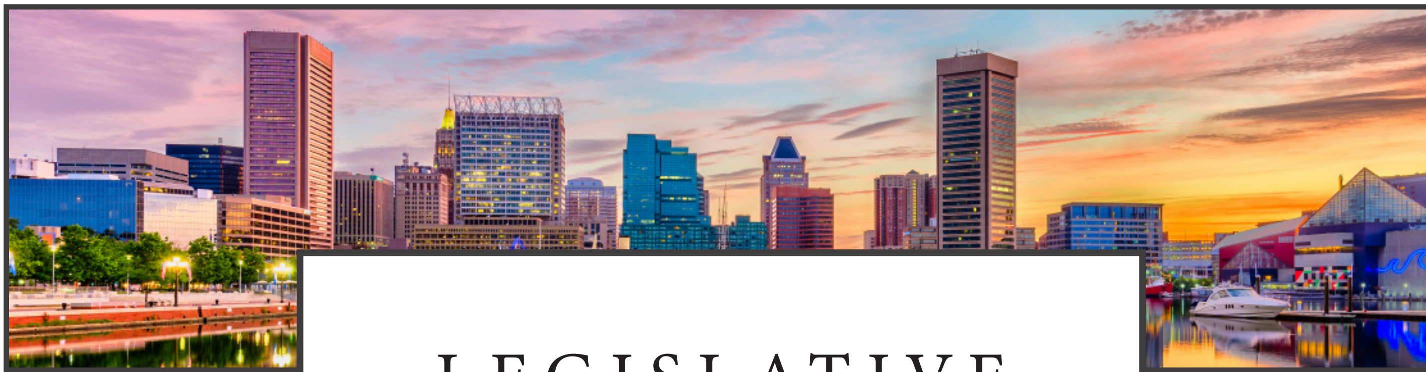
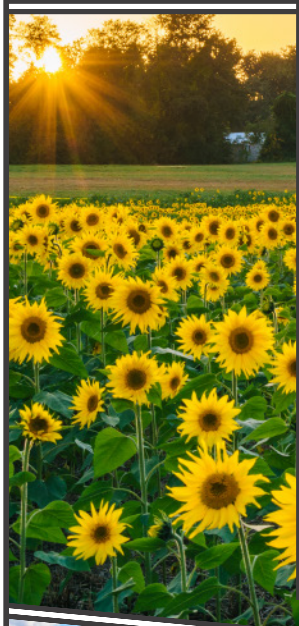
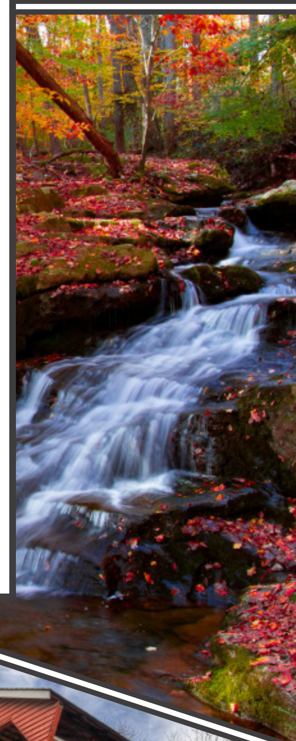


LEGISLATIVE HANDBOOK SERIES

VOLUME IV

MARYLAND'S BUDGET PROCESS





Maryland's Budget Process

Legislative Handbook Series
Volume IV
2022

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Foreword

The legislature exercises its major role in fiscal policy through the budget process. The budget not only establishes the level of appropriations for the next fiscal year but indicates the spending priorities and policies of State government.

This volume has been prepared to assist the members of the Maryland General Assembly in understanding the budget process and to aid in the exercise of their individual and collective judgment on budget issues. It is not intended to be a definitive legal analysis of the process or a procedures manual but rather a primer for members of the legislature. The study is based on the policies and procedures that will be in effect at the 2023 session of the General Assembly.

This is one of nine volumes of the 2022 Legislative Handbook Series prepared prior to the start of the General Assembly term by the staff of the Office of Policy Analysis, Department of Legislative Services. The material for this volume was assembled and prepared by Andrew C. Garrison, Madelyn C. Miller, Kelly K. Norton, and Morgan T. Smith and was reviewed by Jason A. Kramer, David C. Romans, and Tonya D. Zimmerman. The manuscript was prepared by Madeline H. Ross and Katherine K. Hayward.

The Department of Legislative Services trusts that this volume will be of use to all persons interested in the Maryland State government. The department welcomes comments on ways future editions may be improved.

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Executive Director
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Annapolis, Maryland
November 2022

Contents

Chapter 1.
Introduction to the Maryland State Budget Process

Taxes and spending – the essence of State fiscal policy – are key issues facing the Governor and legislature each year. These matters are addressed through formulation of the State's operating and capital budgets. Decisions respecting the operating budget bear directly on the services to be provided to the citizens of the State and the level of taxation required to provide such services. Likewise, decisions respecting the capital budget determine the quality of the State's infrastructure and the extent to which its costs will be financed by State debt.

The first part of this book addresses the State's operating budget. Chapter 2 provides a history of Maryland's budget process. Chapter 3 is an overview of the budget process. Chapter 4 addresses how the budget is formulated within the Executive Branch. Chapter 5 examines the role of the legislature in approving the budget, while Chapter 6 considers how budget implementation is monitored and how closeout is implemented. Chapter 7 examines cash management issues and budget balancing strategies.

The final part of the book is concerned with capital budgeting and the use of State debt. Chapter 8 discusses general obligation bond debt and the various other types of State debt. Chapter 9 provides details about the development of the capital budget and the influence of the State's debt affordability process on the overall size of the capital budget.

As these chapters are considered, it is important to keep in mind that fiscal decisions simultaneously involve four layers:

- ***Affordability*** relates to the overall level of expenditures to be authorized. Affordability is determined by available resources and citizen preferences as to levels of taxation. Maryland's Capital Debt Affordability Committee and Spending Affordability Committee address affordability in terms of the State's capital and operating budgets. This aspect of budgeting is the focus of those interested in the State's creditworthiness, like bondholders and the national bond rating agencies.

- ***Priority*** relates to the distribution of available resources among competing public goods. The Governor and the General Assembly have the opportunity to support certain policy objectives by giving them funding priority. While this most frequently occurs through the allocation of spending increases or decreases depending on available resources, it can also occur in a zero-sum sense with money being withdrawn from one purpose to support another.

- ***Detail*** relates to the items (personnel, contracts, or goods) to be applied to each of the specific activities supported by the budget. By acting on the particulars of the budget through its power to add, reduce, or restrict appropriations, the legislature can affect not only the activities touched, but also, in aggregate, both the affordability and the allocation of funds in the budget.

- ***Performance*** relates to whether the funds provided in the annual budget lead to the State obtaining desired results using evidence-based practices and effective strategies. By evaluating available research, data, and policies from State agencies, contractors, and other actors, the legislature determines if budgetary changes would improve the State's fiscal efficiency and effectiveness, particularly in achieving targeted outcomes.

As the reader considers the State's budget process, it is also important to be aware that a cautious fiscal culture has evolved in Maryland. Having earned a AAA bond rating from all three major rating agencies (Fitch, Moody's, and Standard & Poor's), the State makes few important decisions without considering the potential impact on that treasured status. Many of the procedures described in this volume have helped maintain Maryland's credit rating.

Chapter 2. History of Maryland's Budget Process

Prior to 1916, Maryland's budget process was controlled by the legislature, which was subsequently changed to an executive controlled model under which the General Assembly could only reduce or restrict funding. Beginning with the 2023 session, the budget process in Maryland will undergo a sea of change as the legislature will be allowed to add to the budget of Executive Branch agencies under certain conditions for the first time in over a century.

The Legislative Budget Model: Maryland's Process Pre-1916

Budgetary development and enactment in Maryland, much like the rest of the nation prior to the early 1900s, was largely a function of the Legislative Branch of government. Each Executive Branch agency submitted a separate funding request directly to the legislature, which reviewed and approved funding through individual appropriations bills. Agency spending and resource requirements were typically only reviewed during the legislative session. The executive role was extremely limited, although oversight was exercised through the line-item veto.

This legislature-centric model of budgeting created numerous problems, including the lack of a unified budget, inadequate oversight, and political influence. Because each agency submitted its funding request independently and inefficiencies existed within the functions of the Comptroller and the Treasurer, the legislature often was not able to compare a statement of total State revenues to total State spending. There was no professional staff responsible for assisting the legislature in its review or to provide support for framing major revenue and expenditure policy. As a result, agencies were not remitting all funds collected to the General Fund and were often overspending their appropriations by mid-year. In addition, politics, patronage, and logrolling became increasing influences in the development and implementation of the budget. These inadequacies in the budget process culminated in 1915 with a general fund budget deficit of $1.3 million, out of $3.3 million in annual general fund spending.

Budget Process Reform

Through most of the nineteenth century, government played a minimal role in the United States. The country's economy was largely agrarian-based, with less than 5% of the population living in cities. The administrative component of the government was staffed by clerks who were largely selected based on patronage. As fundamental changes related to the Industrial Revolution, immigration trends, and the rise of business monopolies began to occur in the 1880s, there was a related increase in corruption and a lack of financial and inventory control. These changes resulted in an era of progressive reform focusing on the need to separate politics from administration.

Recognition of the inadequacies of the legislative budget model began to surface as early as 1879. Reform began at the local level with the formation of the National Municipal League in 1894. By 1899, the league had prepared a model charter under which an executive would submit a unified budget to a city council that would only have the ability to reduce or eliminate appropriations without the ability to increase the budget. This model, which was adopted by Baltimore City, would ultimately serve as the basis for the system adopted by Maryland in 1916.

Reforms were also made at the federal level including adoption of the Antideficiency Act, which stipulated that the departments were to allot their appropriations over the course of the fiscal year. In 1911, a federal Commission on Economy and Efficiency was created to study the need for deficiency appropriations and the federal budget process and recommend changes. The result, which was enacted in 1921 under the Budget and Accounting Act, was the adoption of an executive budget model for the federal budget process.

When faced with a $1.3 million general fund deficit in 1915, Maryland established its own Commission on Economy and Efficiency in the State Government of Maryland to investigate and recommend budgetary reform. The recommendations in the final report substantially influenced changes in Maryland's budget process.

The Executive Controlled Budget Model: 1916-2022

The most significant recommendation of the commission was very similar to changes that had already occurred at the local and federal level. The commission recommended the adoption of a constitutional amendment to establish an executive budget process, effectively limiting the role of the legislature to one of reducing or eliminating appropriations. Adoption of this recommendation meant that the Governor was required to submit a unified budget to the legislature to ensure oversight of global revenues and expenditures. The legislature could only reduce expenditures for the Executive Branch. The constitutional amendment also established parameters for when the budget had to be submitted and enacted, and it deleted the executive line-item veto. Of note, during this period, the budget was enacted upon final passage with no presentment to the Governor since there was no veto authority by the Governor. In addition, the General Assembly could add funding for the Judicial and Legislative branches.

Additional enhancements to the process were made.

- In 1920, a merit-based civil service system was established as a way of reducing patronage pressure and improving the professionalism of the State's workforce.

- By 1939, the Department of Budget and Procurement was created to provide centralized executive control and a dedicated staff to assist in development of the budget and oversight of its implementation.

- The Board of Revenue Estimates was established in 1945 to provide an independent estimate of State revenues.

- In 1952, modifications were made to permit the migration from a line item to a program budget in order to better assess outcomes and improve accountability.

