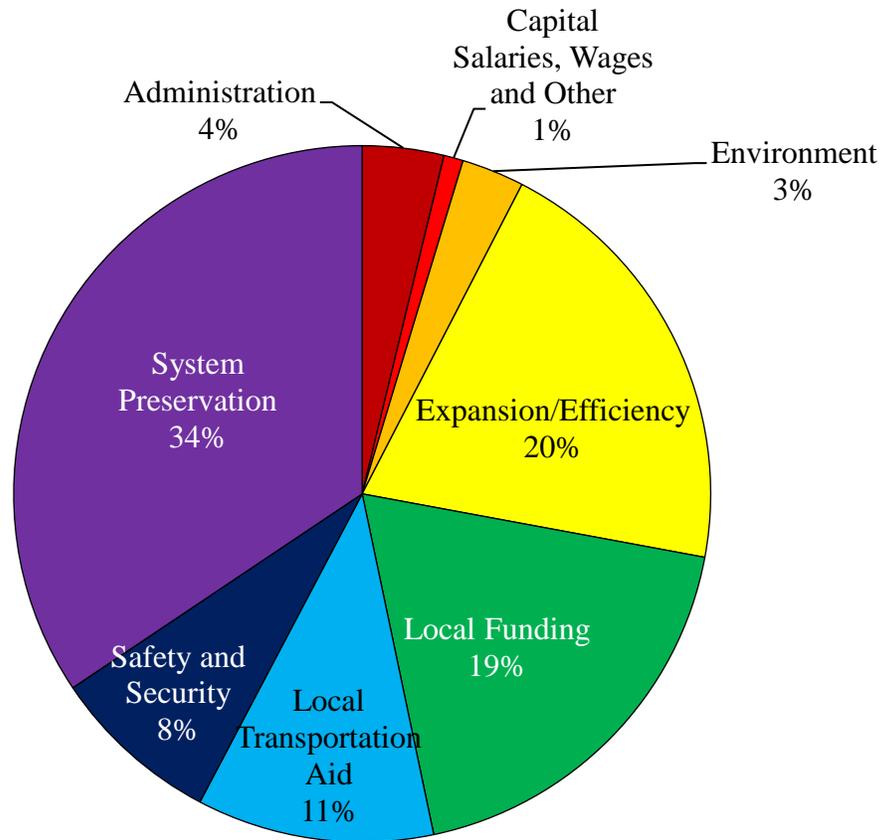
Overview

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 State aid to local governments that is provided in the form of mandated capital grants. Capital projects for the Maryland Transportation Authority are included in the CTP but are excluded from this analysis.

Contrary to past practice, the draft 2024 CTP presents an unbalanced capital plan in which planned expenditures on capital projects and programs exceed the amounts estimated by MDOT to be available for the capital program. Planned spending for fiscal 2025 is \$101.0 million more than is anticipated to be available for the capital budget. The funding gap in subsequent years increases to approximately \$500.0 million annually, for a total gap of \$2.1 billion over the six-year period.

As shown in **Exhibit 1**, the draft 2024 CTP includes \$21.2 billion in programmed spending. System preservation comprises the largest category of spending at \$7.3 billion.

Exhibit 1
Draft CTP Six-year Capital Spending by Investment Category
Fiscal 2024-2029
(\$ in Millions)



Total: \$21,235

CTP: Consolidated Transportation Program

Source: Maryland Department of Transportation

Exhibit 2 compares six-year spending contained in the 2023 CTP, which covers fiscal 2023-2028, to the draft 2024 CTP, which covers fiscal 2024-2029, by fund source. The draft 2024 CTP assumes a \$100 million transfer authorized in the fiscal 2024 budget bill from the State Reserve Fund to MDOT to provide the State match for federal funding.

Exhibit 2
Comparison of Six-year Programmed Spending by Fund Source
Fiscal 2023-2029
(\$ in Millions)

	<u>2023 CTP</u>	<u>Draft 2024 CTP</u>	<u>Change</u>	<u>% Change</u>
Special Funds				
Taxes, Fees, and Other	\$7,554.5	\$8,308.1	\$753.6	10.0%
Bond Proceeds/Premiums	1,800.0	1,520.0	-280.0	-15.6%
Subtotal - Special Funds	9,354.5	9,828.1	473.6	5.1%
Federal Funds	8,194.1	8,366.7	172.6	2.1%
Other Funds ¹	1,734.8	1,775.6	40.8	2.4%
General/Other State Funds	1,223.5	1,264.8	41.3	3.4%
Total	\$20,506.9	\$21,235.2	\$728.3	3.6%

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 2024 CTP is \$728.3 million higher than in the 2023 CTP. As indicated previously, total programmed spending exceeds projected funding by \$2.1 billion over the six-year period. Tax and fee revenue dedicated to the capital program is projected to increase by 10.0%; however, bond proceeds decrease by 15.6%, resulting in a net special fund increase of 5.1%. The ability to issue debt is constrained in the later years of the forecast due to debt service coverage ratios falling to minimum acceptable levels.

Exhibit 3 compares programmed spending in each plan by mode and for State aid to local governments. The large decrease in spending in the Secretary's Office results from the completion of various minor projects that addressed information technology and planning needs.

Exhibit 3
Comparison of Six-year Programmed Spending by Mode
Fiscal 2023-2029
(\$ in Millions)

	<u>2023 CTP</u>	<u>Draft 2024 CTP</u>	<u>Change</u>	<u>% Change</u>
Secretary's Office	\$188.7	\$149.0	-\$39.7	-21.0%
WMATA	2,874.5	3,165.6	291.1	10.1%
State Highways	8,055.1	8,288.3	233.2	2.9%
Port	1,409.2	1,414.8	5.6	0.4%
Motor Vehicle	116.6	110.6	-6.0	-5.1%
Mass Transit	4,417.7	4,638.3	220.6	5.0%
Airport	1,176.4	1,131.4	-45.0	-3.8%
Subtotal	\$18,238.2	\$18,898.0	\$659.8	3.6%
State Aid	2,268.7	2,337.3	68.6	3.0%
Total	\$20,506.9	\$21,235.2	\$728.3	3.6%

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

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

In 2017, the Maryland Transportation Authority (MDTA) initiated a formal process under the National Environmental Policy Act (NEPA) to consider options for the addition of a third Chesapeake Bay bridge crossing. The Chesapeake Bay Crossing Study: Tier 1 NEPA (Bay Crossing Study) developed and considered various alternatives for a third span of the Bay Bridge. The Tier 1 Final Environmental Impact Study (EIS) and Record of Decision (ROD) was approved by the Federal Highway Administration (FHWA) in April 2022. FHWA designated Corridor 7/Existing Corridor (US 50/301 to US 50 between Crofton and Queenstown) as the Preferred Corridor Alternative. In June 2022, \$28 million in funding was announced for Tier 2 of the Bay Crossing Study. The Tier 2 study will evaluate various build alternatives and a No Build Alternative along the Preferred Corridor Alternative, consider transportation alternatives within the study corridor, and determine mitigation strategies for any unavoidable environmental impacts.

Status

In summer and fall 2023, MDTA hosted informational open houses and solicited feedback on the Tier 2 study and equity issues through public meetings and written comments. 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 Lawrence J. Hogan, Jr. announced the I-495 and I-270 Public-Private Partnership (P3) Program. As initially envisioned by the Maryland Department of Transportation (MDOT), the project would have reduced 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. Under the original proposal, the

project would have been financed entirely from newly generated toll revenue and constructed and operated by one or more concessionaires chosen through P3 procurements. Opposition to the project led to a reduced project scope that focuses only on Phase 1 South, consisting of the segment of I-495 that includes the American Legion Bridge and extends from the vicinity of the George Washington Parkway in Virginia to the I-270/I-370 interchange.

In August 2021, the Board of Public Works (BPW) approved a Phase 1 Developer P3 agreement between MDOT/MDTA and a development group known as Accelerate Maryland Partners (AMP). Under the agreement, predevelopment work would proceed concurrent with the federal environmental review for Phase 1 South. The environmental review concluded with the publication of the final EIS in June 2022 and issuance of the ROD in August 2022. However, on March 9, 2023, AMP terminated the P3 Agreement with the State. To depart the project at this stage was a contractual right available to the concessionaire, and the State has no further monetary obligation to AMP.

Status

In August 2023, Governor Wes Moore announced a shift in the project approach. The announcement noted several key priorities for the project that were not identified by the previous administration, including transit and ridesharing, transit-oriented development, and bicycle and pedestrian improvements. The Administration is seeking federal grants of \$2.4 billion and \$807 million from the Multimodal Project Discretionary Grant Program and the Bridge Investment Program, respectively, for Phase 1 South. The department is hosting open houses in the impacted communities to solicit public feedback in fall 2023. Project information can be found at americanlegionbridge270.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. The environmental assessment for the HST project concluded in June 2021, with the Federal Railroad Administration (FRA) finding no significant impact.

Status

Construction began in fiscal 2022, with the project expected to be completed by the end of calendar 2025. The estimated project cost of \$466 million will be provided from a federal Infrastructure for Rebuilding America grant (\$125 million), the State of Maryland (\$202.5 million), CSX (\$113 million), the Pennsylvania Department of Transportation for bridges within Pennsylvania (\$22.5 million), and Baltimore City federal formula funding (\$3 million).

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. In January 2021, the Draft EIS and Draft Section 4(f) Evaluation was published. In 2021, FRA paused the EIS to review project elements and determine next steps.

Status

As of October 2023, the FRA pause of the EIS for further analysis of the project 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.

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 (MTA), PLTP selected Maryland Transit Solutions (MTS). BPW's approval of the new P3 included 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.

Following reports of additional project delays associated with utility relocation challenges, in July 2023, BPW approved an additional modification to the P3 contract to provide contractual relief to PLTP for project delays. The modification increased the P3 contract amount by a net \$148.3 million and extended the contract term to 2057. The net compensation of \$148.3 million includes increased payments prior to the revenue service availability date (the date on which a certificate of revenue service availability is issued for a project and passenger service can begin) offset by reductions to availability payments (payments from MTA to PLTP once passenger service begins). The revenue service availability date was also extended from fall 2026 to spring 2027.

Status

The concessionaire report for the period ending July 31, 2023, notes additional delays associated with remaining utility adjustments. MTS quantified the additional delay at 91 days past the new revenue service availability date approved by BPW in July 2023, though mitigation efforts could reduce the delay. Any change in the contract schedule must be agreed to by all parties and presented to BPW prior to an official change in the revenue service availability date. As of July 31, 2023, the overall project is 57% complete, with 99.5% of civil design, 73.7% of systems design, and 80.5% of utility relocation completed. Revenue service, initially projected to start in March 2022, is now expected to start in spring 2027. Information on the Purple Line project can be found at <https://www.purplelinemd.com>.

Business Regulation

Public Service Commission Initiatives and Renewable Energy

The installation and modification of gas service regulators has prompted discussion relating to customer safety. Offshore wind leases may affect the State’s attainment of offshore wind energy goals. Federal rules are implementing reforms for electricity interconnection review. Recent rulemaking activity at the Public Service Commission suggests potential reforms relating to the regulation of the retail supply of gas and electricity.

Gas Service Regulators

The Flower Branch Act of 2021 requires gas distribution utilities to install or relocate certain gas service regulators outside of specified structures. Under the Act, whenever gas service is newly installed at an occupied structure, a gas service regulator may be installed only outside the structure. Further, any existing gas service regulator that is installed in the interior of a multifamily residential structure must be relocated to the outside of the structure whenever the gas service line or regulator is replaced. Gas companies were required to file plans with the Public Service Commission (PSC) for the relocation of gas service regulators in multifamily residential structures by January 1, 2022.

During summer 2023, a decision by Baltimore Gas and Electric Company (BGE) to replace interior gas regulators with exterior gas regulators in several areas of Baltimore City led to significant controversy and litigation. After holding a hearing on the issue, PSC issued Order No. 90783 in September 2023. In the order, PSC determined that both indoor and outdoor installations are authorized by State and federal law and are safe, although it noted that it preferred outdoor installation. For the disputed installations in Baltimore City, PSC noted that the Flower Branch Act did not apply, as the cases did not involve the new installation of gas service at single-family homes. The order required BGE to allow residential customers to choose whether a gas regulator is installed inside or outside their home, with limited exceptions. BGE must provide 14 days of advance written notice of an installation, along with the choice of an interior or exterior installation. BGE was also generally prohibited from terminating, or threatening to terminate, gas service because a customer declines an exterior installation.

Offshore Wind Energy

The Promoting Offshore Wind Energy Resources Act of 2023 (Chapter 95) most recently amended the State’s target for offshore wind capacity, establishing an expanded goal of 8,500 megawatts by 2031. The Act builds on the previously established target of 2,000 megawatts of installed offshore wind capacity through “Round 1” and “Round 2” offshore wind projects

approved by PSC as authorized through Chapter 3 of 2013 and Chapter 757 of 2019. In July 2023, the federal Bureau of Ocean Energy Management announced that it had awarded three offshore wind lease areas off the coasts of Delaware, Maryland, and Virginia with a combined capacity to accommodate 4,000 to 8,000 megawatts of offshore wind energy. The lease area approved for Maryland is located 23.5 nautical miles off the coast of Ocean City.

To facilitate future project development, Chapter 95 directs PSC, in consultation with the Maryland Energy Administration, to request that PJM Interconnection conduct an analysis of potential transmission system upgrades and expansion options necessary to facilitate the interconnection of new offshore wind generation to the existing electric grid infrastructure. Additionally, PSC must issue, or request that PJM issue, competitive solicitations for proposals for related projects, and following evaluation, may accept one or more proposals, subject to specified criteria.

Chapter 95 also requires the Department of General Services (DGS), in consultation with PSC, to issue a competitive sealed procurement solicitation for offshore wind energy. DGS may subsequently enter into at least one contract for a power purchase agreement to procure up to 5.0 million megawatt-hours annually of offshore wind energy and associated renewable energy credits from one or more qualified offshore wind projects, for a term of not less than 20 years. The State must issue a procurement on or before July 31, 2024, and may enter into a procurement contract on or before September 1, 2025.

Interconnection Review

An essential link in the delivery of electricity from renewable sources to end-use customers is the interconnection between renewable generators and electric transmission facilities. In some areas of the country, renewable sources have been unable to introduce their electricity into the transmission grid because of delays in approval of interconnections. The Federal Energy Regulatory Commission (FERC) proposed a rule in June 2022 to reform interconnection through remedying delays in the interconnection review process. In September 2023, FERC issued Order No. 2023, which, among other things, required regional transmission organizations, such as PJM Interconnection, to group similar interconnection requests into clusters based on the time that the requests are submitted and to conduct consolidated reviews in an effort to expedite the interconnection process.

Retail Supplier Reforms

Shortly after enactment of electric industry restructuring in 1999, PSC determined that the purchase of receivables, through which a utility purchases the accounts receivable from an electricity supplier as part of utility consolidated billing, should be left to agreements made between the utilities and suppliers.

In June 2023, an advocacy group, the Maryland Energy Advocates Coalition, filed a rulemaking petition with PSC to eliminate the purchases of receivables by certain electric and gas utilities, stating that the practice provides an incentive for suppliers to engage in deceptive marketing practices by not having to bear the risk of being unable to collect charges assessed on their customers. In response, PSC issued a public request for comment to address (1) additional or modified customer protections; (2) alternative modifications to the purchase of receivables in lieu of the petition; (3) changes to utility consolidated billing with the establishment of supplier consolidated billing; (4) supplier licensing and bonding requirements; and (5) other possible reforms. In its request, PSC noted that the retail electricity market has matured significantly over the past couple of decades and suggested that “additional market reform may be warranted.” The request for comment closed on October 2, 2023. It is likely that legislation will be introduced to address issues identified in the public comments and any resulting PSC rulemaking proceedings.

Business Regulation

EmPOWER Maryland

The EmPOWER Maryland Energy Efficiency Act of 2008 established target reductions of 15% in per capita electricity consumption and peak demand by 2015 from a 2007 baseline. After several modifications and extensions, the implementing utilities and the Department of Housing and Community Development have incremental annual energy savings goals for the next several years. State agencies, climate advocacy groups, and other organizations have recommended changes to the EmPOWER Maryland Program, such as altering the goals from energy savings to greenhouse gas emissions abatement.

Background

The EmPOWER Maryland Program (EmPOWER) originated in 2008 after the North American Reliability Council warned the State about potential risks to the electric grid if the State failed to take steps to reduce energy use. EmPOWER's initial goal was to reduce peak demand and energy consumption by 15% by 2015, based on 2007 levels. This goal has since been updated and now requires incremental increasing levels of energy conservation, if the Public Service Commission (PSC) determines that cost-effective energy efficiency and conservation programs are available. With that cost-effectiveness requirement, utility companies' goals for the 2021–2023 and 2024–2026 program cycles are a 2.0% reduction per year for 2022 through 2024, a 2.25% reduction per year for 2025 and 2026, and a 2.5% reduction per year for 2027 and each year thereafter. The Department of Housing and Community Development (DHCD), which has implemented EmPOWER conservation programs for limited-income customers since 2012, has energy savings goals of 0.53% in 2024, 0.72% in 2025, and 1.0% in 2026.

EmPOWER is implemented by utilities with populations of 250,000 or more in their service territories, as well as by DHCD. Electric cooperatives and municipal electric utilities serving smaller populations are generally exempt from the program, unless directed to participate by PSC. EmPOWER targets apply to Baltimore Gas and Electric Company (BGE), Potomac Electric Power Company, Potomac Edison, Delmarva Power and Light, and Southern Maryland Electric Cooperative. Two gas companies, BGE and Washington Gas, also participate in the program, but there are no gas-specific statutory goals. Utilities implement the program for ratepayers across all customer classes, while DHCD implements programs only for limited-income ratepayers.

Utility Programs

The methods utilities employ to implement EmPOWER generally fall into two categories: (1) energy efficiency and conservation; and (2) demand response. Energy efficiency and conservation programs aim to reduce the average energy consumption of utility customers by lowering the amount of energy that customers require to meet their needs. These measures include subsidization of home energy audits, energy-efficient appliances, and building weatherization. Home energy audits assess a building's energy efficiency by helping the customer identify problematic or inefficient aspects of the building. Subsidies for energy-efficient appliances facilitate the replacement of inefficient units. Weatherization increases the insulating properties of a building, reducing the amount of energy required to maintain a comfortable indoor temperature.

Demand response programs allow utility customers to voluntarily reduce their energy usage at times of peak demand through direct load control or dynamic pricing programs. Under a direct load control program, customers can choose to relinquish control over their home thermostats during times of peak demand. While programs vary, most allow customers to choose how much less their air conditioners will run during reduction events, typically by 50%, 75%, or 100%. Participants are typically compensated with a one-time installation credit when their "smart thermostat" is installed and an annual bill credit for direct load control. In addition, utilities may offer a dynamic pricing incentive that provides a significant rebate for reductions in energy use during times of peak demand.

Limited-income Programs

DHCD implements the EmPOWER limited-income programs, which aim to improve the energy efficiency of homes of utility customers with incomes that are below a certain threshold. These programs fall into two broad categories – programs for multifamily housing developments and programs for single-family homes. To qualify, ratepayers must make no more than the greater of 80% of the area median income or 250% of the federal poverty level. For multifamily housing limited-income support programs, at least 20% of units must be at or below 80% of the area median income.

Owners or developers of qualifying housing developments may apply for funding to implement efficiency measures under the Multifamily Energy Efficiency and Housing Affordability Program. Under a typical program process, an energy auditor employed by the project owner performs an energy audit and identifies potential energy efficiency measures. The applicant then submits to DHCD a plan to implement the measures, and DHCD conducts its own technical analysis and responds to the project owner with a proposed funding package. The project owner then executes a funding agreement with DHCD, and the energy efficiency measures are installed. Once the measures pass a DHCD inspection, the project owner submits a requisition, and DHCD issues payment for the energy efficiency measures.

DHCD implements single-family housing measures through a multi-step process, with different levels of service depending on the building's suitability for different measures, as

determined by its condition. First-time applicants who qualify receive an energy kit that contains direct-install measures intended to increase participation in the full program by demonstrating its benefits, such as high-efficiency lightbulbs, low-flow showerheads, and faucet aerators. A local weatherization agency or State weatherization contractor then conducts an audit of the home and its suitability for the installation of additional energy efficiency measures. Based on the results of the audit, a project is referred to either a whole home program with a comprehensive set of efficiency measures that includes building weatherization or a more limited base efficiency program. The limited base efficiency program is for homes that are in a state of disrepair that precludes the correction of key issues within the project's budget. This program provides for the installation of direct install measures, heating/cooling system replacements, and other measures that do not negatively impact the structure of the home or the health of its occupants.

Recommendations for Future Program Changes

In planning for upcoming EmPOWER program cycles and anticipated extensions, State agencies, climate advocacy groups, and other organizations have recommended changes to the program. These recommendations include changing the purpose of EmPOWER from achieving specific energy reductions to greenhouse gas emissions abatement, incorporating beneficial electrification to reduce direct fossil fuel use, setting specific goals for gas companies, and modifying limited income programs to better align EmPOWER with the greenhouse gas emissions reductions goals set in the Climate Solutions Now Act of 2022.

Business Regulation

Cannabis Regulation

Chapters 254 and 255 of 2023 established the adult-use cannabis industry in the State and its regulation by the Maryland Cannabis Administration (MCA). The production and sale of adult-use cannabis began on July 1, 2023. MCA is adopting regulations and must begin issuing new licenses to social equity applicants in January 2024. Studies are underway to examine the health effects of cannabis legalization in the State.

Legalization and Regulation of Adult-Use Cannabis

Chapters 254 and 255 of 2023 established the adult-use cannabis industry in the State by (1) requiring all existing medical cannabis licensees to convert to adult-use cannabis businesses; (2) attributing cannabis-related duties to the Alcohol and Tobacco Commission and renaming it the Alcohol, Tobacco, and Cannabis Commission (ATCC); (3) establishing the Maryland Cannabis Administration (MCA) as an independent unit of State government that is responsible for the regulation of adult-use cannabis; (4) creating a licensing framework for the regulated sale of cannabis; (5) establishing a sales and use tax on the sale of adult-use cannabis; and (6) creating the Office of Social Equity in MCA and the Social Equity Partnership Grant Program in the Office of Social Equity. The sale of adult-use cannabis began on July 1, 2023.

Regulations Effective July 1, 2023

MCA proposed emergency regulations that took effect on July 1, 2023, which are supplemental to the existing medical cannabis regulations. The adopted emergency regulations (1) carry out the requirements for licensure of cannabis businesses, including implementing procedures related to applications, licenses, and registrations; (2) assist the Comptroller in the collection of taxes imposed on the sale of adult-use cannabis; (3) implement inventory management and tracking; (4) establish operating requirements for cannabis licensees or cannabis registrants; (5) establish limits on the maximum potency of cannabis products sold in the State; and (6) establish child protections, including child-resistant packaging and prohibitions on advertising to children.

Regulations Required by July 1, 2024

Chapters 254 and 255 require that the July 1, 2023 emergency regulations be followed by nonemergency regulations adopted by MCA by July 1, 2024. These regulations must govern Internet sales of cannabis; implement and supplement packaging and labeling requirements for cannabis products; establish procedures for the use of point of sale technologies by dispensaries for all transactions that verify a consumer's age using a driver's license or other valid identification; and establish health, safety, security, and tracking requirements for the packaging

and repackaging of cannabis by a dispensary. Additionally, MCA must adopt minimum standards for licensed growers to protect the rights of growers and employees.

Cannabis Licensing

To operate a cannabis business in the State, a person must obtain a cannabis license from MCA. A license is valid for five years on initial licensure and five years upon renewal. MCA must issue licenses for growers, processors, dispensaries, incubator spaces, and onsite consumption. Additional licenses include micro licenses for growers, processors, and dispensaries. Licensing and renewal fees are established by MCA and range from \$5,000 for social equity applicants for certain licenses to \$50,000 for standard grower licenses. To convert existing medical cannabis licenses (growers, processors, and dispensaries) into medical and adult-use cannabis business licenses, licensees had to pay a conversion fee based on the gross revenue of the licensee.

Social Equity Applicant Licenses

By January 1, 2024, MCA must begin issuing first round licenses to social equity applicants for all license types. Social equity applicants are those with at least 65% ownership and control held by one or more individuals who meet certain criteria, such as living in, or attending a public school in a disproportionately impacted area (*i.e.*, determined to have had above 150% of the State's 10-year average for cannabis possession charges). As announced by MCA, the available standard licenses for social equity applicants are 16 grower licenses, 32 processor licenses, and 75 dispensary licenses. The available micro licenses for such applicants are 24 grower licenses, 24 processor licenses, and 8 dispensary licenses.

The first round of licenses are awarded through a public lottery and the applicants selected are issued a conditional license for a period of 18 to 24 months. During the conditional period, the licensee must complete a supplemental license application to undergo a criminal and financial history background check and take additional actions, including demonstrating legal control and local zoning and planning approval of the proposed site for the cannabis business. An unconditional license is issued to applicants who satisfy the supplemental application requirements and pay an application fee.

General Applicant Licenses

Beginning May 1, 2024, MCA must begin issuing a second round of licenses. This second round of licenses may be opened to general applicants, however opening the process is contingent on the outcome of a disparity study. If the study demonstrates a strong basis of business discrimination against firms owned by minorities and women in the cannabis market, MCA must apply minimum licensing qualifications and employ remedial measures to address this discrimination in a manner consistent with constitutional requirements. Subsequent cannabis licenses may be issued as needed following a market demand study. MCA may limit these licenses

to social equity applicants and employ remedial measures based on the results of the disparity study.

Sales Data and Projected Tax Revenue

The beginning of the sale of adult-use cannabis on July 1, 2023, resulted in \$51.3 million in total retail sales of adult-use cannabis for the month of July. In September 2023, total retail sales of adult-use cannabis reached \$54.3 million. MCA is projecting \$600 million in the first year of adult-use cannabis sales. Based on a 9% sales and use tax rate for the sale of adult-use cannabis, this would generate \$54.0 million in tax revenue. By fiscal 2027, the Department of Legislative Services projects that annual adult-use cannabis sales will reach \$1.6 billion, which will generate approximately \$146.6 million in sales and use tax revenue.

Illicit Market Challenges in Legalization States

Despite the legalization of adult-use cannabis, the illicit market remains a persistent problem for a number of states. The illicit market undercuts tax revenue and the overall economic benefit that is expected from a regulated adult-use cannabis market. There are many factors that impact the vitality of the illicit market, including enforcement issues, overburdensome regulations, and high taxes that may drive up the cost of adult-use cannabis for consumers.

Imbalances in the supply chain can also impact the price of cannabis and participation in the illicit market. Undersupply issues, such as having not enough growers and too many dispensaries or consumers, may increase the cost of cannabis and make it difficult for businesses in the regulated market to compete with lower costs in the illicit market. Oversupply issues, such as having too many growers and not enough dispensaries or consumers, may discourage business participation in the regulated market, allowing the illicit market to fill the vacuum. Additionally, some states permit local governments to opt out of adult-use legalization, which creates an opportunity for the illicit market in those jurisdictions. However, Chapters 254 and 255 prohibit local governments from opting out or imposing unduly burdensome requirements on licensees.

Prohibition on Unlicensed Hemp-derived Products

Chapters 254 and 255 prohibit the unlicensed sale of cannabis products that contain tetrahydrocannabinol (THC) above a certain threshold. The prohibition foreclosed a significant portion of revenue for hemp businesses that were operational and unregulated before the Acts took effect. These hemp businesses, which do not hold a license to sell their products in the newly regulated adult-use market, sued the State, contending that the Acts violate the Maryland Constitution's equal protection and anti-monopoly clauses by excluding their businesses from a market in which they previously participated. On October 12, 2023, a judge for the Circuit Court for Washington County issued an injunction that temporarily lifted these restrictions on the sale of

delta-8 and other hemp-derived products in the State, noting that the Acts create a monopoly in the adult-use cannabis industry for licensees. The State has responded that the restrictions are necessary to make products with THC, including hemp-derived products, safer for consumers. As of October 2023, the matter remains before the Circuit Court for Washington County.

Actions to Address Health Effects from Cannabis Legalization

Chapter 26 of 2022 included several requirements related to the health impacts of cannabis legalization. Chapter 26 required the study of methods to reduce the use of cannabis by minors, including best practices regarding requirements related to advertising, potency, packaging, labeling, and other methods to reduce the appeal of cannabis to minors. It also required a comprehensive baseline study of cannabis use in the State and established the Cannabis Public Health Advisory Council and the Cannabis Public Health Fund.

Report on Methods to Reduce Cannabis Use by Minors

In November 2022, MCA released *Cannabis Reform: Best Practices for a Medical Cannabis Home Grow Program, On-site Cannabis Consumption Facilities, and Methods to Reduce Cannabis Use by Minors*. The report found that while legalization data do not indicate an increase in youth use, there are significant health and safety harms associated with cannabis use among youth. Consequently, many of the report's recommendations on methods to reduce cannabis use by minors, including recommendations related to advertising, packaging, labeling, compliance checks, vendor training, and penalties for sales to minors, were included in Chapters 254 and 255.

Maryland Cannabis Use Baseline Study

Baseline data on certain health factors prior to cannabis legalization is necessary to measure the effect of cannabis legalization. The baseline study required by Chapter 26 includes a survey of patterns of use, incidents of impaired driving, hospitalizations related to cannabis use, calls to poison control, and diagnosis of cannabis use disorder and problem cannabis use. On March 1, 2023, the *Maryland Cannabis Use Baseline Study* was released, providing a first look at cannabis use in Maryland prior to legalization. Among the key findings were that (1) more than 25% of Maryland high school students have used cannabis; (2) nearly 10% of Maryland adults currently use cannabis; (3) many Marylanders who currently use cannabis consume it regularly; (4) "poor" mental health may be associated with increased cannabis consumption; (5) smoking is the most common method of cannabis consumption; (6) many Marylanders have driven after consuming cannabis; (7) cannabis-related calls to poison control have increased, particularly for youth exposures; and (8) few people are hospitalized due to cannabis use.

Based on the study findings, certain actions were recommended to enhance public health and safety, including (1) improving statewide and jurisdiction-level surveillance; (2) establishing key measures to evaluate the success of public health protections in reducing use among youth,

pregnant, and breastfeeding persons; (3) funding specified mass reach media campaigns; (4) continuing to study the association between cannabis use and mental health; (5) increasing the availability of resources for problem cannabis use and support for Marylanders who would like help quitting cannabis use; (6) strengthening public health and public safety collaborations to align education efforts; (7) continuing to study “dose”; (8) supporting specified health care provider training; and (9) providing consumer education at the cannabis point-of-sale.

By March 1, 2025, and every other year thereafter, MCA must issue a report of its findings from follow-up surveys.

Cannabis Public Health Advisory Council and Cannabis Public Health Fund

The Cannabis Public Health Advisory Council was established to study the public health impact of adult-use cannabis legalization. The council is required to issue a report of its findings and recommendations on or before December 1 of each year related to various public health concerns, including youth cannabis use and prevention, youth behavioral health and educational outcomes, public health campaigns, training for health care providers, and other issues that advance public health related to cannabis use and legalization. The council held its first meeting in August 2023 and will be forming a data collection workgroup and youth mitigation workgroup.

The Cannabis Public Health Fund is expected to provide funding to address the health effects associated with cannabis legalization. The fund consists of revenues from adult-use cannabis, money appropriated in the State budget, and any other money from any other source accepted for the benefit of the fund.

Business Regulation

Rental Assistance

Maryland established the Statewide Rental Assistance Voucher Program in 2023 to provide housing subsidies to families while they wait for federal housing assistance. The program provides participants with rental assistance for up to five years or until a federal Housing Choice Voucher Program (HCVP) voucher becomes available, whichever comes first. Given that many local jurisdictions have waitlists for the HCVP with average wait times in excess of five years, many households receiving assistance through the State program likely will be dropped from the program before federal assistance becomes available.

Rental Subsidies and Potential Participant Dropoff

To mitigate known long waitlist periods for applicants to the federal Housing Choice Voucher Program (HCVP), Maryland enacted the Statewide Rental Assistance Voucher Program in 2023 to provide housing subsidies to families while they wait for federal housing assistance. Though the statewide program has similar eligibility requirements to HCVP, it only authorizes assistance payments to program participants for up to five years or until an HCVP voucher becomes available, whichever occurs first.

However, many local jurisdictions administering HCVP have average waitlist times of more than five years, which may result in State program participants being dropped before a federal HCVP voucher is available. Potential remedies to address these needs may include additional funding for the statewide program or altering the time limit for statewide program participation. These options may ensure statewide program participants are able to continue utilizing the program while they wait for a federal HCVP voucher.

Rental Subsidy Programs

HCVP is the largest of many housing programs that aim to ensure low-income families acquire and retain affordable and stable housing. Overseen by the U.S. Department of Housing and Urban Development (HUD), HCVP provides rental assistance to subsidize the rent of low-income families, elderly individuals, and individuals with disabilities. Jurisdictions with public housing agencies (PHA) or local housing offices directly receive funding through HUD; in Maryland, the Department of Housing and Community Development (DHCD) coordinates the program for jurisdictions without PHAs or local housing offices. So long as applicants maintain specified income levels (generally, family incomes cannot exceed 50% of the area median income), the voucher holder may continue to participate in HCVP indefinitely. Applicants are placed on waitlists as PHAs determine eligibility and remain on the waitlist until funding is available. Due to HCVP's popularity, many applicants find themselves on waitlists, often waiting for several years before a housing voucher is available.

Unlike the federal Public Housing Program, which generally requires program participants to reside in government-owned housing units, HCVP utilizes vouchers that allow program participants to find their own rental units that meet specified standards from private landlords participating in HCVP. In federal fiscal 2023, HUD allocated approximately \$762 million for HCVP administration in Maryland. The vast majority of that funding, \$741 million, was allocated directly to local jurisdictions with PHAs, with the remaining \$21 million allocated for DHCD to administer HCVP in jurisdictions without PHAs. This amount of funding allows for more than 50,000 vouchers.

Chapter 446 of 2023 established the Statewide Rental Assistance Voucher Program to provide vouchers and housing assistance payments for low-income families that are on a waiting list for HCVP. Generally, the program must be administered in accordance with federal guidelines for HCVP. Similar to HCVP, the statewide program is administered locally by PHAs, though the program is administered by DHCD in jurisdictions without PHAs. DHCD will oversee local PHAs in administering the statewide program. To be eligible for the statewide program, a family must reside in the State, be on a waiting list for HCVP, and meet low-income eligibility limits under HCVP. Housing assistance payments for a family must continue for up to five years or until an HCVP voucher becomes available, whichever occurs first. Chapter 446 also requires the Governor to include \$10.0 million in the annual budget bill for the program in fiscal 2025 through 2027 and sufficient funds in future years to fund the same number of vouchers in use during the prior fiscal year. For context, according to HUD, the average monthly rental assistance voucher in Maryland in 2022 was \$1,172. At that amount, the statewide program would assist approximately 668 families each fiscal year, assuming 6% of the \$10.0 million annual appropriation is used for administrative purposes as authorized by Chapter 446.

High Demand and Waitlists

The demand for HCVP rental assistance exceeds available funding. Generally, PHAs place applicants on a waitlist to determine applicant eligibility and will disburse vouchers within available funding. When PHAs exhaust available funding, potential program participants remain on the waiting list until either an existing voucher or additional funding are made available. Some jurisdictions maintain an open waitlist and accept any potential applicant; other jurisdictions close their waitlist and refuse additional applicants. According to HUD, the national average time on the HCVP waitlist for calendar 2022 is 27 months. However, the average time on the waitlist can vary significantly, and many jurisdictions in Maryland exceed the national average.

Exhibit 1 illustrates the average number of months an applicant may wait on a waitlist by local jurisdiction in Maryland for State fiscal 2023. Only two PHAs in the State report shorter average waitlist times compared to the national average: Charles County (18 months) and jurisdictions overseen by DHCD (2 years). The remaining PHAs for which data is available all exceed the national average, and more than half report average times on the waitlist that meet or exceed five years. Given that statewide program participants are dropped from the program after five years (barring the availability of a HCVP voucher), many statewide program participants likely will lose rental assistance after the five-year period rather than exiting the program to receive federal assistance.

Exhibit 1
Housing Choice Voucher Program Average Time on Waitlist, by Jurisdiction
Fiscal 2023

<u>Public Housing Authority</u>	<u>Average Time on Waitlist</u>
City of Annapolis, Housing Authority of the	No Information Provided
Anne Arundel County, Housing Commission of	6 years
Baltimore City, Housing Authority of	8 years and 8 months
Baltimore County Department of Housing and Community Development	14 years
Calvert County, Housing Authority of	5 years
Carroll County Housing and Community Development	2 years and 9 months
Cecil County Housing Agency	3 years and 2 months
Charles County Housing Authority	1 year and 6 months
City of Frederick, Housing Authority of the	No Information Provided
Frederick County Division of Housing	8 years
Hagerstown Housing Authority	2 years and 6 months
Harford County Housing Agency	11 years and 4 months
Howard County Housing Commission	12 years
Montgomery County, Housing Opportunity Commission of	6 years and 6 months
Prince George’s County, Housing Authority of	No Information Provided
Queen Anne’s County Housing Authority	2 years and 6 months
Rockville Housing Enterprises	4 years
St. Mary’s County, MD, Housing Authority of	12 years
Talbot, Housing Commission of	5 years
Washington County, Housing Authority of	No Information Provided
City of Westminster Housing Office	2 years and 8 months
Wicomico County Housing Authority	No Information Provided
Maryland Department of Housing and Community Development	2 years

Note: **Bold text** indicates an average wait time of five years or longer.

Source: Department of Legislative Services

Business Regulation

Artificial Intelligence

Advances in artificial intelligence (AI) are the culmination of decades of research and innovation. Rapid development and usage of generative and other forms of AI is prompting attention of policymakers at both the federal and state level, as well as internationally, to understand the technology, regulate it to protect individuals from potential risks, and to promote the development of safe applications of the technology.

Artificial Intelligence Generally

What is Artificial Intelligence?

Artificial intelligence (AI) is a broad field of computer science that deals with the creation of intelligent agents, systems that can reason, learn, and act autonomously. There are many different branches of AI, each with its own focus and set of techniques, such as machine learning, neural networks, robotics, expert systems, fuzzy logic, and natural language processing. AI research has been successful in developing algorithms for solving a wide range of problems, from game playing to conversation simulation.

Though a variety of forms of AI are now in use, experts have not established an agreed upon definition for the technology. An early definition in 1955 branded AI as “making a machine behave in ways that would be called intelligent if a human were so behaving.” A more recent and expansive definition of AI has it as “the designing and building of intelligent agents that receive percepts from the environment and take actions that affect that environment.”

History of Artificial Intelligence

Though the general public’s awareness of AI may be relatively recent, AI has existed conceptually for nearly 70 years. In 1950, Alan Turing, the English mathematician and computer scientist, wrote *Computing Machinery and Intelligence*, one of the first papers that posed the question of whether machines can think. The phrase “artificial intelligence” was first coined in 1956 at an academic conference on the subject. From 1964 to 2017, numerous developments were made in the field, including the Massachusetts Institute of Technology’s “ELIZA”, a chatbot that simulates conversation; IBM’s Watson, a cognitive computing platform that uses AI to help businesses and individuals make decisions; and Apple’s Siri, a voice assistant for consumers that uses speech recognition.

More recently, in November 2022, OpenAI’s ChatGPT (Chat Generative Pre-Trained Transformer) was released for public beta testing and by January 2023 had become one of the

fastest growing consumer software applications in history, gaining over 100 million users in that time. As users interact with the software, the software learns from the conversations and improves its capabilities. The continued development of this and other generative AI software systems is drawing the attention of policymakers to better understand the technology, regulate it to protect individuals from potential risks, and to promote the development of safe applications of the technology.

Major Risks

Data Privacy

Although data privacy has been a matter of concern since the advent of the Internet, the complexity of the algorithms that power AI has prompted interest in government regulation of the technology to prevent the improper or unethical use of personal data. However, regulation of this aspect of AI is sometimes challenging due to intellectual property claims and resistance by the private owners of these technologies to allow exploration of the internal workings of their systems. Moreover, in some cases, an AI system can present what is known as the “Black Box Problem” in which the technology behind an AI system may not be completely understood even by the organizations and scientists that developed the technology. Neural networks are massive structures and although AI developers train their systems with known data sets, the manner in which the data is then used or developed inside the neural networks of large language model algorithms is shrouded in mystery.

Bias and Discrimination

As AI algorithms and neural networks are trained by humans, existing societal discriminations can be incorporated into the internal and inherent biases of the data sets that AI systems use and can affect the way the AI model functions. One set of AI functions that has been identified as potentially having some bias is the use of facial recognition software in security or policing contexts. In use by various law enforcement agencies throughout the nation, this software has been shown to be prone to error and unable to accurately recognize minorities, women, and young people. Similarly, some AI software designed to screen resumes for employment consideration has been found to be biased against minorities, women, and older individuals.

Government Initiatives

Federal Action

The National Artificial Intelligence Initiative Act of 2020 became law on January 1, 2021. The aim of the Act is to promote U. S. leadership in AI research and development with the goal of accelerating the nation’s economic prosperity and national security through the development and

use of trustworthy AI in the public and private sectors and preparation of the workforce for the inevitable integration of AI systems. This multi-agency initiative has included work by the U.S. Department of Energy, in consultation with the National Institute of Standards and Technology, to develop the AI Risk Management Playbook as a reference guide to support responsible and trustworthy AI use and development. Though not a binding document, the playbook addresses common AI risks and steps that AI leaders, practitioners, and procurement teams can take to manage data privacy and bias risks.

In addition, the White House introduced its Blueprint for an AI Bill of Rights, a set of five principles and associated practices (safe and effective systems; algorithmic discrimination protections; data privacy; notice and explanation; and human alternatives, consideration, and fallback) to help guide the design and deployment of automated systems to protect the rights and opportunities of the public, as well as public access to critical resources and services, and to serve as a guide for how new AI resources are developed. The Blueprint is designed to apply to speech-related systems, surveillance and criminal justice algorithms, voting-related systems, and any other systems that could lead to potential algorithmic discrimination.

In October 2023, the White House issued an executive order to establish new standards for AI safety and security and direct actions that aim to protect privacy of Americans, advance equity and civil rights, protect consumers and workers, and promote innovation and competition.

Other State and International Action

States are also beginning to take action to address the potential concerns and harms that AI may cause. Connecticut required an inventory and ongoing assessments of all systems that employ AI in use by any state agency to ensure that no system results in any unlawful discrimination or disparate impact. The state is also requiring that policies and procedures be established for the development, procurement, implementation, utilization, and ongoing assessment of these systems. The state of Washington established a workgroup to investigate how automated decision-making systems can be reviewed and periodically audited to ensure they are fair, transparent, and accountable. The chief information officer of the state must prepare and make publicly available on its website an initial inventory of all automated decision systems being used by state agencies.

Outside of the United States, the European Union (EU) introduced a new legal framework to bolster regulations on the development and use of AI. In May 2023, the EU adopted a draft of the first rules implementing the Artificial Intelligence Act with an aim to ensure a human-centric and ethical development of AI through the classification risks of AI into three categories: acceptable risk; high-risk; and unregulated.

Maryland Law

Maryland has certain statutes in effect that governing AI directly or indirectly. Chapter 446 of 2020 prohibits employers from using facial recognition services to create facial templates of job applicants without their consent, and Chapter 41 of 2022 requires courts to consider the results of algorithmic tools before detaining juveniles. Additionally, Maryland's broader consumer protection and data privacy laws, such as the Consumer Protection Act and the Maryland Personal Information Protection Act (MPIPA), offer certain protections against AI-related risks. For example, MPIPA requires businesses that collect, maintain, or license personal information to implement reasonable security measures.

Handgun Permits – Overview of Recent Developments

During the 2023 legislative session, the General Assembly passed several laws relating to criminal prohibitions involving wearing, carrying, and transporting firearms. Since that time, there have been multiple legal challenges, and portions of the newly enacted laws are being challenged in federal court and have not taken effect. Additional legislation and lawsuits are expected.

Background

In June 2022, the U.S. Supreme Court issued its ruling in *New York State Rifle & Pistol Association, Inc. v. Bruen*, holding that the Second Amendment to the United States Constitution provides a right for a law-abiding citizen to carry a handgun outside the home for self-defense. The ruling struck down a requirement in New York that handgun permit applicants demonstrate a “proper cause” (or a particular need) before the issuance of a license to carry a handgun in public. In July 2023, Maryland’s Court of Special Appeals (now the Appellate Court of Maryland) applied *Bruen* directly to *In the Matter of William Rounds* and ruled 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 cause” requirement and was unconstitutional.