A Shared Budget Model: Maryland's Upcoming Process

The executive controlled budget model greatly limited the General Assembly's influence on the State's budgeting priorities. Other mechanisms were developed to address these limitations, such as fencing, the practice of adding budget language to an appropriation to restrict the expenditure of funds to a purpose, including a purpose that differs from that for which the funds were included in the budget as introduced by the Governor. Historically, fencing has had only moderate success in allowing the General Assembly to influence budget policy. Since the Governor cannot be forced to expend the fenced funds, the desired outcome of the fencing effort is not guaranteed. If the Governor chooses not to release funds for the restricted purpose, the funds revert or cancel.

In most years from 2010 through 2020, legislation that proposed a constitutional amendment that would allow the legislature to add to the budget was introduced, but the measures failed at various points in the legislative process until the passage of Chapter 645 of 2020. In November 2020, the constitutional amendment was passed by Maryland voters. Under the new process, beginning with the 2023 session and the fiscal 2024 budget, the General Assembly is able to increase appropriations made by the Governor and add items to appropriations for Executive Branch agencies, with certain limitations. The ability to add to the budget for the Judicial and Legislative branches remains. The total appropriation for the Executive Branch approved by the General Assembly cannot exceed the total proposed appropriation for the Executive Branch submitted by the Governor.

In addition, the budget bill will require presentment to the Governor, and the Governor will have the ability to line-item veto items relating to the Executive Branch that have been increased or added by the legislature. After a veto from the Governor, the General Assembly has 30 days to convene a special session to consider overriding the Governor's veto of an item in the budget bill. If the vetoed item has been increased by the legislature and the General Assembly does not override the veto, the additional funding for the activity is removed from the budget. If the vetoed item is an addition by the legislature and the General Assembly does not override the veto, the item will be removed from the budget bill.

Other Legislative Tools for Influencing the Budget

Additional mechanisms for exerting legislative influence over the budget process have been used over the years due to the limitations on the budget power of the General Assembly under the prior model. There are three primary tools that give the General Assembly influence in budget policy and budget development: mandating appropriation levels; creating special funds; and passage of supplementary appropriations.

Mandated Appropriations and Entitlements

A mandated appropriation is a statutory or constitutional requirement that designates that a specific amount be appropriated or a specific formula be used to calculate the appropriation. An entitlement is a legal commitment to provide certain benefits to certain individuals or groups based on meeting eligibility criteria. The authority for the General Assembly to impose mandated spending is the result of a 1978 constitutional amendment allowing the legislature to require the Governor to include a minimum level of funding for a program in a future budget. The use of mandated spending has grown significantly because it gives the legislature a stronger role in priority setting and fiscal policy formulation and increases the ability to protect agencies and interests. At the same time, the increased use of mandates has also limited the flexibility of the budget process.

Additional information on the impact of mandated appropriations and entitlements on the budget process is provided in Chapter 4.

Creation of Special Funds

Special funds have statutory dedications identifying a broad purpose for the use of the funds but allow the Governor discretion as to how the funds are allocated and used. Absent legislation to change the uses of the special funds or to transfer balances as has been done from time to time to help balance the budget, the Governor may only include special funds in the budget for the purpose for which the special funds are created. The impact of creating special funds is similar to that of using mandated appropriations. By dedicating certain revenues to specific uses, funding is generally assured for specially funded programs. This dedication of revenues, however, limits the State's ability to adapt to changing fiscal conditions because it requires passage of additional legislation every time the special funds are used for a purpose other than what was stated in the original legislation.

Supplementary Appropriation Bills

Supplementary appropriation bills allow the General Assembly to create new appropriations but only if the tax revenue necessary to pay for the appropriation is included in the bill. A supplementary appropriation bill must meet the following requirements:

- ***Single Object:*** Supplementary appropriations must each be in a separate bill and be limited to a single object.

- ***Revenue Support:*** Supplementary appropriations must identify the tax revenue necessary to pay the specific appropriation in the bill.

- ***Post-budget Passage:*** Supplementary appropriations may not be passed until after the budget bill has been passed by both chambers.

- ***Final Passage and Enactment:*** Supplementary appropriations must be passed in each chamber by a majority vote and be presented to the Governor to be enacted or vetoed.

Supplementary appropriation bills can be used by the General Assembly to provide appropriations in addition to those in the Governor's allowance. A number of factors, such as requiring a new or increased tax to pay for the proposed appropriation and being subject to the Governor's veto, limit their widespread use. Other than the annual Maryland Consolidated Capital Bond Loan and any local bond initiatives, the use of supplementary appropriations has not been frequent during the past 20 years.

Chapter 3. Operating Budget Overview

Formal Powers

Article III, Section 52 of the Constitution of Maryland establishes the respective powers of the Governor and the General Assembly in adopting the operating budget and provides a schedule for its submission and approval (see **Appendix 1**). Further law pertaining to the operating budget is set forth at § 7-101 *et seq.* of the State Finance and Procurement Article.

Governor

Under the constitution, the Governor must submit a budget to the General Assembly on the third Wednesday in January (or by the tenth day of session in the first year of a term). The budget consists of a detailed statement of revenues and intended spending, along with a bill making the proposed appropriations. The budget must be balanced when submitted. In other words, the proposed appropriations must be supported by estimated revenues.

After submission of the budget bill, the Governor may change proposed appropriations by submitting one or more supplemental budgets. Supplemental budgets permit the Governor to correct errors and omissions in the original budget. Supplemental budgets are also used to reallocate funds deleted by the General Assembly. Although customarily accepted, supplemental budgets may only be attached to the budget by consent of the legislature.

Legislative Powers

Under the constitution, the budget bill is introduced in both houses. By custom, the House and Senate move the bill in alternate years – the House moves the budget in odd numbered years, and the Senate moves the budget in even numbered years. For example, the budget bill will start in the House in the 2023 legislative session.

Beginning with the 2023 session (fiscal 2024 Budget Bill), the legislature may amend the budget to increase appropriations made by the Governor as well as add items to appropriations for Executive Branch agencies if the total appropriation for the Executive Branch does not exceed the total proposed appropriation submitted by the Governor. Prior to the 2023 session, the legislature could only add or increase funding for the General Assembly and the Judiciary.

The legislature may also reduce or delete appropriations proposed in the budget bill as well as add language to the budget bill making appropriations contingent or conditional or restricting how funds may be applied. Appropriations for statutorily mandated support for public schools may not be reduced without accompanying legislation amending the statutory mandate, while the salaries of constitutional officers may not be reduced.

The legislature must complete action on the budget by the eighty-third day of session. If this is not accomplished, the Governor must issue a proclamation extending the session if a budget is not passed by the ninetieth day.

Beginning with the 2023 session, the budget bill must be presented to the Governor, who may veto items relating to the Executive Department that have been increased or added by the General Assembly but may not veto any other items in the budget bill. If an item is vetoed by the Governor, the General Assembly may convene a special session within 30 days of the veto to consider an override. If the Governor vetoes an item that was increased or added by the General Assembly and the legislature does not override the veto, the item will revert to the proposed appropriation submitted by the Governor or be removed from the budget (in the case of new funding items) and shall be law without further action. Any item not vetoed by the Governor shall become law immediately without further action.

In addition to budget action, the legislature may affect the level of State expenditures through what is known as a supplementary appropriation bill. Under this type of legislation, the legislature raises a tax and directs its revenues to a particular purpose. Supplementary appropriations may only be considered after enactment of the budget bill; a supplementary appropriation is subject to veto. Bond bills are considered a supplementary appropriation bill.

Overview of the Budget Process

The formulation of the new budget commences during the summer of the previous year. In the months preceding introduction, each agency receives instructions as to how to request funds and how much to request, has its request reviewed by the Department of Budget and Management, and receives an allowance reflecting the decision of the Governor.

Through its spending affordability process, the legislature offers input into the fiscal policy used by the Governor in making the budget. Under this process, a statutory committee meets each fall to consider the condition of the economy and the State's fiscal health and to recommend to the Governor the amount by which State government spending should be allowed to grow in the upcoming budget. By law, the Governor is not bound by this limit. However, if the proposed budget exceeds the limit, the Governor must explain why in the budget message. Under Chapter 27 of 2022, beginning with the 2022 interim, the Spending Affordability Committee is also required to recommend end of the year balances for the General Fund, Revenue Stabilization Account (Rainy Day Fund), and Transportation Trust Fund. In addition, the committee is required to recommend a structural balance goal and a minimum expenditure level for system preservation by the Maryland Department of Transportation.

The General Assembly reviews the budget bill containing the Governor's allowance during the 90-day legislative session. The bill (and any supplemental budgets) is referred to the budget committees of the respective houses – the House Appropriations Committee and the Senate Budget and Taxation Committee. The committees typically separately but concurrently hold about six weeks of hearings on the budget. Hearings are focused on one or more agencies (or units within an agency) per day. At the hearings, the committees receive an analysis of the agency's budget, performance, fiscal and policy issues, and recommendations from the staff of the legislature's Department of Legislative Services, Office of Policy Analysis. After the legislature's analysts present their analysis and recommendations, the agencies are given an opportunity to brief the committees and respond to any recommendations or other questions posed in the analysis. Testimony from the public is sometimes received as well. At the conclusion of the hearings in the house moving the bill, the committees take action on the budget, and the budget bill is reported to the floor and follows the course of other legislation. When the budget bill is enacted, the allowances contained therein become appropriations for the next fiscal year (beginning July 1); or, in the case of deficiency appropriations, immediately upon passage of the bill.

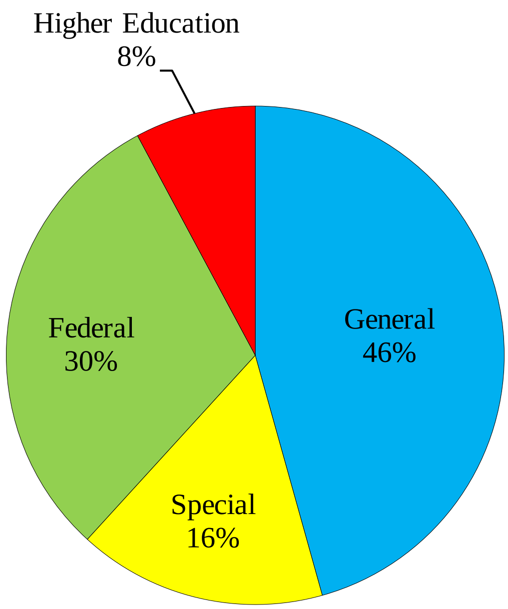
Funding Sources

The budget bill appropriates general, special, federal, and higher education funds in specific line items. The bill also authorizes the use of reimbursable funds, though not in specific line items. Nonbudgeted funds refer to funds that are not appropriated through the budget process to the agency receiving and spending these monies. In other words, nonbudgeted funds do not have a specific line item appropriation in the budget bill.

The total State budget is a composite of these fund types, most of which are appropriated each year in the budget bill. Some individual agency budgets may have only a single funding source, while others draw from a variety of sources.

Exhibit 3.1 presents the fiscal 2023 budget by fund source.

Exhibit 3.1
Maryland's $61.0 Billion Budget
Where It Comes from: Budget by Fund Source
Fiscal 2023



Source: Department of Legislative Services

General Funds

The General Fund consists of any revenues collected by the State that are not dedicated by law to a specific purpose. The individual income tax, retail sales tax, and corporate income tax are the three largest sources of general fund revenue. Although statutes mandate minimum funding levels for certain programs, the Governor has substantial discretion in the allocation of general funds in the budget. The fiscal 2023 budget appropriated $27.9 billion in general funds.

Special Funds

Special funds consist of revenues collected by the State, the use of which is statutorily limited to certain purposes. Special funds may be derived from fees (*e.g.*, car and boat registration and child support applications), taxes levied for a specific purpose (*e.g.*, State property taxes, motor fuel and vehicle taxes, and property transfer tax), local government payments for services, and gifts or donations. Special fund appropriations in fiscal 2023 totaled $9.8 billion.

Federal Funds

Federal funds are made available to State and local governments under programs administered by agencies of the United States government. Federal grants are classified as block grants or categorical grants. Block grant funds typically have fewer federal restrictions associated with their use than categorical grant funds, which generally are limited to the specific purposes authorized by law or federal agency rules. In many instances, federal funds must be matched by State funds (general or special) in a prescribed ratio. Medicaid and highway construction are two activities that particularly rely on federal funds. The federal fund appropriation in fiscal 2023 totaled $18.5 billion.

Higher Education Funds: Current Restricted and Unrestricted Funds

Since 1986, budgets for the public institutions of higher education are composed of current unrestricted and current restricted funds, rather than general, special, or federal funds. Current unrestricted funds are those funds received by a university or college for which no stipulation was made by the donor or other external agency as to the purposes for which they should be expended. Therefore, the institution may use such funds in any fashion it deems appropriate. Unrestricted revenue sources typically include such items as tuition and fee revenues, sales and services from auxiliary enterprise operations, and federal fund indirect cost recoveries. Unrestricted revenues also include State funds appropriated to the institutions. The unrestricted fund appropriation in fiscal 2023 totaled $5.1 billion, including $1.9 billion in State funds.

Current restricted funds are those received by the institution for which some stipulation is imposed by the donor, or other external entity, which limits the expenditure of the funds to a specific purpose. Restricted funds in higher education are primarily related to research, contract and grant activity, and student financial aid programs. The restricted fund appropriation in fiscal 2023 totaled $1.6 billion.

Reimbursable Funds

Reimbursable funds represent payments received by a State agency for services that it provides to another State agency. The budget of the agency providing the service contains the salaries and other expenditures necessary to carry out the service, but the agency does not receive an appropriation for these expenditures. The actual appropriation is contained in the budget of the agency that "purchases" the services. The use of the term "reimbursable" indicates that these funds are not included in the total of budgeted funds; otherwise, they would be counted twice, and the budget would be distorted. The budget bill does not provide a specific line item appropriation for reimbursable funds. Instead, it authorizes agencies to use funds appropriated in other agencies for operating expenditures. According to the Department of Budget and Management, estimated reimbursable fund expenditures total $507.1 million in fiscal 2023.

An example of an agency that receives reimbursable funds is the Annapolis Data Center under the Comptroller. The budget bill indicates that funds are appropriated in various user agencies' budgets to pay for data processing services and grants authority to the data center to use receipts from data processing services as funds to cover operating expenses. There is no appropriation to the data center. However, the budget for each agency using the service will include an appropriation for data processing, and these funds are expended by being transferred to the computer center.

Nonbudgeted Funds

Nonbudgeted funds refer to funds that are not appropriated through the budget process to the agency receiving and spending these monies. Because they are not appropriated, they do not appear in the budget bill, although information on certain aspects of these funds may be provided in the State budget books issued by the Governor. The following agencies are examples of nonbudgeted agencies:

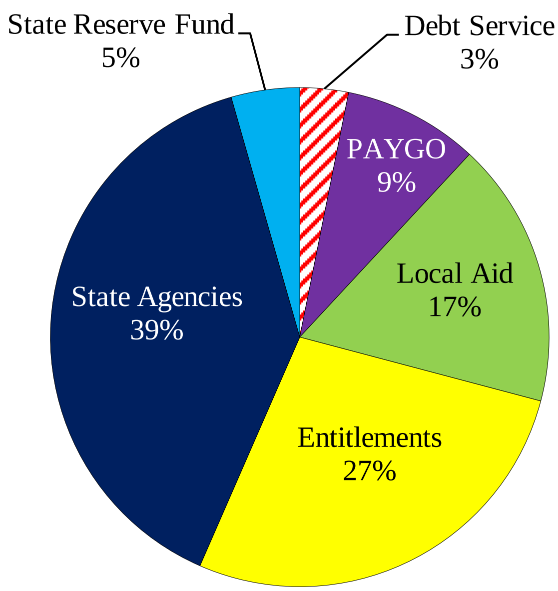
- the Maryland Automobile Insurance Fund that provides automobile insurance to "high risk" drivers and pays claims involving uninsured motorists. The income is from insurance premiums, a share of uninsured motorist fines, investment earnings, and collections on judgments. The calendar 2022 estimated budget for administration was $30.9 million; and

- the Maryland Transportation Authority, which in fiscal 2023 has an estimated budget from toll revenues and bond proceeds of $499.5 million for its operating program and another $599.1 million for its capital program.

Categories of Spending

In addition to the source of funds, it matters where the funds go. In a most basic format, State spending can be broken into six purposes: State agencies; entitlements; local aid; debt service; pay-as-you-go (PAYGO); and reserves. **Exhibit 3.2** illustrates the fiscal 2023 budget by purpose.

Exhibit 3.2
Maryland's Fiscal 2023 Budget
Where It Goes: Budget by Purpose



PAYGO: pay-as-you-go

Note: Funds restricted for legislative priorities in the Reserve Fund are accounted for in the purposes for which these funds are appropriated rather than in the Reserve Fund.

Source: Department of Legislative Services

Agencies

Funding for State agency operations constitutes the largest area of spending, representing 39% of the fiscal 2023 budget. This includes all operational expenses for State agencies, such as the Department of Public Safety and Correctional Services, the Department of Commerce, and the Maryland Department of Health. These expenses are budgeted by line item and include costs such as personnel expenses, travel, vehicle purchase and maintenance, office space and supplies, or communication expenses.

Entitlements

Entitlements are government programs providing benefits to members of a specified group. While funding for entitlement programs is included in agency budgets, it is not included as State agency spending because it is not for the actual operations of the agency. Entitlements include the State Department of Assessments and Taxation's tax credit programs, the Maryland Department of Health's Medicaid program, and the Department of Human Services' foster care and cash assistance programs. In fiscal 2023, 27% of the budget supports entitlement programs.

Local Aid

Local aid includes direct grants to local governments for various public services such as education; libraries; community colleges; transportation; public safety; health and recreation; and State-paid retirement costs for public school teachers, librarians, and community college faculty. Although grants may be for specific programs or purposes, local governments usually have considerable flexibility in the expenditures of these funds. Examples of specific programs are the Foundation Program, Students with Disabilities funding, Program Open Space, and Disparity Grants. Local aid accounts for 17% of the State budget in fiscal 2023.

Debt Service

Debt service on State general obligation bonds accounts for 3% of the total State budget in fiscal 2023. General obligation bonds are secured by the full faith and credit of the State and are supported by property taxes and other funds deposited into the Annuity Bond Fund.

PAYGO

General, special, and federal funds included in the operating budget for capital expenditures are known as PAYGO. These funds are often used in instances where federal law limits or prohibits use of tax-exempt debt financing. PAYGO funding may also be used to supplement or replace debt financing when revenues are available for this purpose. PAYGO funding represented 9% of the fiscal 2023 budget.

Reserves

The State Reserve Fund consists of appropriations to the Revenue Stabilization Account (Rainy Day Fund), Dedicated Purpose Account, and the Catastrophic Event Account. In fiscal 2023, the State Reserve Fund represents 4% of the budget.

Agency Budget Request Structure

Agency budget requests are submitted by program and object classification, which are further broken down into subprograms and subobjects. It is important to understand these terms in reference to the budget.

Programs

The term program applies to the "work program" for accounting purposes. This is the level at which the General Assembly passes appropriations. Programs are set up by the Department of Budget and Management. The Comptroller's office establishes an accounting structure for each agency, which is called the State Chart of Accounts. This structure permits expenditures to be charged against the correct program and fund. Programs for higher education institutions are consolidated into a single appropriation in the budget bill rather than specifying each program. Nevertheless, each institution must continue to prepare and submit its budget by program. **Exhibit 3.3** provides an explanation of the code classification system.

Work programs are primarily related to the operating functions of an agency. Thus, the work program encompasses such specific functional areas as "executive direction," "general operations," "field operations," "operations support," "services and institutional operations," or other areas relating to the nature of the agency. The work programs in the budget are quite stable, although they may be changed, deleted, or added to, as required by the Governor, by law, or at legislative request.

Exhibit 3.3
State of Maryland
Code Classification for Budget and Accounting Procedures

The system of coding consists of eight letters and digits which are required to provide five areas of identification. The code for the Office of the Superintendent in the Maryland State Department of Education, for example, is R00A01.01, representing the following categories:

1. Major purpose or functional classification .... R
2. Financial Agency.. 00
3. Agency or department classification ....A
4. Unit of organization classification..01
5. Work Program 01

Code Number

1. Major Purpose or Functional Classification
Example: Public Education .... R
The first letter will identify the "Major Purpose or Functional" classification for which the budget allowances are made available.

2. Financial Agency
Example: State Department of Education R00
These two numbers, together with the previous letter, uniquely identify each State government entity.

3. Agency or Department Classification
Example: State Department of Education R00A
This letter will identify the "Agency or Department" classification of expenditures.

4. Unit of Organization Classification
Example: State Department of Education – Headquarters...R00A01
These two digits will identify the "Unit of Organization" classification. In small agencies there may be only one unit of organization.

5. Work Program Classification
Example: Office of the State Superintendent R00A01.01
The last two digits will identify the "Work Program" classification. This is the level of appropriation in the budget bill, except for higher education institutions.

Source: Department of Legislative Services

Subprograms

Subprograms may be used to define activities required to accomplish specific goals. The concept of a "subprogram" in this sense includes the resources required to solve a problem or to deliver a service. Subprograms are oriented to the goals, objectives, and accomplishments to be attained for a given expenditure level.

Subprograms are most often found in programs that have multiple goals and objectives or serve large and diverse populations. A good example of this would be the Medical Care Provider Reimbursements in the Maryland Department of Health. Among some of the subprograms in this program are disabled, elderly, children, and pregnant women.

Objects

The expenditures are detailed by object classifications that categorize the specific items to be purchased or payments to be made with the appropriation to support the purpose of the program or subprogram. Most of the State budget is captured in salaries and wages (which represents the cost of the regular workforce), contractual services (which represents purchased services, including Medicaid provider payments), grants, subsidies and contributions (which includes aid to local governments), and land and structures (which captures capital spending and major facility maintenance costs). The following list contains the 13 object classifications.

- .01 Salaries and Wages
- .02 Technical and Special Fees
- .03 Communications
- .04 Travel
- .06 Fuel and Utilities
- .07 Motor Vehicle Operations and Maintenance
- .08 Contractual Services
- .09 Supplies and Materials
- .10 Equipment – Replacement
- .11 Equipment – Additional

- .12 Grants, Subsidies, and Contributions
- .13 Fixed Charges
- .14 Land and Structures

Subobjects

Each object classification in agency budget submissions is further subdivided into subobjects. Subobjects provide more specific information concerning the cost structure of the budget. For example, object code .03 – Communications is divided into subobjects, as listed.

- .0301 Postage
- .0302 Telephone
- .0303 Telecommunications
- .0304 Miscellaneous Communication Charges
- .0305 700 megahertz Radio System Operating Costs
- .0306 Cell Phone Expenditures
- .0322 Capital Lease(s) (Telecommunications)
- .0397 Paycheck Distribution Costs

Budget requests are developed in this detail level under language provided in each prior year's budget bill. Since 1982, the General Assembly has stated in the budget bill its intent that all budgets be developed at the subobject level of detail and be available through the Department of Budget and Management's automated data system.