In response to the decisions, during the 2023 legislative session, the General Assembly passed several pieces of legislation relating to firearms. Chapter 680 of 2023 (the Gun Safety Act of 2023) established prohibitions on carrying firearms in certain “sensitive areas.” Chapter 651 of 2023 altered the requirements and qualifications for handgun permits. Both Acts became largely effective October 1, 2023. However, portions of both laws are currently being challenged in federal court as violating the Second Amendment.

Chapter 680 of 2023

Chapter 680 of 2023, the Gun Safety Act of 2023, with certain exceptions, prohibits the wearing, carrying, or transporting of a handgun in three types of locations: (1) an “area for children and vulnerable individuals;” (2) a “government or public infrastructure area;” and (3) a “special purpose area.” Chapter 680 also prohibits a person wearing, carrying, or transporting a firearm from entering or trespassing in the dwelling of another unless the owner or owner’s agent has given express permission, either to the person or to the public generally to wear, carry, or transport a firearm inside the dwelling. In addition, Chapter 680 prohibits a person wearing, carrying, or transporting a firearm from (1) entering or trespassing on property unless the owner or owner’s agent has posted a clear and conspicuous sign indicating that it is permissible to wear, carry, or transport a firearm on the property or (2) entering or trespassing on property unless the owner or

the owner's agent has given the person express permission to wear, carry, or transport a firearm on the property.

Chapter 651 of 2023

Chapter 651 of 2023 increases the legal age to qualify for a handgun permit from 18 to 21 years of age. The Act also modifies the requirements for issuance of a handgun permit, including prohibiting permits for (1) a person who is on supervised probation for a crime punishable by imprisonment for one year or more; (2) a person convicted of driving while impaired or under the influence of drugs/alcohol; and (3) a person who violates a protective order. In addition, Chapter 651 altered the requirements and procedures relating to the issuance and renewal of a handgun permit by expanding the background check investigation qualifications and the firearms training course curriculum. Chapter 651 also increases handgun permit fees and the maximum penalty for wearing, carrying, or transporting a handgun without a permit.

Current Status of Implementation

Legal Challenges

Two lawsuits challenging the constitutionality of Chapters 651 and 680 of 2023 were filed in the U.S. District Court for the District of Maryland against the State on May 16, 2023, the day the Governor signed the bills into law (*Kipke, et al v. Moore, et al* and *Novotny, et al v. Moore, et al*). The plaintiffs in the two lawsuits include the National Rifle Association, Maryland Second Amendment advocates, and other Maryland residents. On September 29, 2023, the Federal District Court for the District of Maryland issued a preliminary injunction enjoining portions of Chapter 680. The ruling effectively blocked the portions of the Act that would restrict the carrying of firearms (1) in locations that sell alcohol; (2) in private buildings or on private property without the owner's consent; and (3) within 1,000 feet of a public demonstration. The remainder of both laws took effect on October 1, 2023. However, as litigation continues, additional portions of both laws could be further enjoined and impacted.

Litigation in Other States

Like Maryland, other states, including New York, New Jersey, and California, are facing similar challenges to newly enacted firearm laws. Following the *Bruen* decision, in September 2022, New York enacted the Concealed Carry Improvement Act. Similar to Chapter 680 in Maryland, New York expanded the requirements for concealed carry permits and prohibited firearms in certain "sensitive places." The Act also established a website to provide the public with information about the state's firearm laws. Beginning in September 2023, New York required background checks for the purchase of ammunition and antique firearms and established new fees for firearm and ammunition transfers. The United States Supreme Court denied a request for an emergency conference to review the new law, and the New York firearm laws are currently

in effect; however, an appeal before the United States Supreme Court is expected within the next year.

In May 2023, the Federal District Court for the District of New Jersey issued a preliminary injunction blocking the state from enforcing a new law that banned firearms in certain “sensitive places” like bars and restaurants where alcohol is served, beaches, parks, theaters, casinos, and health care facilities. The State of New Jersey appealed the ruling, and in June 2023, a three-judge panel paused the preliminary injunction and reinstated the law pending further litigation.

In September 2023, California enacted legislation (1) prohibiting the carrying of a firearm in certain “sensitive places;” (2) raising the minimum age to obtain a handgun permit to 21 years of age; (3) expanding background checks; and (4) raising state taxes imposed on the purchase of firearms and ammunition. Litigation relating to the law’s tax provisions is currently pending.

Conclusion

Considering recent developments and the uncertainty in the outcomes of the pending litigation in the State and across the nation, Maryland could see a broad range of firearm-related legislation during the 2024 session, including legislation seeking to implement components from newly enacted firearm laws from other states as well as legislation similar to that proposed during the 2023 session that challenges existing firearm restrictions. In addition, the United States Supreme Court has announced that it will hear its first Second Amendment case since the *Bruen* decision to decide whether federal law can prohibit firearm possession for persons subject to domestic violence orders. A decision is expected by June 2024.

State Correctional System Update

After declining during the COVID-19 pandemic, the average daily population of Department of Public Safety and Correctional Services facilities, as well as community supervision caseloads, are trending upward. Correctional officer employment continues on a downward trend, but growth in administrative employment is expected to increase the department's capacity to conduct large-scale and long-term projects. The department has expanded its hiring and retention initiatives in an attempt to improve its employee vacancy rate.

Background

The Department of Public Safety and Correctional Services (DPSCS) is responsible for operating 13 correctional institutions throughout the State and 5 pretrial detention facilities in Baltimore City, with a combined average daily population (ADP) of approximately 18,100. Through the Division of Parole and Probation (DPP), DPSCS also provides court-ordered supervision to offenders in the community and operates 47 parole and probation units. For fiscal 2024, DPSCS has a total budget of over \$1.57 billion and approximately 9,217 employees, accounting for 5.2% of general fund expenditures and 11.2% of the total State workforce.

Population Increase

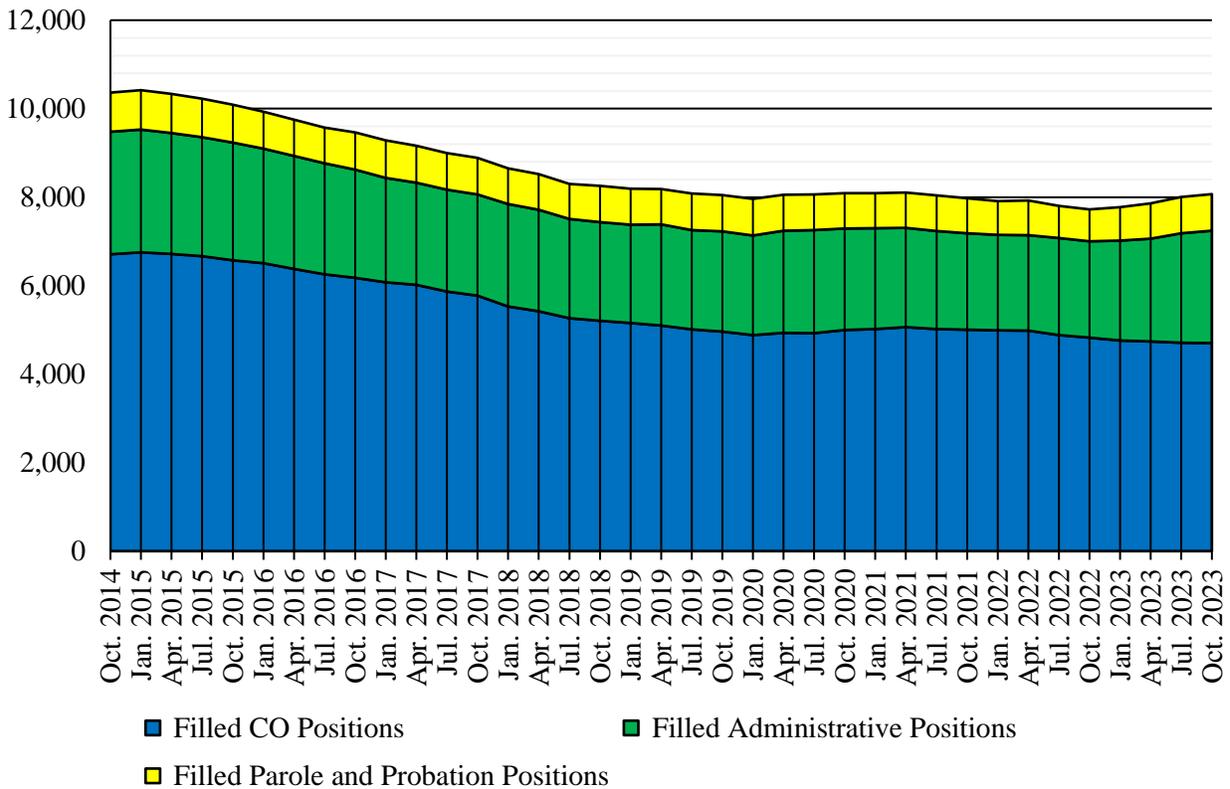
The number of offenders in DPSCS custody increased in fiscal 2023 with the department's monthly ADP increasing each month since February 2022. In the first quarter of fiscal 2024, an average of 15,900 offenders were incarcerated, while 2,170 offenders were detained in pretrial detention. This represents a 3% increase from the first quarter ADP in fiscal 2023, and a 30.2% decline from the peak correctional population in fiscal 2011. The correctional population increased partially to pre-pandemic levels, showing a rebound since judicial proceedings normalized after reopening in calendar 2021.

In fiscal 2023, DPP supervised 82,644 criminal (parole, probation, and mandatory release) cases and approximately 14,400 Drinking Driver Monitor Program (DDMP) cases. Criminal supervision cases rose substantially by 3,955 cases, or 5%, in fiscal 2023, returning to levels that more closely follow pre-pandemic trends. DDMP cases declined dramatically during the COVID-19 pandemic, falling 25% in fiscal 2021 and 14% in fiscal 2022. In fiscal 2023, however, DDMP cases at year-end increased by 354 cases, or 3%.

Staffing and Vacancies

DPSCS staffing for correctional officers (Cos) is a perennial issue that annually has been a focus of legislative action on the budget. Vacancy information shows that filled CO positions in DPSCS have been shrinking since April 2021. Employment for noncustodial staff has increased to meet pre-pandemic levels, but there remains concern that those levels were too low, especially when compared to historical levels. **Exhibit 1** displays the change in filled positions since October 2014.

Exhibit 1
Filled Positions by Employee Category
October 2014-October 2023



CO: correctional officer

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

While CO employment increased slightly during the pandemic, it has returned to a downward trend since reopening in calendar 2021. As of October 2023, DPSCS has approximately 8,067 employees, including 4,703 COs and 825 community supervision agents. This is a higher overall level of employment than the past two years, but CO employment was at the lowest in recorded history in September 2023 (4,694) and has only increased by 7 employees in October 2023. Most of the overall increase in employment is with administrative employees, currently reaching levels not seen since calendar 2016. The Department of Legislative Services expects that this growth in administrative employment will increase DPSCS's capacity to conduct large-scale and long-term projects, which have suffered before, during, and following the pandemic.

DPSCS has expanded its hiring and retention bonuses offered to employees in the past two years. Specialty bonuses are offered to employees to gain certifications and qualifications in special operations, contraband interdiction, instructional training, and weapons use. In calendar 2022, 1,812 employees received bonuses, and in the first half of calendar 2023, 1,931 received bonuses. Certifications for weapons use have resulted in the most frequently awarded specialty bonuses.

In addition, on July 1, 2022, DPSCS expanded the Retention Longevity Pay Incentive (RLPI). The program is now available for DPP agents and field supervisors with 154 enrolled as of August 2023. In November 2022, DPSCS expanded the program to include 77 more employees of differing classifications, and in July 2023, the program expanded to add the Correctional Officer Case Management series. This employee bonus program is a negotiated element of the department's labor agreement with employee unions and is subject to collective bargaining. Because this has been beneficial, and community supervision agent vacancies have decreased, it is possible that the department may expand RLPI further to accommodate other categories of employees with retention difficulties.

Capital Plan and Facility Construction

The fiscal 2024 capital budget plan for DPSCS includes \$43.1 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 the Therapeutic Treatment Center, which will replace the now-demolished Baltimore City Detention Center. The funding required in future years totals at least \$1.0 billion for the Therapeutic Treatment Center and \$421.8 million for all other capital projects. In addition, DPSCS manages the Local Jails and Detention Centers Capital Grant Program, which receives \$13.2 million in general obligation bonds for the Queen Anne's County Detention Center Addition and Renovations project (\$10.9 million for construction), the Montgomery County Criminal Justice Complex (\$1.3 million for planning), and the Frederick County Adult Detention Center Phase IV Medical Addition (\$1.0 million for construction) in fiscal 2024.

Cannabis Legalization Reform

The General Assembly has passed sweeping cannabis reform legislation over the past two legislative sessions. This paper includes an overview of criminal justice cannabis reforms, an update on the implementation of various statutory requirements, and a discussion of potential issues.

Overview of Criminal Justice Cannabis Legislation

Adult-use Cannabis

The consequences of cannabis possession vary by the amount possessed, with statute specifically referring to the “personal use amount” and the “civil use amount.” The “personal use amount” is defined as (1) up to 1.5 ounces of usable cannabis; (2) up to 12 grams of concentrated cannabis; (3) cannabis products containing up to 750 milligrams of delta-9-tetrahydrocannabinol (delta-9-THC); or (4) up to two cannabis plants. The “civil use amount” is defined as (1) more than 1.5 ounces but not more than 2.5 ounces of usable cannabis; (2) more than 12 grams but not more than 20 grams of concentrated cannabis; or (3) cannabis products containing more than 750 milligrams of delta-9-THC but not more than 1,250 milligrams of delta-9-THC.

Pursuant to Chapter 26 of 2022 and the passage of the associated constitutional referendum, as of July 1, 2023, a person who is at least age 21 may legally possess the defined personal use amount of cannabis. Possession of the personal use amount of cannabis by a person who is younger than age 21 is a civil offense, and violators are subject to a maximum fine of \$100. Possession of the civil use amount of cannabis (regardless of age) is a civil offense subject to a maximum fine of \$250. A person who possesses more than the civil use amount of cannabis is guilty of a misdemeanor, punishable by imprisonment for up to six months and/or a \$1,000 maximum fine.

A person who is at least age 21 may cultivate up to two cannabis plants in accordance with statutory requirements. However, no more than two cannabis plants may be cultivated at a single residence even if two or more persons age 21 or older reside at that same residence. A person younger than age 21 may not cultivate cannabis. A person who violates these provisions is guilty of a misdemeanor and subject to a penalty of imprisonment for up to three years and/or a \$5,000 maximum fine.

Smoking Cannabis in Public

Following legislation enacted in 2022 and 2023, the penalty for the civil offense of smoking cannabis in a public place was eventually reduced from a maximum fine of \$500 to a maximum fine of \$50 for a first finding of guilt and \$150 for a second or subsequent finding of guilt. Cannabis

and hemp were also incorporated into the Clean Indoor Air Act, which prohibits the smoking of cannabis in specified public indoor areas.

Cannabis and Motor Vehicles

Smoking Cannabis in a Motor Vehicle

Chapter 26 of 2022 expressly prohibits the occupant of a motor vehicle from smoking cannabis in the passenger area of a motor vehicle on a highway. A violation of this prohibition is a civil offense subject to a maximum fine of \$25. The driver of a motor vehicle may not smoke or consume cannabis in the passenger area of a motor vehicle on a highway. A violation of this prohibition is a misdemeanor subject to a maximum fine of \$500. The prepayment penalty established by the District Court is \$530, and the Motor Vehicle Administration (MVA) must assess one point against a violator's license. If, however, the violation contributes to an accident, the prepayment penalty is \$570, and MVA must assess three points against the violator's license.

Driving While Impaired

One component of the debate over cannabis reform is the effect of increased cannabis consumption on impaired driving and road safety. Related issues include complications in detecting cannabis for purposes of impaired driving enforcement, the ability of police to meet additional enforcement demands, and Drug Recognition Expert resources. Unlike alcohol, there are no reliable breath tests or clear concentration levels for cannabis-impaired driving. Given the recency of Maryland's cannabis reforms, data is not available regarding changes in impaired driving frequency and patterns in the State. According to research published in 2022 by the National Highway Traffic Safety Administration (NHTSA), approximately 25% of drivers presenting to a trauma center following a traffic accident tested positive for cannabis. However, NHTSA cautions that this data should not be used to imply impairment or increased risk associated with drug presence.

The legislative actions on cannabis reform have not altered the existing prohibitions under the Transportation Article, including (1) driving while impaired by a drug, any combination of drugs, or any combination of drugs and alcohol (violators are subject to a imprisonment for up to two months and/or a maximum fine of \$500 for a first offense) or (2) driving while impaired by a controlled dangerous substance (violators are subject to imprisonment for up to one year and/or a maximum fine of \$1,000). Higher maximum penalties may be imposed for a person who commits either violation while transporting a minor or has certain prior convictions.

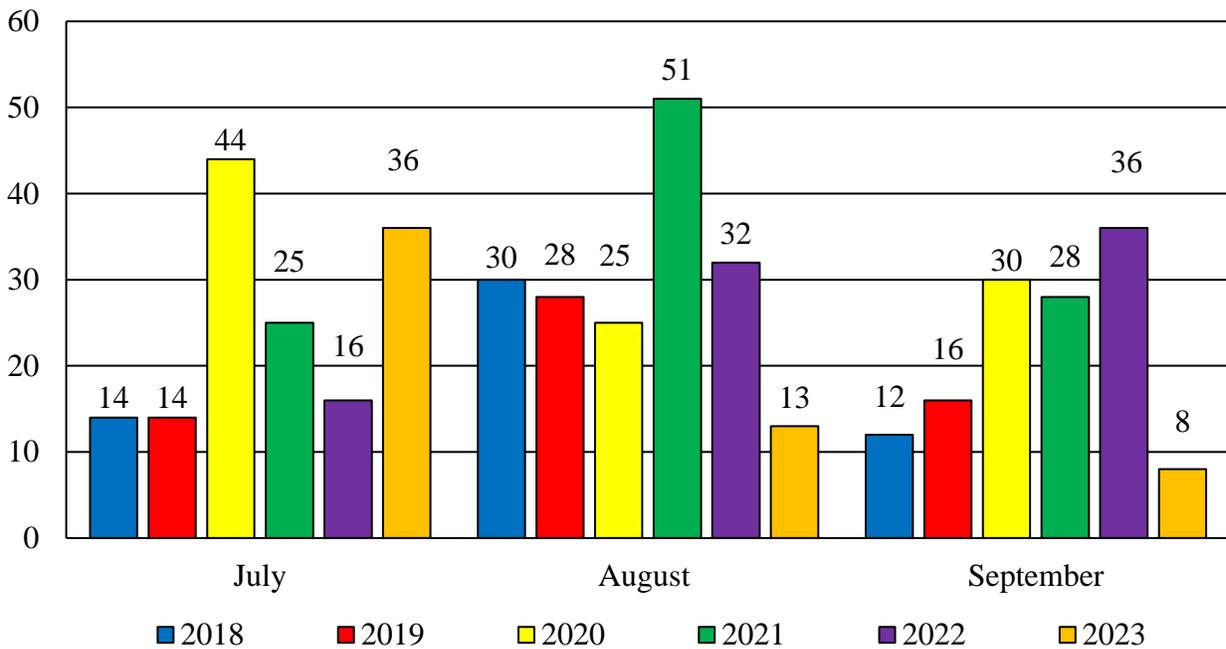
Searches and Seizures

Chapter 802 of 2023 prohibits a law enforcement officer from initiating a stop or a search of a person, motor vehicle, or vessel based solely on the (1) odor of burnt or unburnt cannabis; (2) possession (or suspicion of possession) of cannabis that does not exceed the personal use amount; or (3) the presence of cash or currency in proximity to cannabis without other indicia of an intent to distribute. If a law enforcement officer is investigating a person solely for driving or

attempting to drive a motor vehicle or vessel while impaired by or under the influence of cannabis, the law enforcement officer may search only the area of a motor vehicle or vessel that is (1) readily accessible to the driver or operator of the motor vehicle or vessel or (2) reasonably likely to contain evidence relevant to the condition of the driver or operator of the motor vehicle or vessel. Evidence discovered or obtained in violation of these provisions, including evidence discovered or obtained by consent, is not admissible in a trial, hearing, or other proceeding.

The Department of State Police (DSP) reports that cannabis is the substance most commonly associated with violent crime. While DSP did not see a decrease in July when Chapter 802 took effect, the Field Operations Bureau (FOB) within DSP noted a marked decline in the number of gun seizures occurring in August and September when compared to the same months in prior years. **Exhibit 1** shows gun seizure data for FOB for 2018 through 2023 in the months of July through September.

Exhibit 1
Department of State Police – Field Operations Bureau
Gun Seizure Data Comparisons
July to September – 2018 through 2023



Source: Department of State Police; Department of Legislative Services

Cannabis-related Expungements and References to Cannabis Cases

Chapter 26 of 2022 prohibits the Maryland Judiciary Case Search from referencing the existence of any criminal case in which possession of cannabis is the only charge in the case and the charge was disposed of before July 1, 2023. Chapter 26 also shortened the waiting periods to file a petition to expunge specified cannabis convictions. Under the legislation, a person who is convicted of possession of cannabis under § 5-601 of the Criminal Law Article may file a petition for expungement of the conviction after the satisfactory completion of the sentence including probation. A person who is convicted of possession with the intent to distribute cannabis under § 5-602(b)(1) of the Criminal Law Article may file a petition for expungement of the conviction three years after the satisfaction of any sentence imposed for the conviction for which expungement is requested. Finally, as a result of Chapter 26, the “unit rule,” which states that if a person is not entitled to expungement of one charge or conviction in a unit (two or more charges arising from the same incident, transaction, or set of facts), the person is not entitled to expungement of any other charge or conviction in the unit, does not apply to possession of cannabis under § 5-601 of the Criminal Law Article. The Judiciary advises that these provisions have been fully implemented but notes that there has not been an increase in cannabis-related expungement requests.

Chapter 26 also requires that, by July 1, 2024, the Department of Public Safety and Correctional Services (DPSCS) must remove all references to cases in which the possession of cannabis is the only charge in the case from the Central Repository if the charge was issued prior to July 1, 2023. As of June 30, 2023, DPSCS advises it has identified 125,887 cases that potentially meet this criteria across the State. As of October 2023, DPSCS further advises that pilot testing of a cohort of cases in Baltimore City (both District and circuit court) is anticipated to occur on November 30, 2023, with statewide implementation to follow successful completion of the pilot testing.

Although previously introduced, no legislation has been enacted requiring automatic expungement of cannabis-related convictions. The Judiciary has repeatedly advised that the process for effectuating automatic expungements for cases related to simple possession of cannabis would be an enormous undertaking requiring significant additional resources. However, the exact number of additional personnel needed depends on a variety of factors, such as the timeframe within which the Judiciary must complete the automatic expungements, whether the automatic expungements include full and partial expungements, and the overall number of cases included for automatic expungement. The Judiciary advises that the level of effort required to effectuate a partial expungement (*i.e.*, expungements for cases where there is a cannabis conviction and other charges or convictions not eligible for expungement) is significantly higher than that for a full expungement.

For reference, between 1970 and 2022, the number of cannabis convictions in cases where cannabis was the only charge (*i.e.*, eligible for full expungement) is estimated by the Judiciary to be 25,393 in the District Court and 11,825 in the circuit courts. During that same timeframe, the number of cannabis convictions in cases where there are other charges or convictions (*i.e.*, eligible

for partial expungement of a cannabis conviction only) is estimated to be 40,132 in the District Court and 59,864 in the circuit courts.

Criminal Law

Victims' Rights – *Lee v. State*

On March 28, 2023, the Appellate Court of Maryland issued an opinion in the case of *Lee v. State* overturning the earlier vacating of the murder conviction of Adnan Syed on the basis that the victim's representative was not adequately notified of and given the opportunity to attend the hearing on the State's motion to vacate the conviction. The opinion is under review by the Supreme Court of Maryland. The case may impact victim's rights in the State as well as the murder conviction of Adnan Syed.

Procedural Background

On February 25, 2000, Adnan Syed was convicted of the murder of Hae Min Lee. On September 14, 2022, the State's Attorney for Baltimore City filed a motion in the circuit court to vacate Adnan Syed's conviction on the ground that the integrity of the conviction had been called into question. The State's Attorney contended that potentially exculpatory evidence had not been turned over to Adnan Syed's counsel and that newly discovered information identified potential alternative perpetrators.

On September 19, 2022, an in-person hearing on the motion to vacate was held. The brother of Hae Min Lee, Young Lee, a California resident who attended the hearing virtually, requested to postpone the hearing to allow him to review the motion and attend in person. The circuit court denied Young Lee's motion and granted the motion to vacate.

On September 28, 2022, Young Lee filed a notice of appeal in the Appellate Court of Maryland. On October 11, 2022, the State's Attorney notified the circuit court that the State would be entering a *nolle prosequi* of Adnan Syed's charges, which the court subsequently entered. Young Lee's appeal to the Appellate Court proceeded and, in an opinion issued on March 8, 2023, the Appellate Court held that the circuit court's entry of the *nolle prosequi* was improper, and that Young Lee's rights as a victim were violated with respect to the motion to vacate. *Lee v. State, et. al.*, No. 1291, September Term, 2022. The Appellate Court, therefore, vacated the *nolle prosequi* and the circuit court's order granting the motion to vacate and remanded for a new hearing on the motion to vacate.

The Entry of the *Nolle Prosequi*

A *nolle prosequi* is a formal entry on the record by the State that declares the State's intention not to pursue a charge. Normally, the State has broad discretion, not subject to judicial review, to enter a *nolle prosequi*. However, the Supreme Court of Maryland has, in certain circumstances, limited the State's power to enter a *nolle prosequi* where doing so would cause

fundamental unfairness or interfere with the appellate process. Although the prior circumstances in which the entry of a *nolle prosequi* were deemed unfair concerned unfairness to a criminal defendant, the court concluded that the same considerations should apply to victims, such that the State may not enter a *nolle prosequi* if doing so would have the purpose or necessary effect of violating a victim's rights.

Maryland Rule 4-333(i) requires that within 30 days after a court enters an order vacating a judgment of conviction or probation before judgment as to any count, the State's Attorney must enter a *nolle prosequi* of the vacated charges or take other appropriate action. In this case, the State entered the *nolle prosequi* eight days before that deadline, and with Young Lee's appeal to the Appellate Court pending. The court concluded that the entry of the *nolle prosequi* had the purpose or necessary effect of preventing Young Lee from obtaining a ruling on whether his rights as a victim were violated and that the *nolle prosequi* was improper.

The Granting of the Motion to Vacate

Article 47 of the Maryland Declaration of Rights states that crime victims are to "be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process" and that victims have the right, if practicable, "to be notified of, to attend, and to be heard at a criminal justice proceeding, as these rights are implemented[.]" Criminal Procedure Article § 8-301.1, the provision governing a motion to vacate, explicitly provides for the right of a victim to be notified of and to attend a hearing. Unlike the provisions governing certain other proceedings, such as § 11-403 of the Criminal Procedure Article, which governs sentencing hearings, § 8-301.1 does not explicitly provide for the right of a victim to be heard at the hearing. Young Lee argued that he had a right to attend the hearing on the motion to vacate in-person, that the notice given to him of the hearing was insufficient, and that he had a right to be heard and to participate at the hearing.

Virtual Attendance

Because § 8-301.1 of the Criminal Procedure Article and other provisions related to victims' rights were enacted before the COVID-19 pandemic made virtual court hearings common, this case has provided a first opportunity for courts to consider whether a victim's virtual attendance at a hearing is sufficient to satisfy the victim's right to attend. In reaching its conclusion, the Appellate Court pointed to existing court rules on civil evidentiary hearings, which allow the court to permit one or more parties to participate remotely but do not allow courts to require remote participation. Reasoning that § 8-301.1 was enacted at a time when court proceedings were understood to be conducted in-person, the court concluded that, while virtual attendance may be sufficient where a victim prefers it, requiring a victim to virtually attend a proceeding at which a defendant may be physically present is a violation of a victim's right to attend the proceeding.

Notice

The State's Attorney first notified Young Lee of the State's intent to file the motion to vacate on September 12, 2022. The motion was filed on September 14, 2022. On September 16, 2022, a Friday, during an in-chambers conference in which the State's Attorney discussed the substance of the State's motion with the court, a hearing on the motion was scheduled for Monday, September 19, 2022. The State's Attorney notified Young Lee by email of the hearing date immediately after it was scheduled.

At the hearing, Young Lee's counsel stated that Young Lee wanted to attend the hearing in person and requested a postponement of seven days to allow Young Lee to travel from California, which the court denied. Young Lee was allowed to observe the hearing virtually and to address the court. The Appellate Court noted that, while the relevant statutory provisions require only notice to the victim, and not reasonable notice, the term notice must be read in the broader context of the overall statutory scheme. Therefore, the court interpreted the term "notice" in light of the requirement in Article 47 that victims be treated with dignity, respect, and sensitivity. Consistent with its holding that a court may not require a victim to attend a proceeding virtually, the court concluded that the notice given to Young Lee that the hearing would occur on the next business day was insufficient because it effectively required Young Lee to attend virtually despite his preference to attend in-person.

Right to Be Heard

Section 11-403 of the Criminal Procedure Article defines a sentencing hearing as a hearing at which the imposition or alteration of a sentence is being considered. Young Lee argued that, because a motion to vacate alters a sentence by setting it aside, this provision applies to a hearing on a motion to vacate. He further argued that he had a right to be heard at the hearing, which he was not afforded due to the short time given to him to prepare for the hearing. Young Lee also argued that Article 47 generally grants victims the right to be heard at a hearing on a motion to vacate.

The Appellate Court, in finding that Young Lee had no right to be heard at the hearing, distinguished between vacating a conviction and imposing or altering a sentence by noting that imposing a sentence is a discretionary decision by the court in which the impact on the victim is a relevant factor. Vacatur of a conviction, on the other hand, is a legal decision in which the impact on the victim is not a relevant factor. In addition, the court noted that, while the General Assembly was considering § 8-301.1 of the Criminal Procedure Article, multiple individuals pointed out that it did not provide a right to be heard and suggested amending the bill to include such a right. Rejection by the General Assembly of such amendments, and the fact that other statutory provisions do explicitly provide for the right to be heard, led the court to conclude that the General Assembly did not intend to provide victims with a right to be heard at a hearing on a motion to vacate.

Proceedings in the Supreme Court of Maryland

Adnan Syed appealed the decision of the Appellate Court to the Supreme Court of Maryland. On June 28, 2023, the Supreme Court granted *certiorari*. In addition to the issues discussed above, the Supreme Court agreed to consider whether a victim who alleges that the victim's rights were violated must show that the victim was prejudiced by the violation in order to obtain relief. The Supreme Court held oral arguments in the case on October 5, 2023, and a decision is pending.

Juvenile Crime

A number of incidents of criminal activity involving youth has created a perception that there has been a significant increase in juvenile crime in the State. The Department of Juvenile Services reports that while overall juvenile complaints have increased in the last two years, they are still below levels seen prior to the pandemic and have decreased sharply over the past decade. Regardless, with significant reported increases in offenses such as handgun violations and carjackings, legislation related to juvenile crime is likely to be considered in the 2024 legislative session.

Background and Juvenile Complaint Data

A July 2023 mass shooting in South Baltimore during which two individuals were killed and dozens more injured made national news and prompted a statewide discussion of juvenile-involved crime. Individuals younger than age 18 were among those injured and several teenagers were arrested for their involvement in the shooting, including one accused shooter who was reportedly under the supervision of the Department of Juvenile Services (DJS). Carjackings, handgun violations, and automobile thefts are other examples of offenses committed by juveniles that have received extensive media coverage and contributed to what is being perceived as a surge in juvenile crime across the State.

According to a September 2023 report by DJS, overall juvenile complaints have declined by approximately 50% over the last decade – from 25,002 complaints in fiscal 2014 to 12,363 complaints in fiscal 2023 – and reached their lowest level (7,100) in fiscal 2021, the peak year of the COVID-19 pandemic. While juvenile complaints have increased since fiscal 2021, fiscal 2023 complaints remain 17% lower than fiscal 2020 levels. Juvenile complaints include juvenile arrests referred to DJS, as well as citizen, school, and Children In Need of Supervision (CINS) complaints referred to DJS. However, complaint data does not include youth automatically charged as adults, unless a judge transferred the case to juvenile court.

Although overall crimes of violence decreased 16.5% between fiscal 2020 and 2023, there were sharp differences in complaint numbers for some offenses categorized as crimes of violence. For example, robbery complaints decreased by 30%, and the number of felony sex offenses fell by almost 22%. In contrast, carjacking complaints increased by 85.4%, and handgun violations increased nearly 220%. Driven largely by an increase in motor vehicle thefts, overall nonviolent felony complaints in fiscal 2023 increased by 70.5% over fiscal 2022. The number of motor vehicle theft offenses referred to DJS more than doubled during this time period, from 545 to 1,193. Together, crimes of violence and nonviolent felonies accounted for approximately one quarter of all juvenile complaints in fiscal 2023.

Recent Juvenile Law Legislation

Chapter 42 of 2022 implemented many recommendations of the Juvenile Justice Reform Council, which was established in 2019 to research best practices for the treatment of juveniles who are subject to the criminal and juvenile justice systems and make recommendations to limit or otherwise mitigate contributing risk factors. Among other provisions, Chapter 42 raised, to age 13, the minimum age of juveniles subject to the jurisdiction of the juvenile court for purposes of delinquency proceedings, with an exception for 10- to 12-year-olds accused of specified violent offenses. The legislation also established limitations on the use of detention and probation and expanded the circumstances under which juveniles may be handled by an informal process within DJS without an opportunity for further review by a State's Attorney. Also in 2022, Chapter 50 (the Child Interrogation Protection Act), established more stringent requirements for law enforcement prior to and during a custodial interrogation of a juvenile. Although the aforementioned laws have only been in effect for a short time, they are already being scrutinized for impact as legislators continue to grapple with appropriate solutions to decrease juvenile crime.

Examining Potential Contributing Factors to Juvenile Crime

In a hearing before the House Judiciary Committee in September 2023, presentations from DJS, the law enforcement community, the Office of the Public Defender (OPD), and the Maryland State's Attorneys' Association (MSAA) provided an opportunity to hear perspectives from a range of entities involved in the juvenile justice system.

While committee members and presenters explored many specific issues and their possible impacts on juvenile crime, broad themes included the availability of resources to systemically address the root causes of crime, potential hindrances for law enforcement officers, and a perceived lack of consequences for DJS-involved youth. For example, since felony complaints regarding nonviolent offenses are generally eligible to be handled informally, there was discussion surrounding how DJS intake officers are using such discretion, especially for repeat referrals. The use of electronic monitoring, community detention, and probation was also explored, including whether existing DJS resources are sufficient to provide the appropriate level of oversight for juveniles who are being supervised pre- or post-trial in the community.

The overall efficacy of the current juvenile justice system in addressing repeat offenders was also a topic. For instance, it was reported that from January through early September of 2023, 99 juveniles were arrested for carjackings or related offenses in Prince George's County, accounting for 57% of carjacking-associated arrests in the county during that time. A majority of these juveniles had previous encounters with the juvenile justice system. Specifically, over half of the juveniles had prior arrests of some type, including 24 with prior arrests for firearms-related offenses and 46 with prior arrests for crimes of violence. Challenges with handling matters through CINS petitions, including impediments to ensuring that CINS-referred juveniles and families receive recommended interventions, were discussed in light of the limitations on the circumstances under which individuals younger than age 13 may be subject to a delinquency petition.

DJS, while noting that juvenile crime represents a small portion of all crime in Maryland, also acknowledged the need for more diverse options for judges to consider when making dispositional decisions for juveniles, noting, for example, that Maryland does not have a residential drug treatment program for adolescents. OPD further stressed that the availability of community services for juveniles and their families has atrophied in recent years, further noting that poverty, mental health, and the widespread prevalence and availability of firearms are among other factors that must be examined when discussing juvenile justice reform. It was also emphasized that the reforms of Chapter 42 were focused on juveniles accused of nonviolent offenses, were supported by extensive data on best practices, and are in the initial years of implementation.

The Child Interrogation Protection Act was also referenced, with representatives from law enforcement and MSAA testifying that in their view, the law has restricted the ability to get timely information on crimes involving juveniles, even in instances where juveniles in a custodial interrogation setting wish to cooperate. Unlike adults, who may waive the right to speak with an attorney before being questioned by law enforcement, a juvenile in a custodial interrogation setting may not do so under the Act.

Finally, the September 2023 report from DJS specifically noted that automobile thefts have increased nationwide, likely due in part to the “Kia challenge.” On TikTok, videos – some that have over 40 million views – show viewers how to steal certain Kia or Hyundai models. According to data from the Baltimore Police Department, car thefts of Hyundais and Kias more than doubled from 2021 to 2022. Baltimore City has joined a growing number of U.S. cities to sue Hyundai and Kia over the automobile companies’ failure to install anti-theft software in their vehicles.

Potential Legislation

During the 2024 legislative session, the General Assembly may consider whether any modifications to recently enacted juvenile laws are warranted. Due to the increase in carjackings, automobile thefts, and handgun violations, legislation addressing those specific offenses may also be proposed. Bills to provide greater oversight of DJS and expand available services for juvenile justice-involved youth are also possible.

Organized Retail Theft

Organized retail theft has been on the rise since the COVID-19 pandemic of 2020. Emerging legislation across the country aims to target these crimes with harsher penalties for theft and increased enforcement power.

Overview of the Problem

Organized retail theft (ORT) has long been a hurdle for businesses, but the problem has grown in the wake of the COVID-19 pandemic of 2020. ORT far exceeds the scope of petty theft and is the systemic, large-scale theft of retail goods that are then sold for profit, often through online platforms. External theft, including ORT, is a major component of “shrink,” a data measure that also includes the loss of goods through employee theft, processing errors, and inventory miscounts.

The National Retail Federation’s 2022 National Retail Security Survey found the average shrink rate in 2021 to be 1.4%. When applied to total retail sales in 2021, shrink amounted to \$94.5 billion in losses, up from \$90.8 billion in 2020, which is a 4% increase. The survey also found that retailers, on average, saw a 26.5% increase in ORT incidents in 2021. Furthermore, 8 in 10 retailers surveyed by the National Retail Federation reported that violence and aggression associated with ORT incidents are on the rise.

Measures Expected to Be Taken by Retailers

Customer shopping experiences are changing as a result of ORT. Major stores have announced plans to combat ORT by keeping products off the sales floor entirely, removing national brand items, requiring receipt checks for customers at exits, limiting access to doors, and, in some cases, store closures. In addition, Walmart, Target, Lowe’s, Kroger, Macy’s, CVS, and other major stores have been collaborating with technology companies to develop and deploy surveillance systems, including facial recognition for self-checkouts.

Legislative Measures

The federal government as well as many states have enacted statutes to address ORT.

Federal

The federal Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act, known as the INFORM Consumers Act, took effect June 27, 2023. The Act requires online marketplaces to report and verify information about high-volume third-party sellers. The goal of the Act is to add more transparency to online transactions and to deter criminals from acquiring stolen, counterfeit, or unsafe items and selling the items through those marketplaces. In general, an “online marketplace” is a person or business that operates a consumer-directed platform that allows third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States. A “high-volume third-party seller” is a seller in an online marketplace that, in a continuous 12-month period during the past two years, has had, on that platform, 200 or more separate sales or transactions of new or unused consumer products and \$5,000 or more in gross revenues. The Act exempts businesses from these requirements when (1) the business name, business address, and contact information is publicly available; (2) the business has a contractual relationship with the marketplace to distribute such products; and (3) the business provides the marketplace with identifying information that the marketplace has verified. Also exempted are the online marketplaces themselves. A violator of the INFORM Consumers Act is subject to a civil penalty of \$50,120 for each violation.

Other States

At least 34 states have enacted legislation targeting ORT. These statutes often establish penalties that are higher than those that apply to general theft if the defendant’s conduct is part of a pattern of thefts committed with a certain frequency and involving more than a certain dollar amount in connection with an ORT enterprise. For example, Virginia’s law, which passed in February 2023, makes it a Class 3 felony punishable by a maximum of 20 years imprisonment to conspire or act in concert with one or more people to steal retail merchandise with a value exceeding \$5,000 in a 90-day period, with the intent to sell the stolen goods for profit. Other statutes establish enhanced penalties for those who are ringleaders of ORT enterprises. Utah law is unique in creating a Joint Organized Retail Crime Unit to investigate, apprehend, and prosecute individuals and entities that participate in ORT. Additionally, California law provides for expanded jurisdiction for prosecution of an ORT charge and prohibits the pretrial release of a defendant suspected of being involved in ORT under certain circumstances.

Maryland

The General Assembly has considered, but not adopted, a number of bills related to ORT over the past several years. The most recent, House Bill 1173 of 2022, sought to (1) clarify the venue for prosecution of a case involving multiple thefts in multiple counties by specifying that multiple thefts committed by the same person in multiple counties under one scheme or continuing course of conduct may be joined and prosecuted in any county in which any one of the thefts occurred; (2) expand the authority of a police officer to make a warrantless arrest for theft; and (3) require that if a court finds that a defendant committed “organized retail theft,” the finding

must be included in the court record and reported to the Criminal Justice Information System Central Repository.

Other bills to address ORT are likely to be introduced at the federal and state level.

Courts and Civil Proceedings

Remote Access to Courts

Remote access to courts in Maryland and across the country increased significantly during the pandemic and continues to be the subject of ongoing policy debates. While the Maryland Rules addressing remote court participation were recently revised, the ability of the public to livestream court proceedings in Maryland remains limited. Legislation to expand remote public access to courts has been introduced in prior years and remains a likely topic for consideration by the General Assembly in the future.

Background and Maryland Law

The COVID-19 pandemic precipitated a significant increase in technological enhancements to facilitate remote access to the judicial system as courts across the country were forced to move more proceedings from “in-person” to “remote” in a short period of time. Although practices varied widely, every state and the District of Columbia implemented some type of remote access to courts and established related guidelines. Remote access to courts generally refers to (1) remote participation in which an individual may simultaneously participate in a judicial proceeding from a remote location using approved means, such as video conferencing and (2) remote court public access in which a court proceeding is livestreamed over the Internet for the purpose of public viewing or listening. Even as State courthouses reopened to the public and the Maryland Judiciary began to gradually resume many standard procedures, there remained interest in evaluating whether any technological innovations employed by the Maryland Judiciary during the pandemic should be made permanent. Among other duties, the Joint Subcommittee on Post-COVID Judicial Operations, created by the Maryland Judiciary in September 2021, was charged with examining remote court proceedings and making related recommendations as part of its work.

As a result of the subcommittee’s recommendations, the Supreme Court of Maryland adopted Title 21 of the Maryland Rules, a new title, which took effect on July 1, 2023. Title 21 revised former rules for remote participation and, among other provisions, specified particular categories of proceedings in the trial courts eligible for remote participation. Civil proceedings eligible for remote participation include certain evidentiary proceedings; scheduling, status, and pretrial conferences; and virtual jury trials, which, absent specified emergency circumstances, require the approval of the county administrative judge and consent of the parties. Criminal and delinquency proceedings eligible for remote participation include appearances pursuant to bench warrants, bail reviews, expungement hearings, and juvenile detention hearings if the respondent is already detained. Additional proceedings, including plea agreements not likely to result in incarceration and sentencing hearings, are designated as presumptively appropriate for remote participation subject to the knowing and voluntary consent of the defendant. If a party objects to remote participation, the court must determine whether remote participation would likely cause

substantial prejudice to a party or adversely affect the fairness of the proceeding. For criminal and delinquency proceedings, the court must also find that no party lacks the ability to participate remotely in the proceeding.

The subcommittee's report also included a recommendation for continuing consideration of whether and under what circumstances livestreaming should be implemented for public courtrooms, including specific case types or proceedings that are and are not appropriate for livestreaming. Although Maryland trial courts do not broadly provide remote court public access, if a proceeding open to the public is conducted entirely by remote means, the Maryland Rules require the court to ensure that members of the public have the ability to listen to the non-redactable portions (those not required to be safeguarded or redacted from audio recordings) of the proceeding during the course of the proceeding through remote electronic means. The State's appellate courts already enable the public to remotely view oral arguments through livestreaming.