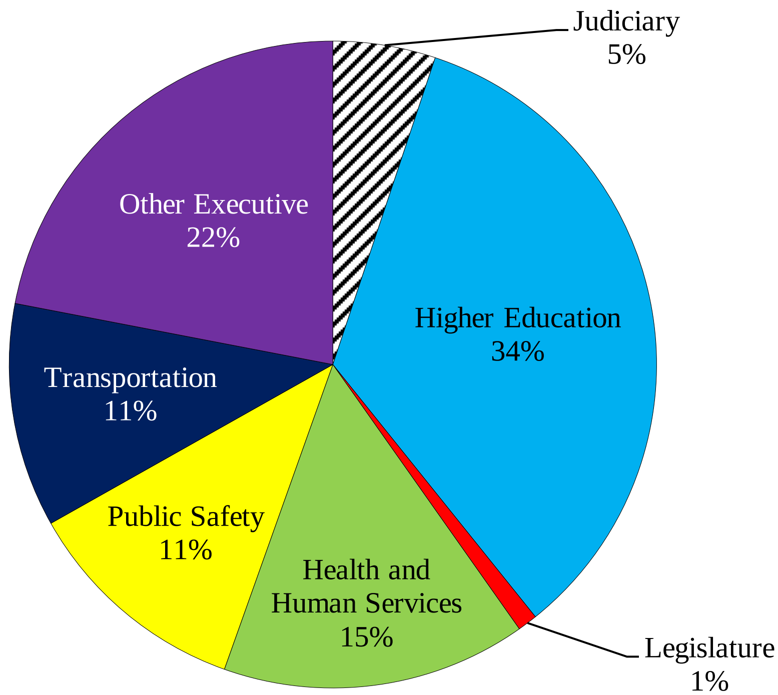
Budgeting for Maryland State Personnel

In fiscal 2023, the Maryland State employee workforce consisted of 80,858 regular full-time equivalent positions and approximately 10,300 contractual full-time equivalent positions.

Regular Positions

Most State personnel are employed in full-time equivalent authorized positions, known as regular positions. Employment in these positions entitles the employee to certain rights and protections including participation in health and retirement benefit plans. **Exhibit 3.4** shows the allocation of regular positions by service area for fiscal 2023.

Exhibit 3.4
Regular Full-time Equivalent Positions
Fiscal 2023



Source: Department of Legislative Services

When budgeting for regular positions, each position is assigned a six-digit position identification number. An agency receives sufficient funding for each authorized position and the associated benefits. These costs are budgeted in Object 01: Salaries and Wages. A variety of subobjects for fringe benefits are included in Object 01 and can vary among State agencies, depending on the type of employee and expense.

The Department of Budget and Management varies fringe benefit rates from year to year depending on cost projections, participation projections, and other factors.

- Employee and retiree health insurance is budgeted per position based on current agency enrollment patterns.

- Social Security is budgeted per position based on a percent of salary up to certain limits.

- Employee retirement is budgeted per position based on a percent of salary as required by a particular pension system.

- Unemployment compensation is budgeted per position based on a percent of salary.

- Workers' compensation is budgeted at the agency level based on past agencywide experience with workers' compensation claims.

Contractual Full-time Equivalent

The State also employs people in contractual positions. The majority of the contractual full-time equivalent positions are in higher education and predominantly consist of adjunct faculty and research faculty and staff for the various institutions.

Contractual employees do not generally receive certain benefits available to regular full-time employees, such as retirement. However, contractual employees do have access to State health benefits. As a result of changes implemented by the federal Patient Protection and Affordable Care Act of 2010, State contractual employees who work more than 30 hours per week, or an average of 130 hours per month, are eligible for a State subsidy for medical and prescription drug coverage. Health benefits and some other benefits are also available to contractual employees who work fewer hours, provided that the employee pays all the costs of the plan. Social Security and unemployment insurance costs must be budgeted for contractual employees. Costs associated with contractual employees are budgeted in Object 02: Technical and Special Fees and should not be confused with staffing resources provided through a contractual services provider in Object 08.

Turnover Expectancy

Under current budget practice, the full amount of funding for each authorized position is recognized in the appropriate budget subobject, regardless of whether or not the positions will be filled or vacant for the full fiscal year. A negative adjustment, called turnover expectancy, is made to the budget based on the expectation that a certain percentage of authorized positions will not be filled at all times during the fiscal year. By including this negative adjustment, or turnover, the agencies should not receive more funding than necessary for personnel expenses. Turnover adjustments are made for both regular and contractual full-time equivalent positions.

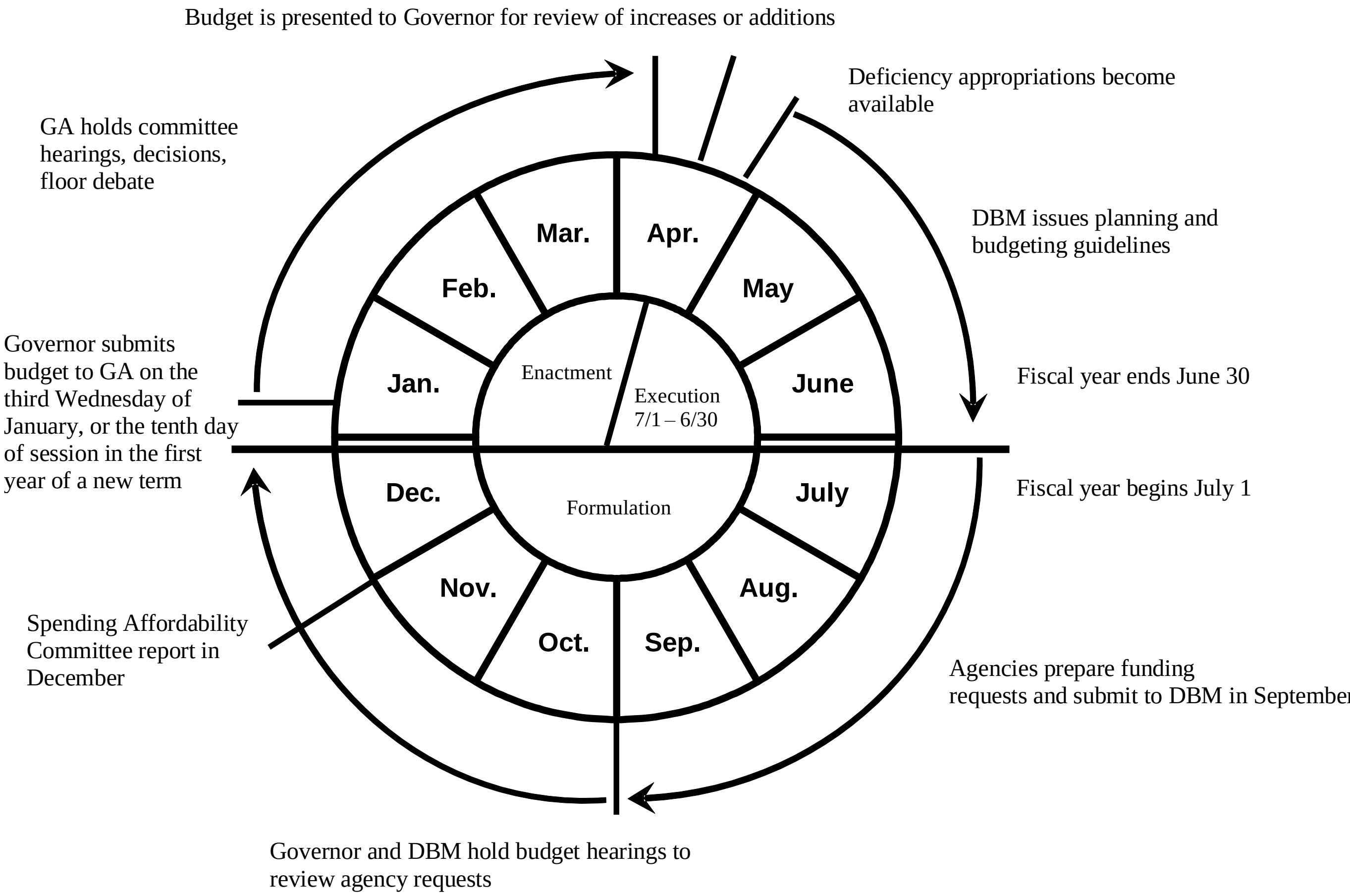
The Department of Budget and Management instructs agencies on how to calculate turnover expectancy. Historical vacancy trends are considered when assessing an accurate level for budgeted turnover. For instance, if an agency typically has 10% of its positions vacant but turnover is only budgeted at 3%, the agency is receiving more money than it needs to fill its positions. Conversely, if the agency has historically had a 2% vacancy rate, a budgeted turnover of 5% may be too high, and this could lead to an inability to maintain filled positions and inefficient operations. New positions are often budgeted at 25% turnover, assuming that at least one quarter of the fiscal year will be spent on the recruitment and hiring process.

Additional detail on the Maryland State Personnel System can be found in *Volume V – Maryland State Personnel, Pensions, and Procurement*.

Chapter 4. Maryland State Operating Budget: Formulation

The budget process is not confined to the legislative session. It is continuous; State government is always at some point in the process. The cyclical nature of the budget process, which may be viewed in three stages (formulation, enactment, and execution), is shown in **Exhibit 4.1**.

Exhibit 4.1
The Budget Cycle



DBM: Department of Budget and Management
GA: General Assembly

Source: Department of Legislative Services

Development of the budget is primarily an Executive Branch task, supervised by the Department of Budget and Management. Through the use of mandated appropriations, however, the legislature is able to have some role in the development of the budget by requiring funding of certain levels to certain activities.

Formulation

The process starts about more than a year before the start of the budget year. This process begins with the Department of Budget and Management developing instructions for use by agencies in preparing their budgets and developing a current services budget for each agency. The current services budget serves as the budget target for the agency. Agency budget instructions are typically available in June of the year prior to the budget year (fiscal 2024 budget instructions for the budget starting July 1, 2023, available in June 2022).

Agencies are directed to submit budget requests within their target to the Department of Budget and Management typically in September. At that time, agencies may also request additional funds for new or expanded programs called "over-the-target requests." For instance, in fiscal 2024, there is a limit of one over-the-target request for agencies, and the department further advises agencies that multiple items should not be combined into one request. In the fall, Department of Budget and Management staff review the budget request and over-the-target items and recommend to the Governor various adjustments to the budget request. For example, consideration might be given to the additional costs associated with the opening of a new facility or the expansion of a program based on higher demand for the program. These are costs that were not included in the prior year's budget and go above and beyond what is required to maintain current operations.

Final executive decisions on the budget are not typically made until shortly before the budget is introduced. In part, this is because the Board of Revenue Estimates does not report its estimate of revenues to be available in the budget year until mid-December. In addition, the legislature's Spending Affordability Committee, which advises the Governor as to its spending limit, also does not report until December. The time required to physically produce the budget, however, does put a practical limit on how late decisions can be made. The budget amounts approved by the Governor for each program and included in the budget are known as the allowance.

Article III, Section 52 of the Constitution of Maryland requires the State operating budget to be balanced. The Governor must submit a budget that does not have total proposed appropriations exceeding total estimated revenues for the fiscal year. Neither the Governor nor the General Assembly may amend the budget bill to provide for spending in excess of estimated revenues.