In a related case about other options by which the public may obtain information about court proceedings, *Soderberg v. Carrión*, 645 F. Supp.3d 460 (D. Md. 2022), the U.S. District Court held that although the broadcast ban under §1-201 of the Criminal Procedure Article generally prohibits the recording or broadcasting of any criminal matter, it is a violation of the First Amendment to the U.S. Constitution for the State to prohibit the public and the press from broadcasting recordings of criminal proceedings lawfully obtained from the courts. As a result, the Maryland Rules continue to permit any person to request a copy of an audio recording or an audio portion of an audio-visual recording by paying a reasonable cost to the Maryland Judiciary. However, due to continuing concerns regarding the potential impacts of dissemination and subsequent broadcasting, the Maryland Supreme Court adopted additional rules related to safeguarding confidential portions of a court proceeding. For example, pursuant to Rule 16-504.1 (effective January 1, 2024), a circuit court is permitted to redact specified portions of a criminal proceeding from a copy of an audio recording subject to dissemination if, by written order or on the record, the court makes a finding by clear and convincing evidence that a compelling reason under the particular circumstances exists for the redaction and no substantial harm will result from such redaction. The court must include the reason for the redaction, which may include, among other enumerated reasons, the intimate nature of the testimony sought to be redacted or the likelihood of harm to a party, victim, or witness if the redaction is not made.

Recent Legislative Activity and Policy Considerations

The General Assembly has frequently considered legislation regarding remote access to courts. Most recently, Senate Bill 43 and House Bill 133 of 2023 would generally have required State courts to provide remote audio-visual public access for all public court proceedings, unless a proceeding is deemed closed, confidential, or restricted by federal or State law. Both bills would have authorized a presiding judge to prohibit the broadcast of any portion of a proceeding on the request of any party, witness, or counsel. House Bill 133 would have also addressed remote participation by specifying that the presiding judge may allow an individual who is not a party to the proceeding to participate remotely on request of counsel and for good cause shown.

Proponents of the bills cited greater government accountability and transparency as some of the reasons for passage of the legislation. Because of the convenience of viewing a trial court proceeding online, a larger portion of the public may observe decisions made by judges in a variety of legal matters, providing a check on any potential abuse of judicial discretion or power. Also, by allowing such access, public confidence and trust in the judicial system may be strengthened by assuring citizens that the administration of justice is fair and effective. Citizen engagement and education are other policy goals cited to support livestreaming trial court proceedings. Proponents noted that increased familiarity with court proceedings enhances civic participation and understanding, making the judicial system less intimidating to the general public.

Opponents of remote court public access note the risk of unauthorized recordings and widespread dissemination of confidential and sensitive information, potentially jeopardizing the safety of victims, witnesses, and jurors, as well as judges and attorneys. Repeated images and information about participants in a court proceeding posted on social media or shared digitally may also have a detrimental personal and professional impact. Furthermore, testimony subsequently ordered to be stricken from the record in a court proceeding and recordings of cases that are later expunged may remain in the public domain. The Maryland Judiciary has routinely opposed any legislative expansion of remote court public access, in part because of significant estimated costs for implementation. The Maryland Judiciary has also raised separation of powers issues, noting that legislation concerning remote court public access challenges the constitutional power of the Chief Justice of the Supreme Court of Maryland who, as the head of the Judicial Branch, has overall responsibility for the administration of the State courts.

Other States and Potential Legislation

According to information compiled by the National Center for State Courts, although all 50 states and the District of Columbia appear to authorize remote participation in some form, remote court public access is still not widespread. However, whether through legislation or court rules, states continue to consider the issue of remote court public access. For example, Colorado recently enacted legislation requiring courts to provide remote court public access to observe open criminal court proceedings, subject to exceptions including insufficient staff or technological capabilities or a finding that certain factors are applicable, including a reasonable likelihood of risk to any person's safety. Remote court public access is expected to be a topic of future legislation, and the General Assembly may also consider whether to amend § 1-201 of the Criminal Procedure Article to adequately reflect the *Soderberg* decision and the updated Maryland Rules.

Courts and Civil Proceedings

Access to Counsel in Evictions

Although the Access to Counsel in Evictions Program is currently in the middle of a multi-year rollout, the program does not have a stable, permanent funding source. Legislative action may be considered to ensure that adequate funding is provided in fiscal 2025 and beyond.

Background and Status of the Access to Counsel in Evictions Program

The Access to Counsel in Evictions (ACE) Program, established by Chapter 746 of 2021 and administered by the Maryland Legal Services Corporation (MLSC), generally provides access to legal assistance for qualifying tenants facing eviction proceedings. As the administrator of the ACE Program, MLSC awards grant funding to nonprofit organizations across the State that provide direct legal services to qualifying individuals. Other components of the program include outreach and education by community groups regarding tenants' rights. As required by Chapter 746, the ACE Program is being phased in across the State, with a statutory goal of full implementation by October 1, 2025. In fiscal 2023, the first year in which funding was allocated, the program was launched in 11 jurisdictions; the program is expanding to the remaining jurisdictions in fiscal 2024. According to MLSC, outreach and education efforts throughout the State are purposefully staggered behind the expansion of legal services in order to allow grantees sufficient time to establish program services and ensure capacity. During fiscal 2023, despite outreach efforts only beginning in the last quarter, information was provided to more than 12,600 tenants.

Case Statistics and Outcomes

Legal services providers in the ACE Program closed almost 4,000 eviction cases in fiscal 2023. The vast majority of the cases (89%) were for failure to pay rent; other cases included those alleging a breach of lease or a tenant holding over (*i.e.*, unlawfully remaining in the property after a lease has terminated). Of the cases closed in fiscal 2023, over half were in Baltimore and Prince George's counties. Program grantees also report information on case dispositions for inclusion in reports that MLSC provides to the General Assembly. According to fiscal 2023 data, evictions were delayed in 1,093 cases, providing tenants with time to either seek alternative housing or satisfy payment obligations in order to remain in the property. Eviction was prevented in over 1,200 cases. Other reported benefits to tenants included securing repairs, avoiding illegal or unfair charges by landlords, and preventing the termination or denial of housing subsidies. As a result of the program's efforts during fiscal 2023, State residents received more than \$420,000 in housing judgments (cash judgments awarded to tenants as an outcome of their case and

representation) and avoided more than \$3.5 million in direct costs (amounts tenants would have had to pay if not for their case and representation).

The most recent MLSC report, covering July through September 2023, advised that ACE program grantees closed almost 1,400 cases in the first quarter of fiscal 2024 and had nearly 1,700 ongoing cases.

Funding Concerns and Potential Legislation

The provisions of Chapter 746 did not include a reliable funding mechanism for implementation of the ACE Program. While the legislation also established the ACE Special Fund for the purpose of providing funding to fully implement the ACE Program, the fund was generally dependent on any discretionary funds appropriated through the State budget, interest earnings, and any other money accepted for the benefit of the fund. The ACE Program still lacks a stable, permanent funding source, although some legislative efforts to bolster funding have been successful. For example, Chapter 40 of 2022 required, for fiscal 2024 only, the Comptroller to distribute \$14.0 million from the State's Unclaimed Property Fund to the ACE Special Fund; Chapter 641 of 2023 extended this mandate through fiscal 2027. Pursuant to Chapters 20 and 21 of 2022, a portion of certain funds received from any final settlement, agreement, or judgment related to investigations or enforcement actions under the Maryland Consumer Protection Act regarding residential rental property is to be directed to the ACE Special Fund. However, no funds have thus far been received from this source. In fiscal 2023, funding was also received to support initial implementation via the Judiciary's budget and from a federal Emergency Rental Assistance Program (ERAP) grant made to the Department of Housing and Community Development; a portion of the ERAP funding remained available for use in fiscal 2024.

Although funding from the Unclaimed Property Fund and ERAP is likely sufficient to satisfy estimated program costs of \$18.65 million in fiscal 2024, costs are projected to increase as the rollout continues and current grantees serve a greater number of clients. Once outreach and education efforts are fully underway throughout the State, the program could have more clients than the current roster of providers is capable of handling. For instance, MLSC reports that in the first quarter of fiscal 2024, providers rejected 205 tenants due to insufficient resources. While some of these tenants may still have been able to receive necessary services after being referred to another program provider, it may be necessary in the future to increase the overall number of grantee providers or help existing providers bring on more staff. The potential need to utilize additional legal services providers may also result in higher administrative expenses for MLSC.

With the statutorily set goal for full implementation of the ACE Program approaching, the General Assembly may consider action in the 2024 legislative session to ensure that the program will have a permanent source of adequate funding.

Environment and Natural Resources

Status of Chesapeake Bay Restoration

While efforts to restore the Chesapeake Bay have resulted in incremental progress, Maryland and other bay jurisdictions are not on track to make necessary nutrient and sediment pollution load reductions by calendar 2025. A recent report from the Chesapeake Bay Program highlights opportunities for improving the effectiveness of bay restoration efforts. Still, the bay faces numerous ongoing challenges, including pollution flowing through the Conowingo Dam, uncertainty surrounding conservation funding provided under the federal farm bill, and 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 measures 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 a Phase I WIP in 2010 detailing how the jurisdiction plans to achieve its pollution reduction goals under the TMDL, a Phase II WIP in calendar 2012 establishing more detailed strategies to achieve the TMDL on a geographically smaller scale, and 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 originally projected that the State would achieve (and possibly exceed) statewide nutrient and sediment pollution reduction goals by calendar 2025, although more recent modeling suggests that these goals may be more difficult to meet than anticipated. EPA has also raised concerns regarding whether the Phase III WIP includes sufficient detail regarding the actions that must be taken to achieve pollution reduction goals, the feasibility of the State’s

continued reliance on the wastewater sector to meet pollution reduction goals when other sectors fall short, and 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.

In its October 2022 evaluation of Maryland's 2020-2021 completed and 2022-2023 projected milestones, EPA noted 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.

In May 2023, the Chesapeake Bay Program's Science and Technical Advisory Committee released a report titled *Achieving Water Quality Goals in the Chesapeake Bay: A Comprehensive Evaluation of System Response* (CESR), which assesses why progress toward meeting the TMDL has been slower than anticipated. The CESR report presents findings and recommendations based on the following conclusions: (1) achieving pollutant reductions and water quality improvements is more challenging than expected; (2) the bay-system observed in the past will not be the same in the future due to permanent and ongoing changes in land use, climate, population growth, and economic development; and (3) while opportunities to improve the effectiveness of bay restoration exist, new approaches are needed.

In response to the CESR report, in July 2023, Governor Wes Moore announced a major policy shift in how Maryland will deploy State resources to improve the water quality of the bay and other State waters. It is anticipated that the State will take a more deliberate approach in focusing water quality improvement measures in areas with the most potential to show improvement, such as shallow water habitats in specific regions of the bay. In addition, to strengthen coordination and accelerate restoration of State waters, Governor Moore signed Executive Order 01.01.2023.11, which restructures a former bay-related council to create the Governor's Council on the Chesapeake and Coastal Bays Watershed.

Conowingo Dam

For decades, the Conowingo Dam, a hydroelectric facility that uses reservoir storage to generate power during peak electricity demands, has collected sediment and associated nutrients that would otherwise flow from the Susquehanna River into the bay. However, the dam, which is owned by Constellation Energy (Constellation), has reached an end state in terms of sediment storage capacity. The dam officially has its own pollution reduction targets of 6.0 million pounds of nitrogen and 260,000 pounds of phosphorus under a separate Conowingo WIP (CWIP) developed in 2021. Maryland's fiscal 2023 budget included \$25.0 million to fund a pay-for-success program implemented by the Susquehanna River Basin Commission, which will be used to

purchase water quality outcomes to meet the nutrient reduction goals of CWIP. Pennsylvania and New York have also allocated funding for implementing CWIP.

Dredging Pilot Project

Maryland recently completed 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. A December 2022 report prepared for the Maryland Environmental Service indicates that increased dredging is likely to reduce downstream sediment and nutrient loading. The report found that (1) Conowingo sediments have properties making them suitable for a range of potential reuses, including cement manufacturing, bioretention and topsoils, amended agricultural soils, and stabilized fill; (2) costs can be offset by the potential revenue generated from selling water pollution reduction credits and implementing different combinations of marketable reuses; and (3) the large amount of coal sands and fines in the Conowingo sediments will provide challenges and opportunities for marketable reuse. The State is continuing to refine feasibility and cost determinations for a larger environmental dredging project and has convened an expert panel to evaluate potential nutrient reduction credits that could be derived from such a project.

Federal Relicensing

Efforts to address the water quality impact of the Conowingo Dam have been complicated by controversies surrounding the renewal of the dam's federal operating license, issued by the Federal Energy Regulatory Commission (FERC). Section 401 of the federal Clean Water Act (CWA) requires a water quality certification before a federal license is issued for a project or activity that may affect a state's water quality. Constellation (formerly Exelon) requested a water quality certification from the Maryland Department of the Environment (MDE) as part of federal relicensing proceedings initiated for the dam in 2009. MDE granted the certification in 2018 with conditions that would have addressed a range of water quality impacts from the dam, including fish passage, sediment transport, nutrient pollution, changes to the flow regime, trash and debris management, and the need for adaptive management over the 50-year license term.

After Constellation objected to the conditions set forth in the 2018 water quality certification, MDE and Constellation entered into a settlement agreement that would have required Constellation to implement less stringent water quality improvement measures. FERC approved the settlement and issued a new operating license for the Conowingo Dam in 2021. A coalition of environmental groups then filed suit, arguing that FERC violated the CWA when it accepted the State's withdrawal and waiver of the 2018 water quality certification. On December 20, 2022, the U.S. Court of Appeals for the District of Columbia Circuit agreed, ordering the license to be vacated and the case remanded to FERC for further proceedings. As a result, MDE has resumed its administrative review of the 2018 water quality certification. Pending completion of the State water quality certification and federal relicensing processes, the Conowingo Dam continues to operate under automatic one-year renewals of its previous license, issued in 1980, which contains no special requirements related to water quality.

Farm Bill

Typically renewed every five years, the farm bill is the major federal agricultural and food policy bill. The most recent farm bill, the Agriculture Improvement Act of 2018, includes both mandatory and discretionary (appropriated) funds for an array of programs, including a number of conservation programs that enable farmers to implement best management practices that support bay restoration efforts. However, many of these provisions expired on September 30, 2023, and, as of November 1, 2023, the U.S. Congress has not yet considered a new version of the bill. Of note, the federal Inflation Reduction Act of 2022 allocates supplemental funding to the U.S. Department of Agriculture through September 30, 2031, for some conservation programs that support agricultural conservation practices that have co-benefits for climate resiliency, water quality, greenhouse gas emissions, and nutrient and sediment pollution. These programs will continue to be funded in the near-term despite inaction on the farm bill.

Blue Crabs

In June 2023, the Department of Natural Resources published new restrictions on harvesting blue crabs in the Chesapeake Bay, including a limit on harvesting male crabs for the second consecutive year. These restrictions followed the release of the 2023 Blue Crab Winter Dredge Survey, which estimated the blue crab population to be 323 million crabs, an increase above a record low of 227 million crabs in 2022. While the number of spawning age female crabs increased from 97 million crabs in 2022 to 152 million in 2023, the population fell short of the target of 196 million. Results also showed the adult male crab population to be 55 million crabs in 2023, an increase from a record low of 28 million in 2022. Although recruitment – the number of juvenile crabs – increased from 101 million in 2022 to 116 million in 2023, this is the fourth 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 June 27, 2023, 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 and male crabs. To improve understanding of blue crab population dynamics and the fishery, CBSAC is preparing for a benchmark stock assessment that accounts for new data and alternative model structures to evaluate and revise the management framework. The assessment is expected to be completed by late 2025.

Environment and Natural Resources

Climate Change

The State continues to make progress toward its greenhouse gas emissions reduction targets established under the Climate Solutions Now Act. Further policy action in sectors such as electricity generation, transportation, and buildings have been recommended to help the State achieve its reductions under the Act. Because the State will also need to rely on energy policy changes to meet its reductions, Governor Wes Moore has accelerated the State’s clean energy targets, committing to achieving 100% clean energy by 2035.

Statewide Greenhouse Gas Emissions Reductions

Chapter 38 of 2022, the Climate Solutions Now Act (CSNA), made broad changes to the State’s approach to reducing statewide greenhouse gas (GHG) emissions. 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. To achieve these reductions, the Act, among other things, increases energy efficiency and conservation program requirements, requires the purchase of zero-emission vehicles (ZEV) in the State fleet, and establishes energy conservation requirements for buildings. The Act also establishes several planning and reporting requirements to monitor progress and inform decision making going forward.

State Policy Recommendations

Climate Pathway Report

In June 2023, the Maryland Department of the Environment (MDE) issued *Maryland’s Climate Pathway*, a preliminary report laying out policy, regulatory, and lifestyle changes that the State could use to meet the GHG emissions reductions mandated by the CSNA. The 2031 target requires a reduction of 73.3 million metric tons of carbon dioxide equivalents, or MMTCO_{2e}. According to the *Climate Pathway*, as of 2020, Maryland had already achieved half of the reductions needed – 36.7 MMTCO_{2e} – while full implementation of existing policies can achieve another 26 MMTCO_{2e} by 2031. This leaves a gap of 10.6 MMTCO_{2e}, which represents one-fifth of the 2031 target reductions, to be filled by new policy action. The report recommends an “all-in” strategy across several sectors, with the largest contributions for reductions to come from the electricity generation sector, transportation sector, and buildings sector. Other industries highlighted include agriculture, waste management, and industrial processes and product use. MDE has been conducting public outreach to solicit feedback on the *Climate Pathway*. MDE must deliver a final policy framework and plan incorporating that feedback by December 31, 2023.

Electricity Generation

Significant GHG emissions reductions will be needed from the electricity generation sector to meet CSNA targets. The *Climate Pathway* proposes a strengthened Regional Greenhouse Gas Initiative (RGGI) target of zero GHG emissions by 2040 and a clean electricity standard requiring 100% of in-state electricity to be produced from clean sources by 2035. The report stressed the importance of decarbonizing the power grid to achieve this goal, along with increasing both wind and solar power generation. Under the *Climate Pathway*, solar energy would account for 33% of in-state generation in 2031 and wind energy for over 15% (with offshore wind representing over 80% of total wind generation in 2031, reaching a capacity of 2.2 gigawatts in 2035).

Transportation

Reductions in GHG emissions from the transportation sector are also key to meeting the targets under the CSNA. Increasing the number of electric vehicles (EV) on the road, improving travel efficiency, and reducing vehicle miles traveled (VMT) will contribute to these reductions. The *Climate Pathway* includes proposed VMT reductions based on targets set by other states such as California's Advanced Clean Fleets rule. The Advanced Clean Fleet standards operate by gradually transitioning certain medium- and heavy-duty truck fleets (including drayage trucks operating at ports or railyards, state and local government fleets, federal fleets, and certain large privately owned fleets) to EVs beginning in 2025, reaching 100% electric truck sales for covered fleets by 2040.

Buildings

Among other things, the CSNA requires the development of building energy performance standards to achieve GHG reductions from large commercial buildings. The CSNA also requires the State to study and consider other measures to decarbonize the building sector. Specific policies proposed for this sector in the *Climate Pathway* include a zero-emission appliance standard (covering space and water heating appliances in residential and commercial buildings), a zero-emissions construction standard (covering all new residential and commercial buildings and increasing electrification), and strengthened energy efficiency standards (setting an EmPOWER energy savings goal at 2.5% annual savings through 2045).

Maryland Commission on Climate Change

The Maryland Commission on Climate Change (MCCC) was established to advise the Governor and General Assembly on ways to mitigate the causes of, prepare for, and adapt to the consequences of climate change. On October 19, 2023, MCCC's Mitigation Working Group presented and discussed a list of draft and final recommendations for MCCC to consider. These recommendations include (1) creating incentives to help Marylanders buy new and used EVs; (2) providing grants to owners of small fleets to support the transition to EV fleets; (3) transitioning MARC trains to electric-powered trains or zero-emission technology; (4) allowing the State to regulate GHG emissions from manufacturing; (5) modifying the Strategic Infrastructure Development and Enhancement (STRIDE) program to reduce ratepayer costs and facilitate

electrification; (6) ending the Strategic Energy Investment Fund support for fossil fuel projects; and (7) ending financial incentives and subsidies for fossil fuel appliances and systems within the EmPOWER Maryland program. Other draft recommendations are aimed at ZEVs, including ZEV-focused dealer engagement, incentives and initiatives targeting used car markets and low-income buyers, and technical support for fleet conversion.

MCCC is also likely to consider recommendations to remove municipal solid waste incineration as an eligible generating source in the renewable portfolio standard (RPS) (discussed below) due to the energy source's contributions to State GHG emissions. Further, potential funding recommendations may include (1) expanding RGGI to cover additional emissions sources; (2) creating a carbon fee and dividend program; (3) increasing registration fees for fuel-burning vehicles; and (4) collecting fees on fossil fuels. MCCC's annual report and final recommendations are due to the Governor and General Assembly by November 15, 2023.

Building Energy Transition Implementation Task Force

CSNA established a Building Energy Transition Implementation Task Force to (1) study and make recommendations regarding the development of complementary programs, policies, and incentives aimed at reducing GHG emissions from the building sector in accordance with the Act; (2) make recommendations on targeting incentives to electrification projects that would not otherwise result in strong returns on investment for building owners; and (3) develop a plan for funding the retrofit of covered buildings to comply with building emissions standards. In October 2023, the Task Force presented draft priority recommendations aimed at reducing GHG emissions from the buildings sector. These draft recommendations include:

- targeting building decarbonization workforce development programs at youth, returning citizens, veterans, and former fossil fuel workers and providing subsidies to pre-apprenticeship pathway programs;
- ending investment in new fossil fuel equipment and infrastructure by redirecting State investments such as STRIDE and EmPOWER Maryland programs to support decarbonization instead of supporting new natural gas equipment or infrastructure;
- providing ratepayers with on-bill repayment options to finance efficiency and electrification projects and increasing low-cost financing options such as green banks;
- providing tax incentives to encourage owners to decarbonize buildings; and
- supporting residential electrification by covering costs of installing heat pumps in households.

The Task Force is required to submit a report with final recommendations to the Governor and the General Assembly by December 1, 2023.

100% Clean Energy 2035 Goal

On March 29, 2023, Governor Wes Moore announced his commitment to moving Maryland toward achieving 100% clean energy by 2035. To accomplish this, the Governor announced that the State would aim to quadruple the amount of energy produced by offshore wind from about 2 gigawatts to 8.5 gigawatts of power.

One possible means of achieving a 100% clean energy goal would be through adjustments to the RPS. Established under § 7-703 of the Public Utilities Article, the RPS requires that a specified portion of retail electricity sold by electricity suppliers in the State comes from “renewable” sources, as statutorily defined. Consequently, the RPS incentivizes renewable energy growth and market stability as well as fossil fuel emissions reductions. While the RPS has been subject to legislative changes since its implementation in 2006, the current statewide goal is that 52.5% of the State’s energy be derived from renewable sources by 2030.

Chapter 757 of 2019, also known as the Clean Energy Jobs Act, directed the Power Plant Research Program (PPRP) in the Department of Natural Resources to conduct a study on, among other things, the feasibility, costs, and benefits of increasing the RPS to a goal of 100% renewable energy by 2040 – a slightly longer timeline than the one more recently proposed by the Governor. PPRP modeled a 100% RPS scenario along with several other related options. Under the 100% clean energy scenario modeled by PPRP, the State would realize greater nuclear energy generation and an increase in natural gas capacity with carbon capture technology. A 100% clean energy scenario would allow the State to export most of its carbon captured natural gas to neighboring states within the region served by PJM Interconnection, allowing the State to become a net exporter of energy by 2028, earlier than under any of the other scenarios modeled. Overall, PPRP stated that the “results point to a need for ‘clean firm’ capacity, especially in the latter half of the forecast period, to meet Maryland GHG emission reduction goals.” Thus, according to PPRP, the State will likely need to consider utilizing non-weather-dependent, always-available, zero-emissions energy, such as nuclear energy, to meet the State’s clean energy goals.

Environment and Natural Resources

Managing the Environmental and Energy Impacts of Data Centers

Data centers that house computer systems to facilitate Internet use and other technologies require significant infrastructure, including high amounts of water and electricity and large tracts of land. Though data centers may bring economic benefits, potential impacts on the environment, land use, and energy consumption have prompted concerns. These concerns have been expressed for a project to establish a data center campus in Frederick County.

Background

Data centers are large buildings that house computer systems and associated components. The computer systems are used to facilitate Internet use and various technologies, such as 5G cellular technology, artificial intelligence, streaming content on mobile devices, cloud storage, online gaming, and video conferencing. As Internet use continues to increase and technologies advance, demand for data centers will also increase. While data centers have benefits, including job creation and boosts to the local economy, they also have prompted concerns relating to environmental, land use, and energy consumption impacts. These concerns have been on display with the proposed Quantum Frederick data center campus in Frederick County.

Environmental and Land Use Impacts

Data centers generate significant amounts of heat and humidity that must be mitigated to keep the equipment working properly and prevent fire hazards and other safety issues. To reduce costs, most data centers use evaporative cooling rather than air conditioners to address heat and humidity. However, evaporative cooling uses a significant amount of water. The average data center uses 1 million to 5 million gallons of water per day, equivalent to the daily water use of a town with a population of 10,000 to 50,000 residents. In addition to high levels of water usage, data centers also may increase stormwater runoff due to large areas of impervious surfaces, potentially changing the natural flow of waterways and increasing pollution in aquatic habitats. Impervious surfaces also limit the amount of precipitation that the soil can absorb and may impede the replenishment of groundwater supplies.

Data centers typically require large parcels of land of up to 20 acres. In addition to zoning challenges, sites must be capable of providing the necessary infrastructure for a data center to function – mainly electricity and water. Additionally, there is a growing need to build data centers further away from large cities to increase the availability of high-speed networks in rural areas and smaller cities. This has the potential to put data center development at odds with the protection and conservation of farmland and open spaces.

Energy Impacts

Data centers account for approximately 2% of the total electricity used in the United States. They use approximately 1 megawatt of energy per square meter and consume 10 to 50 times the energy per floor space of a typical commercial office building. This high energy use has prompted concerns that data centers could add more stress to the electric grid, increase greenhouse gas emissions if the energy used to power a data center is from carbon-intensive resources, and potentially increase electricity rates due to increased demand.

Quantum Frederick Data Center

In June 2021, Quantum Loophole, Inc. acquired over 2,100 acres of land near Adamstown in Frederick County for the development of Quantum Frederick, a first-of-its kind “master-planned data center campus” that Quantum Loophole envisions as a gigawatt-scale technology hub that will offer city-scale infrastructure for hyperscale, colocation, and purpose-built data center developers. Quantum Frederick will be connected to Data Center Alley in Northern Virginia through an underground hyperscale fiber network ring referred to as the “QLoop.” Proponents of the project point to potential economic benefits, including jobs and tax revenues, and contend that it is being located on the grounds of an abandoned aluminum smelting factory, a prime location for responsible cleanup and redevelopment. However, concerns have been raised by members of the public, advocacy groups, and governmental entities about the impact Quantum Frederick could have on the environment and energy use.

Environmental Impacts

The Frederick County Division of Energy and Environment identified the high volume of water consumption at Quantum Frederick as potentially problematic, particularly during a drought. Members of the community have also expressed concern that water usage requirements at Quantum Frederick could displace the water needs of other businesses, farmers, and residents. Quantum Frederick’s average water use for cooling is expected to be approximately 476,000 gallons per day, and according to a Quantum Loophole study, up to 5 million gallons of water per day could be required for cooling an electrical power load of 1,215 megawatts on very hot days, which is a power load that could almost be achieved once Quantum Frederick is fully developed. The average daily use of potable water in the City of Frederick is 6.3 million gallons per day. Quantum Loophole has received local approval to connect the campus to public systems for water and sewer, allowing the use of recycled water from a local wastewater treatment plant for cooling purposes.

Energy Impacts

In May 2022, Aligned Data Centers (ADC) became the first company to sign an agreement to purchase land at Quantum Frederick and proposed installing 168 diesel generators as a backup power source. ADC sought an exemption from applying for a certificate of public convenience and necessity from the Public Service Commission (PSC), arguing that each generator should be treated as a standalone unit. PSC denied the exemption request, concluding that the request would allow ADC, under certain circumstances, to operate all 168 diesel generators simultaneously, the equivalent of operating a 504 megawatt diesel power plant. In October 2023, ADC announced it would not proceed with its project due to PSC's decision. The PSC determination and ADC decision to pull out of the project illustrates the potentially substantial energy needs and regulatory considerations for data centers on the site.

Current Status

The future of Quantum Frederick is in flux. While ADC's decision to pull out of the project due to PSC's decision may give other potential data center developers pause, Quantum Loophole has indicated that has signed contracts with four different entities. In October 2023, Rowan Digital Infrastructure announced that it is exploring development of a 750,000 square foot data center on the site. In June 2023, Quantum Frederick paused construction at the project site for an analysis of groundwater discharges into Tuscarora Creek. While the Maryland Department of the Environment found no adverse impacts to public health and the environment, the status of construction at the site is unclear. A workgroup has been established in Frederick County to examine existing laws and other issues related to data centers, and an executive order is in place to pause action on piecemeal rezoning requests until the workgroup issues its report.

State Government

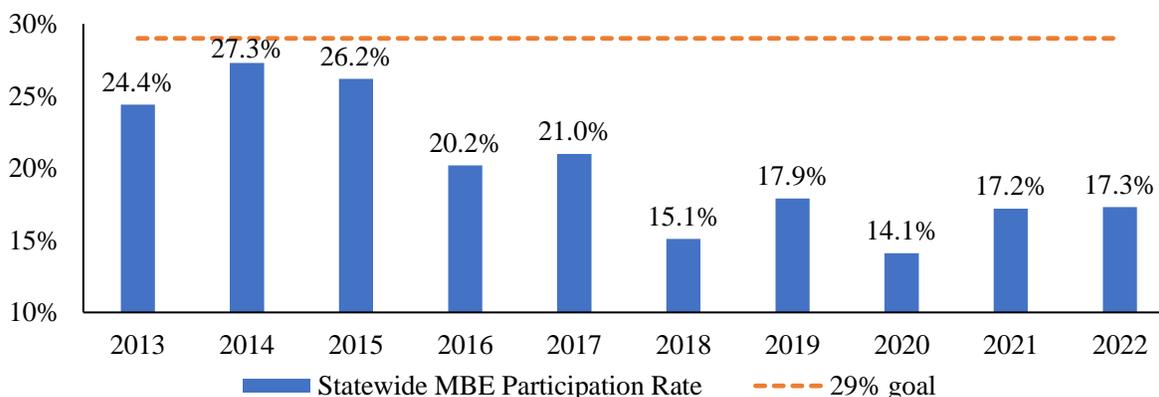
Minority Business Enterprise Program Update

The State has not met the 29% Minority Business Enterprise (MBE) contracting goal on a statewide basis since the 29% goal was established in 2013. In 2022, the Department of Legislative Services' (DLS) Office of Program Evaluation and Government Accountability (OPEGA) recommended changes to improve the MBE program and legislation that both addresses the office's observations and requires additional reporting was enacted in the 2023 session.

The State Has Not Met the 29% Goal

The State's MBE program requires that a State goal for the level of MBE participation in State agencies' contracts be established every two years through the regulatory process. In August 2013, the Governor's Office of Small, Minority, and Women Business Affairs (GOSBA) announced a new goal of 29% MBE participation across each State agency's total contracts. As no new goal has been established, the 29% goal has remained in effect since then. However, as shown in **Exhibit 1**, the goal has not been met on a statewide basis, with MBE participation in State contracting declining shortly after the goal was set and remaining below 18% from fiscal 2018 through 2022.

Exhibit 1
Minority Business Enterprise Contract Participation
Fiscal 2013-2022



MBE: Minority Business Enterprise

Source: Governor's Office of Small, Minority, and Women Business Affairs; Department of Legislative Services

2022 Evaluation Recommended Changes to Improve the Program

A January 2022 evaluation by DLS' OPEGA identified numerous areas in which the MBE program could be improved. Specific findings included:

- GOSBA only reported, by agency, the overall percentage of MBE participation committed to at the time of contract awards – it did not systematically track or report whether prime contractors pay MBEs the full amount promised.
- Of the State contracts with MBE goals that OPEGA analyzed, only about half achieved the goals in terms of total payments made to MBEs and, in practice, there were no direct consequences for prime contractors that did not fulfill their MBE participation obligations.
- Disputes between MBEs and prime contractors occurred frequently, and MBEs did not know where to go to get help with resolving those disputes.
- The existing process for setting MBE participation goals for individual procurements/contracts could be improved, to make it more effective and transparent.

The evaluation's recommended changes included:

- requiring agencies to report to GOSBA the results of compliance assessments of completed contracts, including whether actual payments to MBEs match the MBE participation goal reflected in the contract award;
- requiring GOSBA to maintain a list of prime contractors that persistently fail to meet contractual MBE goals and require agencies to consider a prime contractor's past performance with respect to MBE goals in assessing whether they are a responsible bidder or offeror;
- establishing an MBE Ombudsman within GOSBA – with sufficient staff, resources, and authority – to advocate on behalf of MBEs involved in disputes with prime contractors; and
- increasing the transparency and consistency of the process State agencies use to establish the MBE participation goals for individual procurements/contracts.

Enactment of Changes in 2022 and Additional Reporting on the Program

Chapters 155 and 156 of 2022 enacted certain changes to the MBE program, many of which were consistent with the OPEGA evaluation's recommendations, including (1) measures to

increase prime contractor accountability and (2) the establishment of an MBE Ombudsman. Chapters 155 and 156 also require additional reporting on the program.

With respect to prime contractor accountability, the Acts went further than the recommendations by requiring that prime contractors that persistently fail to meet MBE contract goals be subject to debarment for up to three years. The Acts require GOSBA and the Office of State Procurement, in consultation with specified entities, to adopt by regulation criteria used to determine that a prime contractor, in the absence of mitigating factors, has persistently failed to meet MBE participation goals on its contracts. The criteria must include the results of compliance assessments submitted by State agencies. GOSBA advises that it has formed an interagency workgroup to develop the criteria; as of mid-October 2023, draft regulations were under internal review prior to being published.

As of mid-October 2023, the MBE Ombudsman had not yet been appointed; however, the Governor indicated in September that an appointment would be made in the near future.

Chapters 155 and 156 require reports by:

- the MBE Ombudsman, by December 1, 2023, on the ombudsman’s activities;
- GOSBA, by June 1, 2024, on the use of liquidated damages by procurement officers to enforce contractors’ MBE participation obligations (an available remedy that OPEGA’s evaluation indicated was rarely if ever used); and
- DLS, by December 1, 2024, on (1) the effectiveness of changes implemented in response to OPEGA’s recommendations; (2) whether the department reaffirms any recommendations that were not implemented or only partially implemented; and (3) any updated findings and recommendations related to the MBE program.

State Government

Elections

A number of issues surround elections in Maryland. Under recent changes to federal law, the State's presidential election certification deadline is currently very close to a deadline established for states to identify their appointed presidential electors in the electoral college process. Harassment and threatening of election personnel has increased in recent years, prompting efforts to address the problem. Finally, the potential impact of artificial intelligence on elections has raised concern.

Electoral Count Reform Act

The federal Electoral Count Reform Act of 2022 (ECRA) was enacted in December 2022, to address ambiguities in federal law governing the electoral college process that became a focus of attention during the electoral college process that followed the 2020 presidential election. The electoral college process culminates on January 6 following a presidential election, when federal law requires Congress to meet to conduct the official count of electoral votes and declare who is elected President and Vice President of the United States. ECRA made various changes and clarifications to the law to ensure that the President and Vice President are declared elected on January 6 based on the electoral votes cast by electors that (1) are appointed by each state on Election Day in November (through the state's popular vote for President and Vice President) in accordance with the laws of the state enacted prior to Election Day and (2) subsequently cast their votes at the meeting of the state's electors in December in accordance with the laws of the state enacted prior to Election Day.

The National Conference of State Legislatures (NCSL) indicated in early 2023 that states may benefit from reviewing their laws relating to presidential electors in light of ECRA, including whether a state's election certification deadline occurs sufficiently in advance of an ECRA deadline for a state to issue a "certificate of ascertainment of appointment of electors" (identifying the state's appointed electors) and transmit it to the Archivist of the United States. ECRA requires the certificate of ascertainment of appointment of electors to be issued no later than six days before the date in December when states' electors meet to cast their electoral votes.

Maryland's certification deadline is very close to the ECRA deadline. In 2024, the State law deadline for the State Board of Canvassers (the Secretary of State, the Comptroller, the Treasurer, the Clerk of the Supreme Court of Maryland, and the Attorney General) to convene and certify the results of the general election is 35 days after the November 5 election (December 10), and State law allows for the board to adjourn for not more than 1 day if a majority of the members of the board is not present. In 2024, under ECRA, the certificate of ascertainment of appointment of electors must be issued by December 11 (6 days before the meeting of electors on December 17), potentially resulting in a very small window of time between when the State's election results are

certified and when the certificate of ascertainment of appointment of electors must be issued and transmitted.

Protections for Election Workers

As described by NCSL, election officials, staff, and poll workers have been subjected to threats, accusations of crime, and leaked private information (“doxing”) at much higher rates than usual in recent years (in Maryland, poll workers are referred to as “election judges”). A 2022 survey by the Elections & Voting Information Center at Reed College found that one in four local election officials had experienced abuse, harassment, or threats in the prior two years as part of their work.

According to NCSL, since 2020, 11 states (California, Colorado, Maine, Minnesota, Nevada, New Hampshire, New Mexico, Oklahoma, Oregon, Vermont, and Washington) have enacted laws specifically addressing protections for election officials and poll workers. Of the 11 states’ laws, NCSL indicates that 8 criminalize intimidation of and/or interference with election workers and 3 allow election officials to be included in the state’s address confidentiality programs.

Based on a review by the Department of Legislative Services of all states’ statutes, and accounting for the 11 states’ recently enacted laws identified by NCSL, there appear to be (1) at least 16 states that have relatively broad prohibitions against harassment, threats, and/or use of force against election officials and/or poll workers; (2) at least 9 other states, and the District of Columbia, that have relatively broad prohibitions against harassment, threats, and/or use of force against government officials in general; (3) at least 5 states that allow election officials to become part of a program that keeps the officials’ addresses and other personal identifying information confidential (in most cases only if they are subject to a threat); and (4) at least 4 states that prohibit publishing personal identifying information of election officials and/or their family members online with harmful intent.

During the 2023 legislative session in Maryland, House Bill 951 was introduced, but not enacted, that would have (1) modified an existing prohibition against interference with an election official in the performance of official duties to specifically include interference by threat, coercion, or intimidation; (2) prohibited publishing online and with harmful intent personal information regarding an election official or the official’s immediate family; and (3) allowed for an election worker’s personal information to be removed from the State Department of Assessments and Taxation’s single-family residential real property valuation database under circumstances of an imminent and serious threat to the election worker or the worker’s immediate family.

At the federal level, a task force formed by the U.S. Department of Justice in 2021 to address threats against election officials and others associated with the electoral process announced in August 2023 that it had charged 14 cases and secured nine convictions. Several of the task force’s recent convictions, which were for threats against Arizona and Georgia officials, have been pursuant to a federal law that prohibits sending a threat through an interstate communication.

The Impact of Artificial Intelligence on Elections

Concern has been raised about the impact artificial intelligence (AI) can have on elections, particularly its use in campaigning, including political advertising, and its potential use in spreading misinformation about the election process. The concern is prompting state and federal legislative efforts to address the potential impact, including the introduction of the Protect Elections from Deceptive AI Act (S.2770) in Congress in September, that would prohibit a person, political committee, or other entity from knowingly distributing materially deceptive AI-generated audio or visual media of a candidate for federal office with the intent of influencing an election or soliciting funds.

Maryland law regulating political advertising (or “campaign material”) does not explicitly address the use of AI-generated audio or visual media. However, the State Board of Elections adopted regulations in 2022 that require a campaign that uses a “deep fake” (which is very similar to materially deceptive AI-generated audio or visual media) in campaign material to clearly indicate before and after the deep fake content that the content does not reflect a true recording of an action, sound, or image that occurred in reality. “Deep fake” is defined as an audio or video recording that appears to constitute a true recording of an action, sound, a vocalization, or an image, but (1) did not occur in the manner presented by the recording in reality and (2) was generated with the assistance of computer software to create apparently authentic images, vocalizations, or recordings.

Maryland law also does not explicitly address the potential use of AI in spreading misinformation about the election process, but the law does prohibit a person from willfully and knowingly influencing or attempting to influence through the use of fraud, a voter’s decision whether to go to the polls to vote or vote by other lawful means.

Local Government

State Aid to Local Governments

State aid to local governments is projected to total \$10.8 billion in fiscal 2025, representing a \$479.8 million, or 4.7%, increase over the prior year. Public schools will continue to receive the vast majority of State aid with State support totaling \$9.0 billion in fiscal 2025.

Projected Funding

Local governments are projected to receive \$10.8 billion in State aid in fiscal 2025, representing a \$479.8 million, or 4.7%, increase over the prior year. Public schools will receive the vast majority of the State funding, while counties and municipalities will receive 9.3% of the total funding. Public schools will receive \$9.0 billion in fiscal 2025, which is 83.8% of total State aid. Counties and municipalities will receive \$1.0 billion in fiscal 2025, with \$418.9 million targeted to transportation initiatives and \$217.9 million targeted to public safety programs. Community colleges, libraries, and local health departments will receive \$737.0 million, which accounts for 6.8% of total State aid. **Exhibit 1** shows the change in State aid by governmental entity for fiscal 2025. **Exhibit 2** shows the change in State aid by major programs.