After introduction of the budget, Department of Budget and Management staff monitor legislative action. As appropriate, supplemental budgets are submitted for legislative consideration.

Agency Budget Request Development

Maryland uses a target budget formulation that allows the Governor to designate the maximum amount that an agency can request in its next budget. The target allocated to each State agency reflects State fiscal conditions and administration priorities.

The Secretary of Budget and Management distributes the departmental allocations. Agency heads are then responsible for distributing the departmental request target among the programs. If a departmental secretary is able to bring the total budget under the level of the request target by finding program savings in some areas of the department, the secretary may redistribute the savings among other programs. This provides an incentive to find cost-saving measures within the budget.

While the request process limits the level of funding requested by each agency, other factors will determine the amount actually budgeted. Agencies may submit over-the-target requests. There are a number of items that are funded outside of the request such as cost-of-living salary increases for State employees, other salary increases for certain categories of State employees, pay-as-you-go capital projects, and executive initiatives. These items are usually added to departmental budgets based on updated revenue estimates, executive priorities, identified needs, and other factors.

Budget Preparation and Submittal

Around the middle of June, a letter from the Secretary of Budget and Management is sent to State agencies outlining the Governor's fiscal policies for the forthcoming fiscal year. Attached to the letter are supplemental instructions for the preparation and submission of the operating budget. The supplemental instructions are referred to as the "Budget Instructions." Some expenditure types require supplemental information on separate forms (*e.g.*, motor vehicles). In addition, the budget instructions include standard rates pertaining to such items as furniture and cars, and inflationary factors to be applied at the object and/or subobject level. Agencies are allowed to deviate from the prescribed rates but must justify the deviation.

During July, August, and September, each agency prepares its budget request indicating the source of funding for the expenditures for each program. The requests are submitted to the Department of Budget and Management by the end of September. The requests are submitted through the enterprise budget system known as Budget Analysis and Report System, or BARS. Several additional documents must be submitted outside the Budget Analysis and Report System, including Managing for Results submissions and an organizational chart for the department or agency. The amount of data and the budget detail included vary according to the size and complexity of the agency submitting the budget request.

Managing for Results

In response to recommendations by the legislative auditor that strategic planning results and measurement data be included in the budget, the Department of Budget and Management initiated a statewide strategic initiative known as Managing for Results beginning with the fiscal 1999 budget submission. Chapter 452 of 2004 codified the Managing for Results process and authorized the Office of Legislative Audits to audit performance measures to determine their reliability. This strategic planning process is intended to institute performance measurement techniques for all State government programs.

Agencies are responsible for developing the following aspects of the Managing for Results process for each program appropriated in the annual budget bill:

- ***Mission:*** A short comprehensive statement of the reason for the organization's existence, succinctly identifying what an organization does (or should do) and for whom it does it.

- ***Vision:*** A brief compelling description of the preferred, ideal future, including the conditions and quality of life.

- ***Key Goals:*** The general ends toward which an organization directs its efforts. Goals clarify the mission and provide direction but do not state how to get there.

- ***Key Objectives:*** Specific and measurable targets toward the accomplishment of a goal. Agency objectives should be attainable and time bound.

- ***Key Performance Measures:*** The system of customer-focused, quantified indicators that let an organization know if it is meeting its goals and objectives. There are five categories of performance measures: efficiency; input; outcome; output; and quality. Outcome measures should be reported for each program and agency. An appropriate and balanced mix of performance measures should be submitted for each program.

- ***Performance Discussion:*** Agencies must provide a brief explanation of what the performance data reveals about agency performance during the past year.

- ***Key Strategies:*** Specific courses of action that will be undertaken to accomplish goals and objectives. Strategies reflect budgetary and other resources. Submission is mandatory only for measures included in the Managing for Results State Plan.

- ***Data Definitions and Control Procedures:*** Agencies are required to provide data definitions and control procedures for specified measures. A data definition includes both conceptual and operational components that clearly explain the measure with a detailed description of its calculation to allow for replication. A complete data definition also identifies the primary source, collection and storage methods, and limitations of the data, as well as whether the data is cumulative. Control procedures create a system to ensure that the collection and reporting of performance measures are reliable and accurate. There are three types of control procedures: (1) input; (2) process; and (3) review.

After receiving approval from the Department of Budget and Management, each agency's performance measures are published on the Department of Budget and Management website under Proposed Operating Budget Detail by Agency and submitted to the Department of Legislative Services. The supplemental detail including performance discussion, data definitions, and control procedures are not posted online.

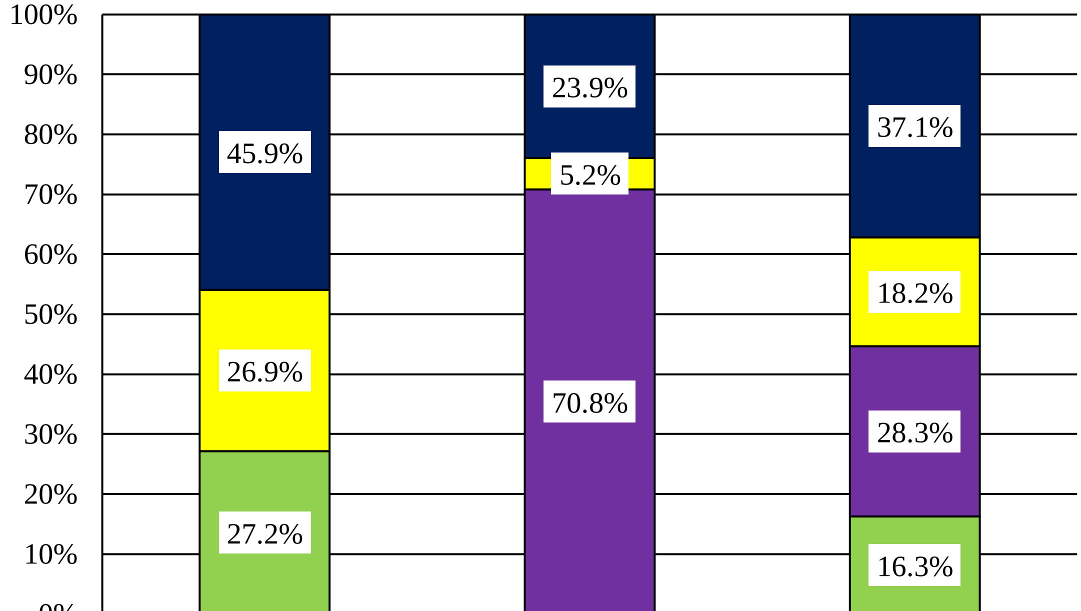
Mandated Appropriations and Entitlement Programs

During the formulation of the budget, agency and Department of Budget and Management staff must be aware of any mandated appropriations, entitlements, or special funds that have been created by the General Assembly that might dictate how the Governor develops the budget. A mandate is a legal requirement for the Governor to include certain levels of funding for specific programs and purposes in the budget as introduced. Related but distinct from mandates are entitlements, which are legal commitments to provide certain benefits to certain individuals or groups who meet specified eligibility criteria. Special funds, a third tool for asserting legislative influence in the budget formulation process, have statutory dedications identifying a broad purpose for the use of the funds but allow the Governor discretion as to how the funds are allocated and used.

The power of the General Assembly to impose mandated spending dates to 1978. In a 1977 court case, legislation to require parity in foster care payments was ruled unconstitutional. This led to a 1978 constitutional amendment allowing the General Assembly to require the Governor to include a minimum level of funding for a program in a future budget. Legislation imposing mandated funding levels must be enacted prior to July 1 of the fiscal year that precedes the fiscal year to which the requirement applies. For example, legislation adopted during the 2022 session could impose mandates effective in the fiscal 2024 budget but would not affect the fiscal 2023 budget introduced that same year.

Appropriations with a mandated amount or purpose accounted for 65.4% of the fiscal 2022 State-sourced funds in the budget; entitlements and nonmandated funds account for 18.2% and 16.3%, respectively. As shown in **Exhibit 4.2**, more than 72.8% of the fiscal 2022 general fund appropriation and 29.1% of the special fund and higher education appropriations are mandates or entitlements. The remaining 70.8% of the special fund and higher education appropriations is dedicated for specific purposes.

Exhibit 4.2
Maryland State Spending from Own-source Budget
Fiscal 2022 Allowance
($ in Millions)



	General Funds	Special and Higher Education Funds	Total Funds
Mandated Amount	$9,563.1	$3,319.9	$12,883.0
Entitlement	5,599.1	723.3	6,322.5
Mandated Purpose	0.0	9,820.6	9,820.6
Nonmandated	5,663.0	0.0	5,663.0

Note: Numbers may not sum to total due to rounding. Fiscal 2022 special and higher education funds exclude the general and special fund portions of current unrestricted funds. General fund allowance total excludes $35 million of unspecified reversions.

Source: Department of Legislative Services

Exhibit 4.3 shows that the policy areas that receive the largest share of mandated appropriations are K-12 education and health programs, receiving 79.5% of all mandated general fund spending and 68.2% of overall mandated spending in fiscal 2022. Transportation, health, and capital expenditures account for nearly 81.6% of all special fund mandates.

Exhibit 4.3

Statutorily Mandated Appropriations and Entitlements by Policy Area

Fiscal 2022 Allowance
($ in Millions)

Policy Area	GF	% of GF	SF	% of SF	Total	% of Total
Education, K-12	$6,725.8	44.4%	$269.3	6.7%	$6,995.1	36.4%
Health	5,320.6	35.1%	788.5	19.5%	6,109.1	31.8%
Capital Program	260.0	1.7%	1,123.0	27.8%	1,383.0	7.2%
Transportation	0.0	0.0%	1,388.1	34.3%	1,388.1	7.2%
Administrative and Legislative	708.3	4.7%	216.8	5.4%	925.1	4.8%
Education, Postsecondary	702.3	4.6%	0.3	0.0%	702.5	3.7%
Judiciary	604.4	4.0%	68.0	1.7%	672.3	3.5%
Human Services	332.8	2.2%	0.0	0.0%	332.8	1.7%
Agriculture, Environment, and Natural Resources	124.4	0.8%	182.9	4.5%	307.3	1.6%
Nonspecific Aid	186.6	1.2%	1.7	0.0%	188.3	1.0%
Public Safety	88.4	0.6%	0.6	0.0%	89.0	0.5%
Economic Development and Housing	108.8	0.7%	4.0	0.1%	112.8	0.6%
Total	**$15,162.3**	**100.0%**	**$4,043.2**	**100.0%**	**$19,205.4**	**100.0%**

GF: General Fund
SF: Special Fund

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

Source: Department of Legislative Services

There are both advantages and disadvantages associated with the use of mandates and entitlement programs. Mandated funding allows the legislature to have a stronger role in priority setting and fiscal policy formulation, particularly in the prior periods when the State was dominated by a strong executive-budget model. It also safeguards priority programs during fiscal crises and protects agencies and interest groups from having to annually fight for funding. At the same time, however, mandated funding reduces flexibility in the budget. There is also the potential to cause structural budget problems by mandating large funding increases without corresponding revenues.

The Governor may not reduce a mandate in the budget bill but instead must propose separate legislation amending the statute to modify or eliminate the mandate. Mandate relief proposals are typically lumped into a single bill referred to as the Budget Reconciliation Act or the Budget Reconciliation and Financing Act. Budget reconciliation legislation is not limited in scope to the budget before the General Assembly and often includes multi-year or permanent changes to statutory mandates.

Spending Affordability

During the late 1970s and early 1980s, the General Assembly considered proposals to control the growth of the operating budget. The proposals were similar to limitations on expenditures and/or taxes enacted in other states. The thrust of the proposals was to use certain economic indicators to tie the growth of ongoing State spending to the growth in the Maryland economy. The result of these deliberations was the creation of the Spending Affordability Committee during the 1982 session. The committee is composed of the President of the Senate, the Speaker of the House, majority and minority leaders of the Senate and the House, the chairs of the four standing fiscal committees, and other members selected by the Presiding Officers. In 2022, the committee consisted of 20 legislators (10 senators and 10 delegates) and was assisted by an advisory committee of one private citizen.

The committee meets in the fall leading up to the legislative session. The Department of Legislative Services prepares forecasts that estimate revenues and expenditures for the upcoming fiscal year and the subsequent four years. The committee reviews these projections and the status of the State economy. By statute, the committee must report to the Legislative Policy Committee each December its recommendations for fiscal goals for the budget to be considered at the next session of the General Assembly. Chapter 27 of 2022 added topics upon which the Spending Affordability Committee is required to make recommendations. Previously, the committee was required to make the following types of recommendations:

- a level of State spending;
- a level of new debt authorization;
- a level of State personnel; and
- the use of any anticipated surplus.

Beginning with the 2022 interim, the committee will also be required to make recommendations on:

- an end-of-the-year general fund balance;
- an end-of-the-year balance in the revenue stabilization account;

- a structural balance goal;
- a fund balance for the Transportation Trust Fund; and
- a minimum expenditure level for system preservation by the Maryland Department of Transportation.

The committee may make other appropriate findings and recommendations. By statute, if committee recommendations with respect to State spending exceed the annual increase in relevant economic indicators, the committee must provide an analysis as to the extent the recommendations exceed such indicators. Similarly, if the Governor submits a budget request in excess of the amounts recommended by the Spending Affordability Committee, the Governor must explain the rationale for exceeding the recommendations. The budget committees must also provide an explanation for any amounts exceeding Spending Affordability Committee recommendations that are presented to the Senate and the House of Delegates for consideration.

Recommendations for State Spending

The committee's primary responsibility is to recommend to the Governor and the General Assembly a level of spending for the State operating budget that is reflective of the current and prospective condition of the State's economy. Consideration is given to constraining disproportionate growth in State funding expenditures in any fiscal year that might result in unsupportable levels of spending in future years. Thus, especially during periods of strong economic growth, the committee has attempted to smooth spending by limiting increases relative to the level of growth in the economy. The committee has often used growth in personal income as a proximate measure of the State's economic growth and as a guide for the increase in State spending. Consequently, the spending affordability process limits the growth in State government so that it does not exceed the growth in Marylanders' income.

Since 2011, the spending recommendations of the committee have focused primarily on closing a persistent structural budget gap, where ongoing revenues are not sufficient to support ongoing State expenditures, or other structural balance goals. For further discussion of the structural outlook, see "Chapter 7. Cash Management" of this handbook.

Compliance with the recommendations of the Spending Affordability Committee with respect to State spending has generally been good. The budget passed by the General Assembly has only exceeded the committee's recommendation once. For fiscal 1985, the Governor's original budget was within spending limits; however, a supplemental budget in excess of $90 million was introduced and subsequently enacted. Also, the committee did not make a recommendation for the fiscal 1993 budget because of the financial difficulties being faced by the State at the time. **Exhibit 4.4** displays the history of compliance with the Spending Affordability Committee's recommendations on State spending.

Exhibit 4.4
History of Compliance with Spending Limits
($ in Millions)

	Committee Recommendation		Legislative Action	
Session Year	Growth Rate	Amount	Growth Rate	Amount
1983	9.00%	$428.0	5.70%	$269.8
1984	6.15%	326.7	8.38%	402.0
1985	8.00%	407.2	7.93%	404.6
1986	7.70%	421.5	7.31%	402.2
1987	7.28%	430.2	7.27%	429.9
1988	8.58%	557.5	8.54%	552.9
1989	8.79%	618.9	8.78%	618.2
1990	9.00%	691.6	8.98%	689.7
1991	5.14%	421.8	5.00%	410.0
1992	No recommendation		10.00%	823.3
1993	2.50%	216.7	2.48%	215.0
1994	5.00%	443.2	5.00%	443.2
1995	4.50%	420.1	4.50%	420.0
1996	4.25%	415.0	3.82%	372.8
1997	4.15%	419.6	4.00%	404.6
1998	4.90%	514.9	4.82%	506.6
1999	5.90%	648.8	5.82%	640.6
2000[1]	6.90%	803.0	6.87%	800.0
2001[2]	6.95%	885.3	6.94%	884.6
2002	3.95%	543.2	3.40%	467.2
2003	2.50%	358.2	0.94%	134.1
2004	4.37%	635.2	4.33%	629.0
2005[3]	6.70%	1,037.1	6.69%	1,036.30
2006[3]	9.60%	1,604.1	9.57%	1,599.00
2007	7.90%	1,450.0	7.51%	1378.4
2008	4.27%	848.7	4.16%	826.8
2009[4]	0.70%	145.7	0.19%	39.2
2010[4]	0.00%	0.0	-3.00%	-626.9

	Committee Recommendation		**Legislative Action**	
Session Year	**Growth Rate**	**Amount**	**Growth Rate**	**Amount**
2011	Reduce fiscal 2012 structural deficit by 33.33%		36.90%/46.00%[5]	
2012	Reduce fiscal 2013 structural deficit by 50.00%		50.60%	
2013	Reduce fiscal 2014 structural deficit by $200.0 million		Fiscal 2014 structural deficit reduced by $211.2 million	
2014	4.00% growth ($937.8)/reduce fiscal 2015 structural deficit by $125.0 million		2.76% growth ($646.4)/ fiscal 2015 structural deficit reduced by $126.1 million	
2015	Reduce fiscal 2016 structural deficit by 50.00%		68.27%	
2016	4.85%	$1,184.2	4.55%	$1,111.2
2017	Reduce fiscal 2018 structural deficit by at least 50%		90.19%	
2018	Eliminated 100% of fiscal 2019 structural deficit		100%	
2019	3.75%	$1,019.0	3.31%	$900.7
	Maintain fiscal 2020 structural balance		$12 million structural surplus	
2020	Maintain fiscal 2021 structural balance		$160.2 million structural surplus	
2021	Limit fiscal 2022 structural deficit to $700 million or less		$63.0 million structural surplus	

[1] 2000 legislative action does not reflect $266 million of Cigarette Restitution Fund appropriations. Cigarette Restitution Fund dollars were excluded from the calculation during the 2000 session because they had not previously been available to the State. The 2000 growth rate, including Cigarette Restitution Fund dollars, was 9.16%.

[2] Methodology revised effective with the 2001 session.

[3] The committee initially approved a limit of 5.70% for fiscal 2005 and 8.90% for fiscal 2006.

[4] Legislative action calculation includes federal funds under the American Recovery and Reinvestment Act of 2009 used in lieu of ongoing general fund spending.

[5] Spending reduction/total reduction accounting for revenue impact.

Note: In years where Spending Affordability set a limit on the growth in State spending, the calculation includes general, special, and higher education appropriations less capital, one-time, pass-through, higher education restricted, and self-sustaining enterprise activity appropriations. The calculation compares session-to-session spending appropriated by the General Assembly. Hence, 2022 session spending (fiscal 2023 appropriations and fiscal 2022 deficiency appropriations) is compared to 2021 session spending (fiscal 2022 appropriations and fiscal 2021 deficiency appropriations). Deficiency appropriations are also counted as new spending under spending affordability. Periodically, the Spending Affordability Committee modifies the methodology used for calculation of the spending affordability limit. These modifications can be done to recognize changes in revenues or expenditures. The structural budget calculation in contrast simply compares ongoing general fund revenues available in a specific fiscal year to ongoing general fund spending proposed for that fiscal year.

Source: Department of Legislative Services

Other Recommendations

The Spending Affordability Committee is charged with making other recommendations with respect to the State budget policy. One of these recommendations is the level of debt authorization for the upcoming session. In determining the level, the committee considers the report of the Capital Debt Affordability Committee. Debt affordability and the work of the committee are discussed in greater detail in "Chapter 8**.** Capital Budget Funding Sources and Debt Affordability" of this handbook.

The Spending Affordability Committee has also made recommendations concerning the number of State positions and specific fiscal issues. For example, in 2021, the committee noted the huge influx of federal funds from the Infrastructure Investment and Jobs Act and recommended the Governor work with the General Assembly to develop priorities for the funding. In other years, recommendations have been made regarding revenue volatility, addressing difficulties in hiring State employees, and how to utilize fund balances.

State Budget Books

Beginning in October after receipt of the agencies' budget requests, the Department of Budget and Management initiates its budget review activity that culminates in the production of the State budget by the beginning of January. Analysts in that department review the requests and propose adjustments.

The Department of Budget and Management, working closely with the Governor's Office, holds budget hearings with agencies with final decisions on the budget made by the Governor in December. Advocacy groups and legislators are often active in the fall attempting to persuade the Governor to include funding for particular projects of interest to them.

Once the Governor has made final decisions on the budget, completed summary allowance sheets are assembled in budget code sequence and printed as the State Budget Books. For the fiscal 2023 budget, the budget books were issued in four volumes: a budget highlights volume providing an executive summary of the Governor's budget; two volumes providing detail for the operating budget; and one for the capital budget. These are the principal supporting documents of the budget bill.

The Governor's *Budget Highlights* is the book containing specific explanations of the major programs and issues of executive action contained in the budget. The book also contains a listing of State assistance to each of the counties and a budget in brief section outlining revenue sources and areas of expenditures, the status of State general funds, estimated revenues, details of general and special funds, and a summary of budgeted operating expenditures and the capital budget program.

The budget books show the details of expenditures by object classification for the prior, current, and next fiscal year. For example, the fiscal 2023 budget books contain details on the fiscal 2021 actual spending, the fiscal 2022 working appropriation, and the fiscal 2023 allowance. Sources of funds (*e.g.* general, special, or federal) expended by the agency and summaries of capital expenditures are also provided. For special, federal, and reimbursable funds the pages provide the specific source of revenue supporting the overall appropriation. An example of the program detail is shown in **Exhibit 4.5**.

Exhibit 4.5
Example of Program Appropriation Detail
Maryland Department of Labor

Maryland Department of Labor

P00G01.13 Adult Corrections Program - Division of Workforce Development and Adult Learning

Program Description

This program provides academic, occupational and transition training, and library services to inmates in State correctional institutions.

Appropriation Statement	**2021 Actual**	**2022 Appropriation**	**2023 Allowance**
Number of Authorized Positions	146.00	141.00	140.00
Number of Contractual Positions	2.00	1.00	3.00
01 Salaries, Wages and Fringe Benefits	16,134,172	15,707,633	15,827,621
02 Technical and Special Fees	47,452	78,435	196,783
03 Communications	10,491	7,631	7,631
04 Travel	42,105	10,766	10,766
06 Fuel and Utilities	1,204	1,941	1,941
07 Motor Vehicle Operation and Maintenance	57	3,308	3,308
08 Contractual Services	2,503,982	2,625,085	3,048,085
09 Supplies and Materials	578,310	448,719	450,758
10 Equipment - Replacement	224,625	278,258	258,689
12 Grants, Subsidies, and Contributions	0	100,000	100,000
13 Fixed Charges	26,476	23,246	23,246
Total Operating Expenses	3,387,250	3,498,954	3,904,424
Total Expenditure	19,568,874	19,285,022	19,928,828
Net General Fund Expenditure	16,060,408	15,625,606	15,785,815
Reimbursable Fund Expenditure	3,508,466	3,659,416	4,143,013
Total Expenditure	19,568,874	19,285,022	19,928,828
Reimbursable Fund Expenditure			
P00G01 Division of Workforce Development and Adult Learning	455,273	459,051	459,848
Q00R02 Division of Correction - West Region	379,007	504,001	982,123
Q00S02 Division of Correction - East Region	220,647	222,474	222,859
Q00T02 Corrections - Central	1,834,175	1,849,391	1,852,602
R00A01 State Department of Education-Headquarters	619,364	624,499	625,581
Total	3,508,466	3,659,416	4,143,013

Note: Exhibit 4.5 can be found on page 655 of the *Fiscal 2023 State Budget Book, Volume One*.