Exhibit 1 State Aid to Local Governments Fiscal 2025 (\$ in Millions)

	<u>State Aid Amount</u>	<u>Percent of Total</u>	<u>Aid Change</u>	<u>Percent Change</u>
Public Schools	\$9,028.9	83.8%	\$385.8	4.5%
Libraries	96.4	0.9%	5.1	5.6%
Community Colleges	506.8	4.7%	31.4	6.6%
Local Health Departments	133.8	1.2%	18.1	15.6%
Counties/Municipalities	1,003.1	9.3%	39.5	4.1%
Total	\$10,769.0	100.0%	\$479.8	4.7%

Source: Department of Legislative Services

Exhibit 2
State Aid by Major Programs
Fiscal 2022-2025
(\$ in Millions)

	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>Difference</u>	<u>Percent Difference</u>
Public Schools						
Foundation Programs	\$3,413.3	\$3,817.4	\$3,958.1	\$3,953.6	-\$4.6	-0.1%
Compensatory Aid	1,286.6	1,295.2	1,686.1	1,667.7	-18.4	-1.1%
English Learners Grant	334.3	422.5	473.5	529.0	55.5	11.7%
Special Education – Formula Aid	311.1	401.3	466.0	509.6	43.7	9.4%
Special Education – Nonpublic	126.7	141.4	149.1	156.5	7.3	4.9%
Student Transportation	288.1	336.0	363.4	367.6	4.2	1.2%
Guaranteed Tax Base	49.9	45.8	56.8	61.6	4.8	8.4%
Head Start/Prekindergarten	29.6	29.6	29.6	29.6	0.0	0.0%
Blueprint Programs	811.9	595.4	561.4	705.8	144.5	25.7%
Other Education Programs	91.7	146.1	154.2	132.4	-21.8	-14.2%
Subtotal Direct Aid	\$6,743.1	\$7,230.6	\$7,898.2	\$8,113.3	\$215.1	2.7%
Retirement Payments	779.0	724.6	745.0	915.7	170.7	22.9%
Total Public School Aid	\$7,522.1	\$7,955.2	\$8,643.2	\$9,028.9	\$385.8	4.5%
Libraries						
Library Aid Formula	\$44.7	\$47.7	\$48.7	\$49.5	\$0.8	1.6%
State Library Network	19.8	21.0	21.4	21.7	0.2	1.2%
Subtotal Direct Aid	\$64.4	\$68.7	\$70.1	\$71.1	\$1.0	1.5%
Retirement Payments	20.1	20.8	21.2	25.3	4.1	19.1%
Total Library Aid	\$84.6	\$89.4	\$91.3	\$96.4	\$5.1	5.6%
Community Colleges						
Community College Formula	\$290.1	\$355.1	\$393.3	\$414.5	\$21.2	5.4%
Other Programs	34.0	35.3	37.0	37.3	0.3	0.8%
Subtotal Direct Aid	\$324.1	\$390.4	\$430.3	\$451.8	\$21.5	5.0%
Retirement Payments	46.0	45.0	45.1	55.0	9.9	21.9%
Total Community College Aid	\$370.1	\$435.3	\$475.4	\$506.8	\$31.4	6.6%
Local Health Grants	\$80.6	\$101.3	\$115.8	\$133.8	\$18.1	15.6%
County/Municipal Aid						
Transportation	\$285.0	\$294.6	\$337.1	\$418.9	\$81.7	24.2%
Public Safety	168.8	221.2	217.7	217.9	0.3	0.1%
Disparity Grant	158.2	161.2	220.2	183.1	-37.1	-16.8%
Gaming Impact Aid	104.3	107.1	105.4	106.5	1.1	1.0%
Other Grants	70.4	70.4	83.2	76.7	-6.5	-7.8%
Total County/Municipal Aid	\$786.7	\$854.6	\$963.6	\$1,003.1	\$39.5	4.1%
Total State Aid	\$8,844.0	\$9,435.9	\$10,289.2	\$10,769.0	\$479.8	4.7%

Source: Department of Legislative Services

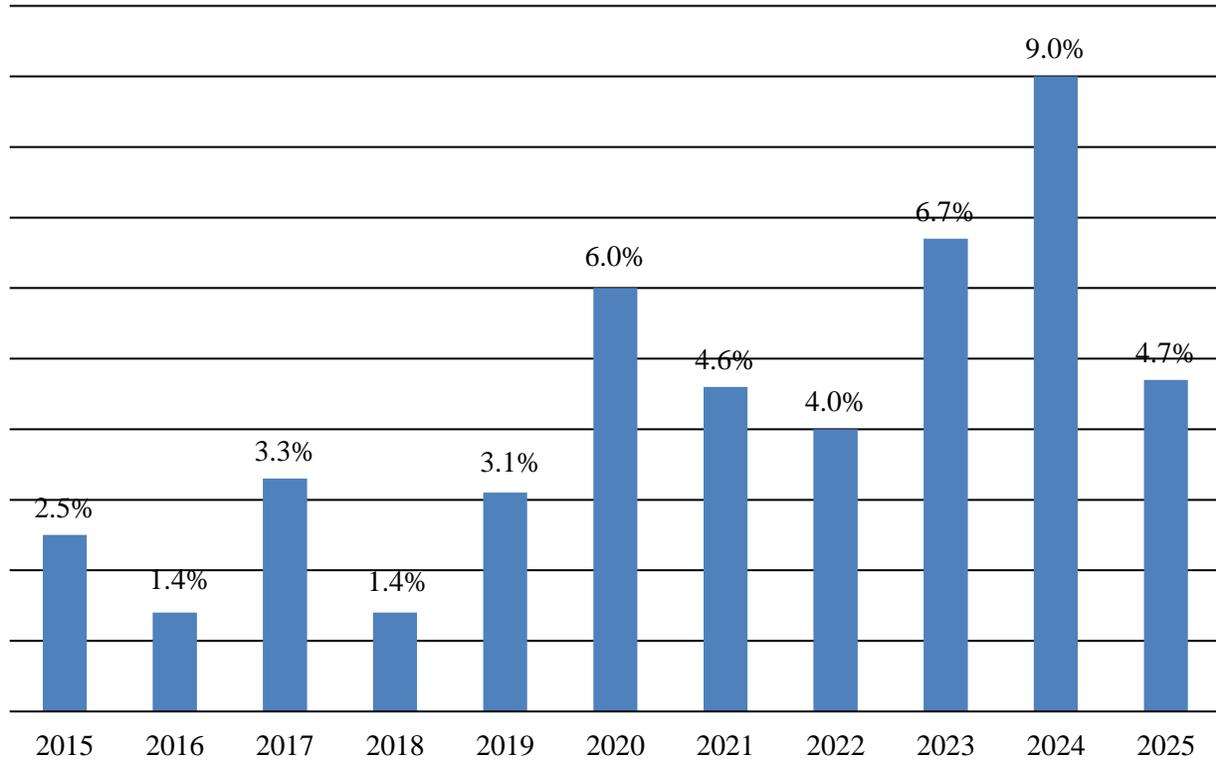
State Aid Funding Trend

As shown in **Exhibit 3**, the projected 4.7% growth in State aid in fiscal 2025 is within the range of annual growth realized in recent years. The projected increase in State aid in fiscal 2025 is largely due to the continued phase-in of 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 1.7% in fiscal 2025. In total, education funding under the various foundation programs will decrease by \$4.6 million, primarily due to the elimination of one-time fiscal 2024 special hold harmless grants in the amount of \$34.5 million provided to prevent substantial decreases in direct State education aid for local school systems. Compensatory aid will decrease by \$18.4 million, or 1.1%, due to a projected decline in free and reduced-price meal student enrollment; special education formula funding increases by \$43.7 million, or 9.4%; and funding for English learners increases by \$55.5 million, or 11.7%. From the programs initiated under the Blueprint for Maryland's Future, education effort adjustments increase by \$32.5 million, concentration of poverty grants increase by \$105.3 million, and funding for full-day prekindergarten increases by \$16.6 million; however, transition grants decrease by \$8.7 million, from \$57.7 million in fiscal 2024 to \$49.0 million in fiscal 2025. Per statute, transition grants decline each year, beginning in fiscal 2025 until being fully phased out after fiscal 2029.

Local community colleges will experience a \$31.4 million, or 6.6%, increase in State funding in fiscal 2025, with the community college Cade formula increasing by \$21.2 million, or 5.4%. This results from increased student enrollment and per student funding at selected four-year public higher education institutions. State retirement payments for community college faculty will increase by \$9.9 million, or 21.9%. Funding for local health departments will increase by \$18.1 million in fiscal 2025, which includes \$9.2 million in additional funding under the formula program and \$8.9 million in personnel-related funding. Local libraries will receive \$5.1 million in additional funding, which represents \$1.0 million in direct aid and \$4.1 million in State retirement payments.

County and municipal governments will realize a 4.1% increase in State funding in fiscal 2025, with transportation grants accounting for a substantial portion of the increase. Highway user revenue grants increase by \$54.5 million, or 16.4%, in fiscal 2025 due to the increase in the local government share of Gasoline and Motor Vehicle Revenue Account revenues within the Transportation Trust Fund. An additional \$27.0 million will be provided for the bus rapid transit system, with continuing funding for elderly/disabled and paratransit grants. Funding under the disparity grant program decreases by \$37.1 million, or 16.8%, in fiscal 2025, which represents the narrowing of income variations among the more affluent and less affluent jurisdictions. Gaming impact aid increases by \$1.1 million, or 1.0%, whereas funding for local voting system grants increases by \$6.4 million, which represents the cost for a new voting system information technology project. State funding for local public safety grants remains constant in fiscal 2025 at \$217.9 million, which assumes full funding for the police aid enhancement program that targets \$45.9 million to jurisdictions experiencing a high level of violent crime.

Exhibit 3
Annual Change in State Aid to Local Governments
Fiscal 2015-2025



Source: Department of Legislative Services

Local Government

Local Revenue Trends

While the local fiscal outlook remains relatively strong in terms of property tax collections, other major revenue sources are either experiencing minimal growth or decreases from the prior year budgeted amounts. This revenue scenario is based on a projected downturn in the State economy due to ongoing inflation and higher interest rates, which have severely affected the local housing market in most jurisdictions. In addition, capital gains and investment earnings have decreased recently, which has dampened the projected revenue increase from the local income tax.

Overview

Local governments are projecting minimal revenue growth in the current fiscal year. Over the past two years (fiscal 2022 through 2024), total local tax revenue is projected to increase at an average annual rate of 0.9%, while county general fund revenue is projected to increase by 1.3% (**Exhibit 1**). Local property tax revenues continue to experience modest growth, with revenues increasing at an average annual rate of 3.9% between fiscal 2022 and 2024. However, local income tax collections are projected to increase by a minimal amount (1.3%) 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 COVID-19 pandemic.

Exhibit 1 County Revenue Projections Annual Percent Change Fiscal 2022-2024

	<u>2022-2023</u>	<u>2023-2024</u>	<u>Two-year Average</u>
Property Taxes	1.7%	6.1%	3.9%
Income Taxes	2.4%	0.1%	1.3%
Recordation Taxes	-35.3%	2.1%	-18.7%
Transfer Taxes	-29.3%	-12.8%	-21.5%
Hotel Rental Taxes	0.4%	11.0%	5.6%
Admissions Taxes	4.1%	5.6%	4.9%
Other Local Taxes	1.7%	3.9%	2.7%
Total Local Taxes	-1.1%	3.0%	0.9%
General Fund Revenues	0.2%	2.4%	1.3%

Source: Department of Legislative Services

General Fund Revenues

General fund revenues for county governments are projected to total \$19.4 billion in fiscal 2024 (**Exhibit 2**). Revenue amounts range from \$52.9 million in Somerset County to nearly \$4.0 billion in Montgomery County. On a per capita basis, the amount ranges from \$1,520 in Allegany County to \$4,379 in Worcester County, with the statewide average at \$3,143. General fund revenues (per capita) are the highest in Worcester, Howard, Calvert, and Montgomery counties, and Baltimore City. The lowest per capita amounts are in Allegany, Wicomico, Washington, Caroline, and Cecil counties, where general fund revenue is below \$2,000 per capita.

The revenue trend for most county governments points upward, with general fund revenues increasing statewide by \$482.5 million since fiscal 2022. This represents a 1.3% average annual increase over the two-year period. Seven 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 Anne Arundel County to 14.5% in Somerset County. The high percentage increase in Somerset County is primarily due to a significant increase in both federal and State funding for capital improvement projects and bond proceeds, with local tax revenues only increasing by 2.2%. Seven counties are expecting average annual increases of 3% or greater, while eight counties are expecting increases between 1% and 3%.

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 \$357.0 million since fiscal 2022 (**Exhibit 3**). This reflects a 0.9% average annual increase over the two-year period. Statewide, local tax revenues average \$3,133 per capita. The highest per capita amounts are in Howard and Montgomery counties where local tax revenues exceed \$4,000 per capita. The lowest per capita amounts are in Allegany, Somerset, and Wicomico counties, where local tax revenues are below \$1,500 per capita.

Seven jurisdictions are realizing average annual increases in local tax revenues of between 1% and 3%. Only St. Mary's and Frederick counties are anticipating an increase in excess of 4%, while seven counties are anticipating increases below 1%. Eight 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 and income tax collections. Additionally, revenues from hotel rental taxes and admissions and amusement taxes are projected to increase and exceed fiscal 2022 levels due to the resumption of in-person activities following the end of the COVID-19 pandemic.

Exhibit 2
Total General Fund Revenues for Fiscal 2022-2024
(\$ in Millions)

County	2022	2023	2024	2022-2023		2023-2024		Average Annual Difference
				\$ Difference	% Difference	\$ Difference	% Difference	
Allegany	\$106.7	\$99.4	\$102.3	-\$7.4	-6.9%	\$2.9	2.9%	-2.1%
Anne Arundel	1,988.5	1,909.7	1,990.5	-78.8	-4.0%	80.8	4.2%	0.1%
Baltimore City	2,199.7	2,134.3	2,185.5	-65.4	-3.0%	51.3	2.4%	-0.3%
Baltimore	2,476.6	2,621.9	2,533.5	145.3	5.9%	-88.5	-3.4%	1.1%
Calvert	353.4	339.0	360.8	-14.3	-4.1%	21.7	6.4%	1.0%
Caroline	61.5	58.6	64.3	-2.9	-4.7%	5.7	9.7%	2.2%
Carroll	465.7	448.7	489.2	-17.0	-3.6%	40.5	9.0%	2.5%
Cecil	242.6	220.6	208.6	-22.0	-9.1%	-11.9	-5.4%	-7.3%
Charles	501.2	470.5	500.3	-30.6	-6.1%	29.8	6.3%	-0.1%
Dorchester	60.3	64.9	69.3	4.6	7.6%	4.4	6.8%	7.2%
Frederick	747.9	762.2	842.6	14.3	1.9%	80.5	10.6%	6.1%
Garrett	106.0	94.7	100.1	-11.3	-10.6%	5.4	5.7%	-2.8%
Harford	676.9	653.0	684.7	-23.8	-3.5%	31.7	4.9%	0.6%
Howard	1,326.3	1,365.6	1,385.2	39.3	3.0%	19.6	1.4%	2.2%
Kent	54.5	58.0	57.6	3.5	6.4%	-0.4	-0.7%	2.8%
Montgomery	3,873.8	3,968.1	3,950.4	94.3	2.4%	-17.7	-0.4%	1.0%
Prince George's	2,362.6	2,363.5	2,505.3	0.9	0.0%	141.7	6.0%	3.0%
Queen Anne's	174.5	167.0	181.4	-7.5	-4.3%	14.4	8.6%	2.0%
St. Mary's	281.2	299.8	304.2	18.7	6.6%	4.4	1.5%	4.0%
Somerset	40.3	43.7	52.9	3.3	8.3%	9.2	21.2%	14.5%
Talbot	116.1	127.7	108.8	11.6	10.0%	-18.9	-14.8%	-3.2%
Washington	298.5	262.8	281.1	-35.7	-11.9%	18.2	6.9%	-3.0%
Wicomico	168.4	168.5	183.2	0.1	0.1%	14.7	8.7%	4.3%
Worcester	212.2	222.9	235.9	10.7	5.0%	13.0	5.8%	5.4%
Total	\$18,895.3	\$18,925.3	\$19,377.8	\$30.0	0.2%	\$452.5	2.4%	1.3%

Source: County Budgets; Department of Legislative Services

Exhibit 3
Total Local Taxes for Fiscal 2022-2024
(\$ in Millions)

County	2022	2023	2024	2022-2023		2023-2024		Average Annual Difference
				\$ Difference	% Difference	\$ Difference	% Difference	
Allegany	\$82.6	\$80.0	\$83.4	-\$2.5	-3.1%	\$3.4	4.2%	0.5%
Anne Arundel	1,833.3	1,764.1	1,849.1	-69.2	-3.8%	84.9	4.8%	0.4%
Baltimore City	1,766.5	1,723.4	1,749.2	-43.1	-2.4%	25.8	1.5%	-0.5%
Baltimore	2,305.8	2,363.7	2,297.7	57.9	2.5%	-66.0	-2.8%	-0.2%
Calvert	333.3	318.9	343.2	-14.4	-4.3%	24.3	7.6%	1.5%
Caroline	53.4	51.1	53.8	-2.2	-4.2%	2.6	5.2%	0.4%
Carroll	467.5	452.5	490.4	-15.0	-3.2%	37.9	8.4%	2.4%
Cecil	233.1	212.2	196.2	-20.9	-9.0%	-16.0	-7.5%	-8.3%
Charles	489.9	460.0	477.0	-29.9	-6.1%	17.0	3.7%	-1.3%
Dorchester	59.1	59.8	60.0	0.7	1.1%	0.2	0.4%	0.7%
Frederick	768.0	768.6	842.9	0.5	0.1%	74.3	9.7%	4.8%
Garrett	90.8	80.0	87.1	-10.8	-11.9%	7.1	8.9%	-2.1%
Harford	688.7	671.7	690.9	-17.0	-2.5%	19.2	2.9%	0.2%
Howard	1,518.8	1,460.2	1,547.2	-58.7	-3.9%	87.1	6.0%	0.9%
Kent	52.4	52.9	53.5	0.5	1.0%	0.6	1.1%	1.0%
Montgomery	4,456.1	4,513.2	4,631.6	57.1	1.3%	118.4	2.6%	2.0%
Prince George's	2,544.8	2,533.8	2,631.4	-11.0	-0.4%	97.6	3.9%	1.7%
Queen Anne's	162.5	159.1	172.0	-3.5	-2.1%	13.0	8.2%	2.9%
St. Mary's	265.7	275.8	292.2	10.1	3.8%	16.4	5.9%	4.9%
Somerset	29.3	29.7	30.6	0.4	1.4%	0.9	3.1%	2.2%
Talbot	108.7	115.7	99.8	6.9	6.4%	-15.8	-13.7%	-4.2%
Washington	286.4	256.1	273.1	-30.3	-10.6%	17.1	6.7%	-2.3%
Wicomico	144.8	141.9	146.4	-2.9	-2.0%	4.5	3.2%	0.5%
Worcester	213.0	207.5	212.7	-5.5	-2.6%	5.3	2.5%	-0.1%
Total	\$18,954.4	\$18,751.7	\$19,311.5	-\$202.8	-1.1%	\$559.8	3.0%	0.9%

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 \$10.2 billion in fiscal 2024. This represents a \$741.8 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 4.4% in fiscal 2024, following a 3.6% growth rate in fiscal 2023.

The average annual increase in local property tax revenues over the prior two-year period ranges from 0.5% in Harford County to 8.9% in Talbot County. Cecil County is the only jurisdiction anticipating a decrease in property tax revenues over the two-year period. However, two counties are experiencing annual increases of less than 2% a year, while six counties are experiencing growth rates of 5% or higher.

Income Taxes

The local income tax is the third largest revenue source for county governments, accounting for 18.7% of total revenue. Local income tax revenues are projected to total \$7.4 billion in fiscal 2024. This represents a \$180.9 million increase over a two-year period. The average annual increase in local income tax revenues over the prior two-year period ranges from 0.1% in Dorchester County to 6.4% in Queen Anne's County. However, nine counties are experiencing a decrease in local income tax revenues over the two-year period, and four counties are experiencing annual growth rates below 1%.

Recordation and Transfer Taxes

Recordation and transfer taxes are a volatile and unpredictable revenue source for local governments. Revenue estimates depend on various economic factors including housing starts, mortgage interest rates, real estate supply and demand, population growth, and projected investment returns. The current revenue outlook for most jurisdictions depicts strong headwinds in the real estate market due to low inventory and higher mortgage interest rates. Recordation and transfer tax revenues are projected to total \$1.1 billion in fiscal 2024. This represents a \$610.7 million decrease over a two-year period. Recordation tax revenues are projected to decrease by \$290.4 million, or 18.7%, between fiscal 2022 and 2024, while transfer tax revenues are projected to decrease by \$320.3 million, or 21.5%, over the two-year period.

Local Government

Local Government Tax Actions

Local tax rates remained constant in most counties for fiscal 2024, with only seven counties altering tax rates. Three counties set a local property tax rate that exceeded the county charter limit in order to provide additional funding for the local school system. The most tax rate changes occurred in Anne Arundel County, which increased its property and hotel rental taxes while making the local income and transfer taxes more progressive by imposing a higher rate on high income earners and high price transactions.

Local Government Tax Rates

Seven different counties altered local tax rates in fiscal 2024. As shown in **Exhibit 1**, six counties made changes to local property tax rates with four counties increasing their rates and two counties decreasing them. Two counties, Anne Arundel and Frederick, altered their income tax rates by modifying the graduated income tax rates they established for tax year 2023, as authorized by legislation passed by the General Assembly during the 2021 session. In addition, Cecil County reduced its local income tax rate for tax year 2024. Montgomery County altered its recordation tax rate, and Anne Arundel County altered its transfer and hotel rental tax rates. A comparison of local tax rates for fiscal 2023 and 2024 is provided in **Exhibit 2**.

Exhibit 1
Counties Changing Local Tax Rates
Fiscal 2022-2024

	<u>2022</u>		<u>2023</u>		<u>2024</u>	
	▲	▼	▲	▼	▲	▼
Real Property	1	7	2	5	4	2
Local Income	0	2	0	6	2	2
Recordation	1	0	0	0	1	0
Transfer	0	0	0	0	1	0
Admissions/Amusement	0	0	0	0	0	0
Hotel Rental	0	0	0	0	1	0

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

Source: Department of Legislative Services

Exhibit 2
Local Tax Rates – Fiscal 2023 and 2024

County	Real Property		Local Income		Recordation		Transfer		Admissions/Amusement		Hotel Rental	
	2023	2024	2023	2024	2023	2024	2023	2024	2023	2024	2023	2024
Allegany	\$0.9750	\$0.9750	3.03%	3.03%	\$3.50	\$3.50	0.5%	0.5%	7.5%	7.5%	8.0%	8.0%
Anne Arundel	0.9330	0.9800	Varies ²	Varies ²	3.50	3.50	1.0%	1.0% ⁴	10.0%	10.0%	7.0%	8.0%
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	1.0143	0.9924	2.80%	2.75%	4.10	4.10	0.5%	0.5%	6.0%	6.0%	6.0%	6.0%
Charles ¹	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	Varies ²	Varies ²	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	0.9779	0.9779	3.06%	3.06%	3.30	3.30	1.0%	1.0%	5.0%	5.0%	6.0%	6.0%
Howard ¹	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	1.0220	3.20%	3.20%	3.30	3.30	0.5%	0.5%	4.5%	4.5%	5.0%	5.0%
Montgomery ¹	0.9915	1.0402	3.20%	3.20%	4.45	4.45 ³	1.0%	1.0%	7.0%	7.0%	7.0%	7.0%
Prince George's ¹	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	0.8300	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	3.00%	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	0.6820	0.7434	2.40%	2.40%	6.00	6.00	1.0%	1.0%	5.0%	5.0%	4.0%	4.0%
Washington	0.9280	0.9280	2.95%	2.95%	3.80	3.80	0.5%	0.5%	5.0%	5.0%	6.0%	6.0%
Wicomico	0.9070	0.8855	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%

¹ 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 net taxable income.

² Anne Arundel and Frederick counties adopted graduated income tax rates for tax years 2023 and 2024. Recordation tax is per \$500 of transaction.

³ Montgomery County imposes a recordation tax surcharge on transactions exceeding \$600,000.

⁴ Anne Arundel County imposes a 0.5% transfer tax surcharge on transactions totaling \$1 million or more.

Source: Department of Legislative Services; Maryland Association of Counties

Property Tax

For fiscal 2024, four counties (Anne Arundel, Kent, Montgomery, and Talbot) increased their real property tax rates, with the increase in Anne Arundel, Montgomery, and Talbot counties exceeding the tax limit within the county charter. In these counties, the revenue increase in excess of the charter limit must be dedicated to the local school system. Cecil and Wicomico counties decreased their real property tax rates. Real property tax rates range from \$0.7434 per \$100 of assessed value in Talbot County to \$2.248 in Baltimore City.