Source: *Fiscal 2023 State Budget Books, Volume One*

Supplementary Information

In addition to the printed budget books, the Department of Budget and Management also provides the Department of Legislative Service data detailing each agency's contractual positions, contracts and grants, real estate, fund balances, and Managing for Results data.

The Department of Budget and Management also posts files for each agency with additional pieces of information, including the budget and fund source detail in downloadable format, along with the Managing for Results and Personnel detail, as shown in **Exhibit 4.6**. This detail is posted on the Department of Budget and Management's website under the Proposed Operating Budget Detail by Agency. The personnel detail is sequenced so that within each unit, program detail is provided by classification and includes the number of positions per class together with the total salary required for the previous, current, and next fiscal year.

Exhibit 4.6
Example of Personnel Detail
Board of Public Works

Agency Code	Unit Code	Unit Name	Program C	Program Name	Class Title	FY 2021 Position FTE	FY 2021 Position Total Salaries	FY 2022 Position FTE	FY 2022 Position Total Salaries	FY 2023 Position FTE	FY 2023 Position Total Salaries
D05	E01	Board of Public Works	1	Administration Office	Admin Officer II	1	39,192	1	54,521	0	$0
D05	E01	Board of Public Works	1	Administration Office	Admin Spec II	1	43,933	1	44,374	1	$44,374
D05	E01	Board of Public Works	1	Administration Office	Administrative Mgr Senior I	1	108,407	1	109,494	1	$109,494
D05	E01	Board of Public Works	1	Administration Office	Administrative Mgr Senior II	1	127,292	1	128,568	1	$128,568
D05	E01	Board of Public Works	1	Administration Office	Administrator I	1	18,251	0	0	1	$62,001
D05	E01	Board of Public Works	1	Administration Office	Administrator III	1	50,750	1	70,600	0	$0
D05	E01	Board of Public Works	1	Administration Office	Administrator V	0	97,482	1	74,518	2	$154,955
D05	E01	Board of Public Works	1	Administration Office	Prgm Mgr Senior III	1	133,319	1	134,656	1	$134,656
D05	E01	Board of Public Works	5	Wetlands Administration	Admin Spec III	1	45,158	1	56,763	0	$0
D05	E01	Board of Public Works	5	Wetlands Administration	Administrator I					1	$62,001
D05	E01	Board of Public Works	5	Wetlands Administration	Administrator VI	1	97,048	1	98,021	1	$98,021
Grand Total						9	760,832	9	771,515	9	$794,070

Source: Department of Budget and Management

The Budget Bill

The Governor submits the budget bill in accordance with the provisions of Article III, Section 52 of the Constitution of Maryland (see **Appendix 1**). The constitution stipulates that the budget bill must include all appropriations for the Legislature, the Judiciary, and the Executive department and that these appropriations shall provide for an efficient school system, the interest and principal on the State debt, the salaries established by law and by the constitution, and other purposes that may be required by law or by the constitution.

The budget bill is a large bill. Although the bill is introduced independently in both the Senate and the House of Delegates, the printed version of the first reader includes both bill numbers. One house passes the budget bill first in one year, and by prearranged schedule, the other house passes the bill first in the next year. The original bill is often altered by one or more supplemental budgets submitted by the Governor, which are typically appended at the end of the bill as the bill moves through the process. During the 2022 legislative session, five supplemental budgets were introduced. The fiscal 2023 budget bill (Senate Bill 290) passed by the General Assembly totaled $61.0 billion in appropriations.

The budget bill, as presented to the General Assembly by the Governor, has three major parts. The first and largest part contains the specific appropriation proposed for each program of State government for the next fiscal year as well as the "deficiency appropriations" for those units of State government that are judged to require additional funds deemed necessary to complete the current fiscal year.

The second part of the budget bill includes several sections that provide general directions and limitations pertaining to the expenditure and transfer by budget amendment of the appropriations contained in the first part. Included in these sections are the regular and the Maryland Department of Transportation executive pay plans and a listing of nonclassified flat rate or per diem positions (*e.g.*, Governor, Comptroller, and Treasurer). Other sections govern the expenditure or allow for the recovery of funds associated with specific purposes including tort claims, indirect costs, computer usage, and other areas of the budget. The legislature typically adds additional sections to this part with provisions applicable to multiple agencies.

The third part of the budget bill is the "Budget Summary," as required by the constitution (Article III, Section 52(5a)). This summary provides figures for the total of all proposed appropriations, including deficiencies, and estimated revenues available each year to pay for the appropriations. For each year, projected revenues must be equal to or greater than the proposed appropriations.

The budget bill is introduced in each house of the General Assembly by the Presiding Officers on the third Wednesday of January (the eighth day of the session). This date is extended to the tenth day (Friday) every fourth year for the newly elected Governor. Copies of the budget bill and the Maryland State Budget Books are provided to each member. Copies are also made available to State agencies and other government offices. In addition, the information is made available online through the websites for the Maryland General Assembly (budget bill) or the Department of Budget and Management (budget books).

Chapter 5. Maryland State Operating Budget: Legislative Review and Enactment

The budget process may be viewed in its broadest sense as the primary means by which the State's elected policymakers – the Governor and the members of the General Assembly – strive to balance an acceptable level of taxation with an acceptable level of spending for governmental services (see **Exhibit 5.1**). Within the budget process, legislative budget review serves an important purpose. It is the General Assembly that has the ultimate responsibility to impose the taxes that finance the costs of State government. Only by a thorough and searching examination of proposed appropriations, agency programs, and operations can the General Assembly perform its duty and function of exercising control over expenditure of public funds.

Beginning with the fiscal 2024 budget, the General Assembly may amend the budget to increase, reduce, restrict, or impose certain conditions or limitations concerning the expenditure of appropriations that do not contradict or circumvent existing law (*Bayne v. Secretary of State*, 283 Md. 560, 574 (1978)). Based on *Bayne*, the General Assembly has regularly acted to restrict the expenditure of an appropriation pending review of additional information, certain action by an agency, or the satisfaction of specified conditions. Following the 2018 session, the Court of Appeals imposed an additional limitation on the General Assembly that any restriction must be directly tied to a particular appropriation within the budget, rather than imposed across all appropriations in the budget (*Kopp v. Schrader*, No. 72 September 2017 (June 21, 2018)).

The constitution prescribes that a bill be confined to one purpose, and the purpose of the budget bill is to appropriate funds for the operation of the State, not to legislate generally (37 Opinions of the Attorney General 121 (1952)). The General Assembly does not have the authority to modify existing law by means of amending the budget bill, otherwise known as "legislating in the budget." However, the General Assembly may reduce any item of appropriation in the annual budget bill below any minimum level of funding that has been set by statute (65 Opinions of the Attorney General 45 (1980)) with the exception of certain education funding and debt service and may strike out or reduce items including those items inserted to provide for satisfaction of judgments (68 Opinions of the Attorney General 382 (1983)). Exhibit 5.1 summarizes the timing and activities of actors within the budget review process at various times.

Exhibit 5.1
Budget Review and Enactment
Legislative Session

	State Agencies	Executive	Legislative
January	Agencies start to prepare overviews and responses to the Department of Legislative Services' recommendations.	The Governor presents the budget to all members of the General Assembly. If necessary, a BRFA is introduced.	APP and B&T hold separate but concurrent budget hearings with agencies. The Department of Legislative Services presents analyses and recommendations at public hearings.
February	At public hearings, agencies respond to issues and recommendations raised by the Department of Legislative Services and committee member questions.	The Department of Budget and Management reviews and recommends items for supplemental budget(s). The Governor approves requests and formulates supplemental budget(s), as necessary.	APP and B&T continue budget hearings with agencies.
March		The Department of Budget and Management reviews and recommends items for supplemental budget(s). The Governor approves requests and formulates supplemental budget(s), as necessary.	If a BRFA has been introduced, APP and B&T hold separate but concurrent hearings on the BRFA. APP and B&T may also hold hearings on any submitted supplemental budgets. APP and B&T consider budget, supplemental budget, and BRFA recommendations and prepare written reports of adopted amendments. First house receives committee report, debates amendments, and passes the BRFA and budget bill with supplement(s) if any. Second house receives the BRFA and budget bill, refers to committee, receives committee report, debates, amends, and passes the BRFA and budget with supplement(s), if any.

	State Agencies	Executive	Legislative
April		The Department of Budget and Management reviews and recommends items for supplemental budget(s). The Governor approves requests and formulates supplemental budget(s), as necessary. The Governor receives the enrolled budget bill and BRFA (if any). The Governor considers any line-item veto of increased or additional items for the Executive Branch. If the General Assembly does not pass the budget by the eighty-third day, the Governor issues a proclamation extending the session should the budget not be passed by the ninetieth day. During an extended session, only the operating budget is considered.	A conference committee is formed on items lacking agreement, if the first house does not accept second house amendments. Consistent with the goal set in the State constitution, the budget is typically passed by the eighty-third day and the enrolled bill is subsequently presented to the Governor for review of any increased or additional items for the Executive Branch. The Department of Legislative Services finalizes *Joint Chairmen's Report*. Any item not subject to veto or not vetoed becomes effective at passage.
May			If any items are line item vetoed, a special session may be called within 30 days to consider overturning the veto(es).

APP: House Appropriations Committee
B&T: Senate Budget and Taxation Committee
BRFA: Budget Reconciliation and Financing Act

Source: Department of Legislative Services

After introduction of the budget in January by the Governor, the budget bill is processed in the same manner as any other bill, with the notable exceptions that it must be passed by the eighty-third day of the session and additions or increases to Executive Branch agencies only are subject to line-item veto by the Governor. If the budget is not passed by the eighty-third day, the Governor must issue a proclamation extending the session. Due to the size of the budget bill and the number of amendments, the legislature gives this bill priority in scheduling to avoid conflict with other major pieces of legislation.

Shortly after the Governor introduces the budget, the Department of Legislative Services presents a fiscal briefing to the budget committees on the provisions and implications of the Governor's proposed budget. This fiscal briefing is also provided to other Senate and House standing committees. The department highlights the methods of funding the budget, including the estimated financial position of the State at the end of the fiscal year. The briefing highlights new programs and significant program changes introduced in the budget, as well as the budget's impact on the Transportation Trust Fund, Medicaid, the State Reserve Fund, the number of State positions, and local aid. Revenue assumptions are also discussed as they relate to the financing of a balanced budget. Additionally, the briefing provides a concise overview of the Governor's proposed capital budget.

In recent years, the briefing also discusses the budget's structural outlook, which is ongoing revenues net of ongoing expenditures. More information about the structural outlook, see "Chapter 7. Cash Management" of this handbook. Copies of the *Fiscal Briefing Report* are available to all members of the General Assembly and published on the General Assembly of Maryland's website.