Income Tax

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 maximum tax rate allowed by State law. Three counties made changes to their local income tax rates for tax year 2024. Anne Arundel and Frederick counties modified the income tax brackets by incorporating a 3.2% rate for high income earners, and Cecil County reduced its tax rate from 2.8% to 2.75%.

Anne Arundel and Frederick counties are the only jurisdictions that have adopted graduated income tax rates under the authority granted by the General Assembly in 2021. Both counties established graduated income tax rates beginning in tax year 2023 and modified the brackets for tax year 2024 by imposing the maximum 3.2% tax rate on high income earners. Frederick County also reduced the tax rate to 2.25% for low income earners.

In Anne Arundel County, the tax rates for single filers are 2.70% for taxable income less than \$50,000, 2.81% for taxable income between \$50,000 and \$400,000, and 3.2% for taxable income greater than \$400,000. For joint filers, the tax rates are 2.70% for taxable income less than \$75,000, 2.81% for taxable income between \$75,000 and \$480,000, and 3.2% for taxable income greater than \$480,000.

In Frederick County, the tax rates for joint filers are 2.25% for taxable income of \$25,000 or less, 2.75% for taxable income between \$25,000 and \$100,000, 2.96% for taxable income between \$100,000 and \$250,000, and 3.2% for taxable income over \$250,000. The rates for other filers are 2.25% for taxable income of \$25,000 or less, 2.75% for taxable income between \$25,000 and \$50,000, 2.96% for taxable income between \$50,000 and \$150,000, and 3.2% for taxable income over \$150,000.

Recordation Tax

Montgomery County altered its transfer tax rate for fiscal 2024 by establishing specified surcharges for transactions valued at more than \$600,000. 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

Anne Arundel County altered its transfer tax rate for fiscal 2024 by establishing a 1.5% rate for specified transactions valued at \$1.0 million or more. 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

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). Caroline and Frederick counties are the only jurisdictions that do not impose an admissions and amusement tax.

Hotel Rental Tax

Anne Arundel County increased its hotel rental tax rate from 7.0% to 8.0% for fiscal 2024. 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 (CPI). 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 CPI. 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 1 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 2.6 cent supplemental property tax rate for the local board of education. In fiscal 2016, Prince George’s County became the second county to do so by enacting a 4.0 cent supplemental property tax rate to fund its schools. This authority has also been used by Montgomery County in fiscal 2017 and by Anne Arundel County in fiscal 2020.

For fiscal 2024, three counties (Anne Arundel, Montgomery, and Talbot) imposed a property tax rate exceeding the charter limit. The supplemental tax rate totals 2.8 cents in Anne Arundel County, 4.7 cents in Montgomery County, and 5.8 cents in Talbot County.

Local Government

Local Government Salary Actions

All county governments and school systems that have finalized salary actions are providing salary enhancements to their employees in fiscal 2024.

The State and all counties and school systems that were able to provide final salary action information for this publication (21 of 24 counties and 23 of 24 school systems), are all providing salary enhancements in fiscal 2024. Each of those counties and school systems is providing a cost-of-living adjustment or general salary increase (or a similar action, such as a salary scale adjustment) and most are awarding step/merit increases (or other similar increases).

Exhibit 1 compares State and local salary actions in fiscal 2023 and 2024 and provides the actual/estimated increase in the Consumer Price Index for those years. **Exhibit 2** and **Exhibit 3** detail the fiscal 2024 salary actions by the counties and school systems, respectively.

Exhibit 1 State and Local Government Salary Actions Fiscal 2023 and 2024

<u>Salary Action</u> ¹	<u>County Government</u>		<u>Public Schools</u>	
	<u>2023</u>	<u>2024</u> ²	<u>2023</u>	<u>2024</u> ²
COLA/GSI	23	21	24	23
Step/Merit Increases	19	14	23	21
	<u>State Government</u>		<u>CPI-Urban Consumers</u> ⁵	
	<u>2023</u>	<u>2024</u>	<u>2023</u>	<u>2024</u>
COLA Amount	3.0% ³ ; 4.5% ⁴	2.0%	6.3%	3.0%
Step/Merit Increases	Yes	Yes		

COLA: cost-of-living adjustment

CPI: Consumer Price Index

GSI: general salary increase

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 These columns show the number of counties and school systems providing these actions out of the 21 counties and 23 school systems that were able to provide final fiscal 2024 salary action information for this publication.

³ Effective July 1, 2022.

⁴ Effective November 1, 2022.

⁵ CPI for fiscal 2024 is an average of estimates from Moody's Analytics and IHS Markit. CPI for fiscal 2023 is actual.

Source: Department of Legislative Services

Exhibit 2 County Government Salary Actions in Fiscal 2024

County	COLA/GSI	Step/Merit ¹	Additional Comments
Allegany	2.0%	No	County employees (that are not otherwise in a bargaining unit), 911-AFSCME, EMS-1715 FF, Transit-AFSCME, Roads-AFSCME, and Corrections-FOP receive a 2.0% COLA, while Sheriff's-FOP receives a COLA/step equal to approximately 4.0%. Members of EMS-1715 FF Union and Transit-AFSCME with specified numbers of service years also receive step increases. (All employees also received a salary scale adjustment just prior to fiscal 2024, in February 2023, resulting in increases ranging from 5% to 15%.)
Anne Arundel	5.0%	Yes	The following groups receive a 5.0% COLA: county employees (that are not otherwise in a bargaining unit); police communications operator supervisors; correctional program specialists; detention sergeants; IAFF Local 1563; AFSCME 582; AFSCME 2563; Park Rangers; and FOP Lodge 106. All employees receive step/merit increases for satisfactory or better performance. Additionally, the following groups received a salary or scale adjustment: fire battalion chiefs; police communications operator supervisors; detention officers; and the members of IAFF Local 1563 and FOP Lodge 70.
Baltimore City	TBD	TBD	Salary actions had not been finalized for multiple bargaining units when information was being compiled for this publication.
Baltimore	2.0%+2.0%	Yes	Unrepresented, BCFPE, AFSCME, and FOP (police) employees receive a 2.0% COLA in July 2023 plus a 2.0% COLA in January 2024. FOP (Sheriff) employees receive a 3.0% COLA in July 2023 plus a 2.0% COLA in January 2024. IAFF employees receive a \$2,150 COLA in July 2023 plus a \$1,650 COLA in January 2024. Public health nurses receive a 3.0% COLA. Performance-based increases are also available to employees.
Calvert	3.0%	Yes	All employees, including Sheriff and correctional staff, receive a 3.0% COLA and 1 step.
Caroline	3.0%	No	All employees except sworn sheriff's deputies receive a 3.0% COLA. Sworn sheriff's deputies receive step increases.
Carroll	3.55%	Yes	County employees receive a 3.55% COLA and a 1.0% service increase. Circuit courts and State's Attorney's Office employees receive varying longevity increases and COLAs. Sheriff's Department employees receive varying step/salary adjustments.
Cecil	4.0%	Yes	County employees (that are not otherwise in a bargaining unit) receive a 4.0% COLA. FOP and IAFF members receive a 2.0% COLA, while IUPA members receive a 1.5% COLA. Public safety positions (members of FOP, IAFF, and IUPA, and dispatchers) receive a \$10,000 salary scale adjustment for retention. All employees receive 1 step with at least a satisfactory performance evaluation.

County	COLA/GSI	Step/Merit¹	Additional Comments
Charles	2.0%	Yes	County employees (that are not otherwise in a bargaining unit) and IAFF receive a 2.0% COLA, while FOP receives a 5.0% COLA and correction officers receive an 8.52% COLA. Members of IAFF and county employees receive a merit increase of 3.0%. All employees receive a \$500 bonus.
Dorchester	Varies	No	Employees earning under \$60,000 annual base salary receive a 3.0% increase, while employees earning \$60,000 and over base salary receive a 2.0% increase. Sworn law enforcement officers receive a flat \$10,000 increase to their annual base salary.
Frederick	5.0%	Yes	County employees (that are not otherwise in a bargaining unit) receive a 5.0% COLA and 3.0% merit increase. Corrections, deputy sheriff, and fire bargaining units receive COLAs of 4.5%, 4.5%, and 8.5%, respectively.
Garrett	TBD	TBD	County employees involved with a salary study receive a \$2,000 stipend as a hold over until the results are implemented in calendar 2023 (expected in December 2023). Sheriff’s Department and EMS employees receive salary scale adjustments. Roads Union-AFSCME Council 87 Local 1834 employees receive a \$2,000 stipend per union agreement.
Harford	1.5%	No	All employees receive a 1.5% COLA.
Howard	5.0%+3.0%	Yes	General workforce employees (not in a bargaining unit) receive a 5.0% COLA in July 2023 and a 3.0% COLA in January 2024, and merit-based step increases. Bargaining units receive varying COLAs, including COLAs of 3.0% in July 2023 and 3.0% in January 2024 for AFSCME bargaining units and a COLA of 5.0% in January 2024 for police and fire bargaining units. Bargaining units also receive merit-based step increases.
Kent	4.0%	No	All employees receive a 4.0% GSI.
Montgomery	3.0%+3.0%	Yes	County employees (not otherwise in a bargaining unit), Corrections Management, Sheriff Management, Management Leadership Service, and MCGEO OPT/SLT receive a 3.0% GSI in January 2024 and a 3.0% GSI in June 2024. IAFF and Fire/Rescue Management receive a 3.2% GSI in July 2023, while FOP and Police Leadership Service receive a 4.0% GSI in July 2023 and 3.0% GSI in January 2024. Service increments and other salary actions also apply.
Prince George’s	3.0%	Yes	General Schedule and AFSCME employees (with the exception of school crossing guards) receive a 3.0% COLA, merit increases, and a maximum wage rate increase. AFSCME crossing guards receive a GSI of \$4.00 per hour. Public safety bargaining units (corrections, police, Sheriff, fire, EMS) receive COLAs ranging from 2.0% to 5.0%, and merit and/or maximum wage rate increases.
Queen Anne’s	3.0%	Yes	All employees receive a 3.0% COLA and a merit increase in the amount of 2.0%, 4.0%, or 6.0%, based on performance.
St. Mary’s	2.3%	No	County employees, sworn law officers, and correctional officers receive a 2.3% COLA in January 2024. Hourly workers and sworn law officers receive salary scale adjustments; the scale adjustment for hourly workers consists of two increases – one in July 2023 and one in January 2024 – whereas sworn law officers receive one adjustment in July 2023.

County	COLA/GSI	Step/Merit¹	Additional Comments
Somerset	5.8%	Yes	All eligible employees receive a wage adjustment of 5.8%. Employees on certain pay scales receive an additional 7.0% increase on January 1, 2024. In addition, employees receive a 2.5% step increase.
Talbot	4.0%	Yes	County employees receive a 4.0% COLA and a 1.0% to 3.0% step increase.
Washington	TBD	TBD	Union negotiations were still ongoing when information was being compiled for this publication.
Wicomico	6.0%	No	Employees generally receive a 6.0% COLA, with some employees, including FOP, receiving varying salary actions.
Worcester	2.0%	Yes	County employees receive a 2.0% COLA and one 2.5% step increase. The county continues its longevity bonus program – \$500 for 20 to 24 years of service; \$1,000 for 25 to 29 years of service; \$1,500 for 30 to 34 years of service; and \$2,000 for 35+ years of service.
Total Jurisdictions Granting Increases	21	14	

¹ “Yes” is indicated if step/merit increases are available to at least a relatively broad portion of overall employees.

AFSCME: American Federation of State, County and Municipal Employees

BCFPE: Baltimore County Federation of Public Employees

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 OPT/SLT: Municipal and County Government Employees Organization – Office, Professional, and Technical – and – Service, Labor, and Trades

TBD: to be determined

Source: Department of Legislative Services

Exhibit 3 School System Salary Actions in Fiscal 2024

School System	COLA/GSI	Step/Merit ¹	Additional Comments
Allegany	2.0%	Yes	All employees receive a 2.0% COLA and 1 step increase. Additionally, Unit III-AFSCME receives a salary scale adjustment to keep wages above the new State minimum wage.
Anne Arundel	6.0%	Yes	All employees receive a 6.0% COLA and a step or step equivalent. Certain bonuses/stipends are also provided.
Baltimore City	TBD	TBD	Multiple bargaining units, including the Baltimore Teachers Union, had not completed negotiations when information was being compiled for this publication.
Baltimore	Salary Scale Adjustment	No	Teachers and support professionals receive salary scale adjustments, which include raising the starting salary for teachers to \$58,500. Bonuses are provided to newly hired special education teachers and teachers who agree to transfer to designated high needs schools for a minimum of 3 years. AFSCME, certificated administrative/supervisory employees, and other professional, technical, and supervisory employees receive a 2.0% COLA and 1 step.
Calvert	3.75%+2.75%	Yes	Teachers receive 1 step and 2 COLAs (3.75% for paychecks 1 through 12, and 2.75% for paychecks 13 through 24). Educational support staff receive a 1.0% COLA, 1 step, and a flat dollar increase to hourly wages in the form of a GSI (in 2 stages). Administrators/supervisors receive 1 step and a GSI (in 2 stages).
Caroline	5.0%	No	Teachers, support, and administrators and supervisors receive COLAs of 5.0%, 6.0%, and 7.0%, respectively. In addition, support receives 1 increment.
Carroll	4.0%	Yes	Teachers receive a 4.0% COLA, while educational support staff and administrators/supervisors receive a 5.0% COLA. Members of AFSCME and the Food Services Association receive a 7.0% COLA. In addition, teachers and educational support staff receive 1 step.
Cecil	3.75%	Yes	Teachers, school administrators and supervisors, and Central Office Support Services Leadership receive a 3.75% COLA and 1 step. Educational support personnel, with the exception of paraprofessionals, receive a 5.0% COLA and 1 step; paraprofessionals in the group receive a 7.0% COLA and 1 step.
Charles	5.0%	Yes	All employees receive a 5.0% COLA and 1 step. Teachers and administrators receive a \$500 stipend for staying in service for the full year. Additionally, teachers at Level 3 of the salary scale receive a \$1,000 stipend to address the effects of salary scale compression in fiscal 2023.

School System	COLA/GSI	Step/Merit¹	Additional Comments
Dorchester	4.75%	Yes	Teachers and support staff receive a 4.75% COLA, 1 step, 2 retention bonuses (\$1,350 each), and a bonus for employees in two schools identified as needing improvement. Administrators and supervisors receive similar salary enhancements; however, the COLA for administrators and supervisors is 6.75%, and the step increase is only for eligible employees.
Frederick	4.0%	Yes	Teachers receive a 4.0% COLA, School administrators receive a 2.8% COLA, and support staff receive a 3.2% COLA. All employees also receive 1 step.
Garrett	Varies	Yes	All employees receive a GSI that varies by unit and the number of days and months an employee works in a given year (ranging from \$2,000 to \$3,605). Additionally, all employees, with the exception of support staff, receive 1 step; however, for teachers, this is a restorative step applicable only to those employees that worked in fiscal 2011 and/or 2016.
Harford	3.0%	Yes	All employees receive a 3.0% COLA and 1 step. Education support professionals and AFSCME support staff receive a \$500 bonus. NBC teachers receive \$10,000 merit bonuses, and NBC teachers who work at Low Performing Schools receive an additional \$7,000. Members of AHCATSP receive \$1,000 for qualifying certifications and \$1,500 for accredited master's degrees.
Howard	4.0%	Yes	Teachers and educational support receive a 4.0% COLA. AFSCME (custodial and maintenance staff) receives a 5.0% COLA. School administrators and noncertificated supervisors receive a 3.25% COLA. Administrative (nonunion) staff receive a 2.0% COLA. All employees also receive 1 step.
Kent	4.25%	Yes	Teachers receive a 4.25% COLA, while support staff and administrators receive a 3.0% COLA. All units receive 1 step and a recruiting and retention bonus. The bonus for teachers and support staff is \$1,400, while the bonus for administrators is \$2,400.
Montgomery	\$5,602	Yes	Teachers receive a GSI of \$5,602 and 1 step. Support professionals receive an increase of \$1.72 per hour and 1 step. Administrators and supervisors receive a 7.0% increase and no steps.
Prince George's	4.0%	Yes	All employees receive a 4.0% COLA and 1 step.
Queen Anne's	3.0%	Yes	Teachers receive a 3.0% COLA and 1 step. School administrators receive \$1,850 on base and 1 step. Support units receive a 4.0% COLA and 1 step. All units are eligible for a \$1,000 retention stipend.
St. Mary's	5.5%	Yes	Administrative and supervisory staff receive a 2.0% scale adjustment, while certificated and licensed professional staff and educational support staff receive scale adjustments of 5.5% and 8.5%, respectively. All units receive 1 step.
Somerset	4.0%	Yes	Teachers and school administrators receive a 4.0% COLA, while support staff receive a 4.75% COLA. All units receive 1 step.
Talbot	6.0%	Yes	Teachers receive a 6.0% COLA and 1 step. Administrators and support staff receive a 4.0% COLA, and support staff receive a step and a \$500 bonus.

School System	COLA/GSI	Step/Merit¹	Additional Comments
Washington	1.0%	Yes	Teachers and school administrators receive a GSI of 1.0%, while educational support personnel receive a GSI of 3.5%. All units receive 1 step.
Wicomico	5.0%	Yes	All employees receive a 5.0% COLA and 1 step.
Worcester	1.14%	Yes	Teachers receive a 1.14% COLA, while educational support personnel receive a 1.64% COLA. Additionally, both units receive a step and a retention bonus in fiscal 2024; however, the retention bonuses for the two groups differ. Finally, longevity steps provided by the county were increased from \$1,500 to \$1,600 dollars.
Total Jurisdictions Granting Increases	23	21	

¹ “Yes” is indicated if step/merit increases are available to at least a relatively broad portion of overall employees.

AFSCME: American Federation of State, County and Municipal Employees

AHCATSP: Association of Harford County Administrative, Technical and Supervisory Professionals

COLA: cost-of-living adjustment

GSI: general salary increase

NBC: National Board-Certified

TBD: to be determined

Source: Department of Legislative Services

Local Government

Emergency Response/Environmental Health Staffing

Challenges with recruitment and retention of emergency response personnel and environmental health specialists in the State have raised concerns about limits on the personnel resources available to local governments to provide emergency response and public environmental health services. Studies of policies to address the challenges, along with recommendations, are expected to be issued by December 1, 2023.

Firefighting and EMS Personnel

Chapter 655 of 2023 established the Commission to Advance and Strengthen Fire Fighting and Emergency Medical Services Within Maryland to study and recommend methods to improve recruitment and retention of firefighters and emergency medical services (EMS) personnel in the State and to report its findings and recommendations to the General Assembly by December 1, 2023. Chapter 655 indicated that recruitment and retention of firefighting and EMS personnel pose an urgent and high priority concern for Marylanders' safety and security in both the short and long term.

Testimony from leaders in the emergency response (fire, rescue, and EMS) community in Maryland in support of Chapter 655 described the difficulty of recruitment and retention of firefighting and EMS personnel in the State (and across the nation), including competition among jurisdictions for a limited and declining pool of new hire candidates. It was reported that existing personnel are stretched to the limit to serve the needs of emergency response departments and their communities and that burnout and other adverse effects on mental health further negatively affect retention.

The Maryland Institute for Emergency Medical Services Systems (MIEMSS), which oversees and coordinates the statewide EMS system, has indicated that there is a nationwide staffing shortage for EMS personnel and that attrition of emergency medical technicians (EMT) has exceeded new certifications. Because the required education to become an EMT can be an impediment to recruitment, MIEMSS organized a demonstration stipend program, using federal funding, to support EMT students starting in calendar 2022. The program provided financial support to 500 students, distributing stipends totaling \$2,000 per student for completed training milestones. While additional funding has not been allocated to the program, it continues to run using funding redirected from students who withdraw from training. MIEMSS indicates it is awaiting the recommendations of the Commission to Advance and Strengthen Fire Fighting and Emergency Medical Services Within Maryland (established under Chapter 655) to inform further recruitment/retention efforts.

Specifically, Chapter 655 requires the commission to study and make recommendations regarding (1) the effectiveness and viability of uniform incentives, offerings, or practices employed in other states to attract, support, and retain individuals in firefighting and EMS roles

and (2) the suitability of implementing comparable or similar incentives, offerings, and practices in the State. The commission is also authorized to study and make recommendations on any other global issues that could be useful in enhancing and supporting career and volunteer firefighting and EMS in the State. The commission includes, among others, representatives from MIEMSS, the Maryland Department of Labor (MDL), the Maryland Fire Rescue Institute, the Maryland Municipal League, and the emergency response community.

MDL staffs the commission, and commission meetings that began in June 2023 have resulted in, among other things, the development and launch of a survey distributed to firefighting and EMS personnel across Maryland to gather information on variables that may contribute to recruitment and retention, including wages, diversity and inclusion, and physical and mental well-being. The survey ended October 15, with 3,184 responses submitted. MDL indicated in October that the commission was on track to complete its report by December 1.

Environmental Health Specialists

The Maryland Association of Counties describes local environmental health departments, which employ environmental health specialists, as maintaining the safety of the vital resources of food, water, and a healthy environment. State law lists various aspects of public environmental health that environmental health specialists work to safeguard by ensuring that they comply with federal, State, and local health and environmental laws and regulations, including (1) the manufacture, preparation, handling, distribution, or sale of food or milk; (2) water supply and treatment; (3) wastewater treatment and disposal; and (4) solid waste management and disposal.

Like local emergency response departments' recruitment and retention challenges, local environmental health departments face challenges in recruiting and retaining environmental health specialists, which can impede the departments' operations and efficiency. Among other factors, insufficient environmental health department staffing can contribute to delays in septic system permitting, which led to the inclusion of a requirement in Chapter 577 of 2023 that the Maryland Department of the Environment (MDE) and the Maryland Department of Health, in conjunction with the Board of Environmental Health Specialists (which licenses environmental health specialists), conduct a study on staffing needs for environmental health specialists in local environmental health departments and report their findings and recommendations to the General Assembly by December 1, 2023. The study must include (1) an analysis of the educational and licensing requirements for environmental health specialists, including recommendations on any revisions to the requirements to aid in recruitment and retention; (2) an analysis of the competitiveness of wages for current environmental health specialists compared to other states' specialists and specialists in the private sector; and (3) an analysis of the feasibility of establishing an apprenticeship program for environmental health specialists. MDE indicated in October that the study and report were on track to be completed by December 1.