Budget Analysis – Department of Legislative Services

The Department of Legislative Services is responsible for the oversight of the executive budget (State Government Article, Section 2-1237). From April through December, legislative analysts monitor the implementation of the present year's appropriations and track the budget formulation process for next year's budget. To accomplish this goal, analysts track budget amendments; engage in meetings with the agencies; gather background information pertaining to agency plans, programs, and activities; perform continuing study and research relating to fiscal issues, taxes, finances, and other matters pertaining to the budget; review reports submitted by agencies; and begin the process of preparing for budget analyses through collection of caseload and other performance measures as well as gathering information on anticipated fiscal and policy issues. To prepare for the Spending Affordability Committee review process, during September and October, analysts conduct a baseline budget process whereby revenue and expenditure assumptions are forecasted for the upcoming fiscal year. In January and February, analysts focus on budget analysis and the development of recommended actions for the budget committees to consider.

Once the Governor's allowance is introduced, legislative staff scrutiny of proposed expenditures culminates in the production of approximately 170 budget analyses, each representing a State government agency or unit within a large department.

The budget analysis is a comprehensive document that examines all facets of agency operations, including changes in proposed funding and personnel. In the late 1990s, State agencies began using a strategic planning process known as Managing for Results to place a greater emphasis on performance outcomes. The budget analysis examines each agency's goals and missions, relative to performance, with the intent to link funding with outcomes as well as using available research and other data to determine the efficiency and effectiveness in achieving outcomes. The analysis also raises fiscal and policy issues, includes recommended budget actions, and provides appendices to summarize additional information.

For agencies with a substantial budget, budget analyses begin with an executive summary that includes a cover page that shows the history of funding and fund type for the agency and then provides a summary of Key Observations related to items found within the main document. The subsequent pages provide information on agency performance, a review of agency spending and changes in the proposed budget for the agency, personnel detail, policy issues, recommended actions, updates, and appendices (if applicable). Appendices capture recent audit findings, a summary of reports submitted by the agency in response to requests included in the prior year *Joint Chairmen's Report*, background information on major information technology projects, and fiscal trend detail. For agencies with smaller budgets similar information is provided; however, the summary of Key Observations is excluded, and performance trends and fiscal and policy issues are discussed together following the budget discussion. **Exhibit 5.2** provides a sample of the cover pages of a fiscal 2023 budget analysis, and **Exhibit 5.3** provides a sample of one of the standard appendices that highlights fiscal trend detail.

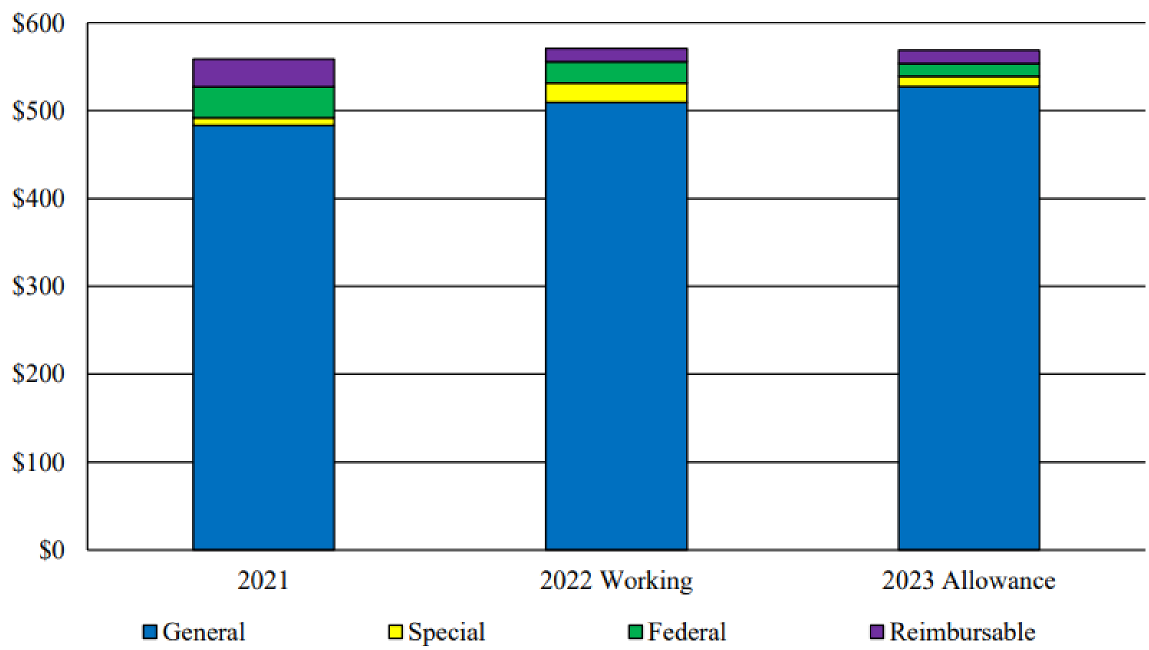
As these written analyses are completed, copies are provided to the budget committee members, the respective agencies, and the Secretary of Budget and Management. An electronic version of the analysis is made available to every member of the General Assembly on the date of the agency's budget hearing. The analyses are also made available to the public on the General Assembly's website.

Exhibit 5.2
Example of Budget Summary

M00A01
Maryland Department of Health Administration

Operating Budget Summary

Fiscal 2023 Budget Decreases by $2.2 Million, or 0.4%, to $568.7 Million
($ in Millions)



Note: Numbers may not sum due to rounding. The fiscal 2022 working appropriation includes deficiency appropriations. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

- The primary driver of the increase in general funds totaling $18.4 million in MDH Administration, after accounting for proposed deficiency appropriations, relates to ongoing increases in salary adjustments for MDH personnel, including those statutory enhancements for State hospital employees from Chapters 572 and 576 of 2020.

- Special fund decreases totaling $10.5 million, a driver of the overall budget decrease, are attributed to a lower spending authority for the Opioid Restitution Fund budgeted for fiscal 2023. MDH reports overbudgeting spending authority for this fund in prior years, and the fiscal 2023 allowance more closely reflects anticipated expenditures.

Key Observations

- ***MDH Personnel, Retention Across Job Categories and Impact of the Pandemic on Staffing and Operations:*** Based on a review of MDH personnel cohorts from calendar 2020 to 2022 to identify those who have left MDH during the pandemic, the Department of Legislative Services (DLS) found trends in various workplaces suggesting challenges with the retention of the State's health workforce, including the plurality of the current workforce having been with the department for four years or fewer.

- ***MDH Experiences Challenges Related to IT:*** MDH's Major Information Technology Development Projects (MITDP) have experienced delays and cost increases over prior year projected expenditures. Further, a network security incident has subjected MDH staff to various workarounds and restrictions.

- ***Declining Enrollment at Chronic Care Hospitals:*** After several years of downturn in enrollment at the State's chronic care hospitals, the department's new Facilities Master Plan (FMP) recommends transitioning services away from these facilities entirely.

Source: Department of Legislative Services

Exhibit 5.3
Example of Fiscal Summary

Appendix 7
Fiscal Summary
Maryland Department of Health – Behavioral Health Administration

Program/Unit	FY 21 Actual	FY 22 Wrk Approp	FY 23 Allowance	Change	FY 22 - FY 23 % Change
01 Dep. Sec. for Behavioral Health and Disabilities	$ 1,581,348	$ 1,791,653	$ 1,447,681	-$ 343,972	-19.2%
01 Program Direction	16,566,375	14,498,510	16,151,202	1,652,692	11.4%
02 Community Services	340,040,483	409,167,204	395,454,194	-13,713,010	-3.4%
03 Community Services for Medicaid State Fund	99,992,758	93,788,656	97,517,003	3,728,347	4.0%
10 Medicaid Behavioral Health Provider	1,707,986,768	2,040,995,030	2,071,853,465	30,858,435	1.5%
Total Expenditures	**$ 2,166,167,732**	**$ 2,560,241,053**	**$ 2,582,423,545**	**$ 22,182,492**	**0.9%**
General Fund	$ 848,711,857	$ 930,720,172	$ 999,200,082	$ 68,479,910	7.4%
Special Fund	40,187,428	35,924,599	143,325,459	107,400,860	299.0%
Federal Fund	1,271,646,528	1,587,361,828	1,433,848,044	-153,513,784	-9.7%
Total Appropriations	**$ 2,160,545,813**	**$ 2,554,006,599**	**$ 2,576,373,585**	**$ 22,366,986**	**0.9%**
Reimbursable Fund	$ 5,621,919	$ 6,234,454	$ 6,049,960	-$ 184,494	-3.0%
Total Funds	**$ 2,166,167,732**	**$ 2,560,241,053**	**$ 2,582,423,545**	**$ 22,182,492**	**0.9%**

Note: The fiscal 2022 appropriation does not include deficiency appropriations. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

Source: Department of Legislative Services

The Department of Legislative Services works closely with the Senate Budget and Taxation Committee and the House Appropriations Committee prior to the session to develop the schedule of budget hearings and briefings.

The analysis of each agency is prepared according to the budget hearing schedule. In most cases, the analysis is sent to the agency in time for a written response to be submitted to the committees in advance of the public hearing. The intention of this practice is to provide formal documentation of the agency's position on recommendations contained in the analyses that will be available for committee discussion at a later date. The response also provides a means to provide a written answer to any other question posed within the budget analyses. The Department of Budget and Management typically makes these written responses available on the department's website on the day of hearings.

Legislative Budget Hearings

Legislative budget hearings are conducted over a six- to seven-week period beginning the third week of the session. Both the Senate Budget and Taxation Committee and the House Appropriations Committee use a combination of full committee meetings and a subcommittee structure based on grouped policy areas. Both committees use the same analyses prepared by the Department of Legislative Services, and the same legislative analysts provide briefings for each committee.

Budget Reconciliation and Financing Acts

A Budget Reconciliation and Financing Act is a separate piece of legislation that may be passed by the General Assembly in addition to the budget bill. It can be used to implement a variety of actions such as raising revenues, altering statutory formulas and mandates, altering the use of special funds and transferring various monies in special funds to the General Fund. Often certain appropriations in the budget will be contingent on the enactment of a Budget Reconciliation and Financing Act. The Budget Reconciliation and Financing Act legislation must be signed by the Governor and is subject to the Governor's veto power.

If a Budget Reconciliation and Financing Act is necessary to help balance the budget, the Governor typically introduces this legislation at the same time as the budget is introduced. This legislation is assigned to the Senate Budget and Taxation Committee and the House Appropriations Committee, and each committee holds a separate hearing on the bill. These hearings consist of testimony from the Administration about the provisions in the bill and an overview and summary of the bill's provisions by the Department of Legislative Services. Legislative analysts also develop and present alternative and additional recommendations to be considered. These recommendations are also typically included in the relevant budget analysis. Testimony may also be received from agencies, interest groups, and the public. Since many of the provisions in a Budget Reconciliation and Financing Act are of interest to the policy committees of the legislature, representatives of the policy committees may be invited to participate in the hearings and to provide comments and concerns to the budget committees about the legislation or about any of the other recommendations by the Department of Legislative Services.

Committee/Subcommittee Decisions

At the conclusion of the budget hearings, the committees and subcommittees meet to make decisions regarding the items before them. The recommendations made and issues raised in the legislative budget analyses typically serve as a starting point for these meetings along with questions raised in the budget hearings. The fiscal objectives recommended by the Spending Affordability Committee and maintaining a balanced budget also play a central role in these decisions.

Committee decisions may take the form of amending the budget bill to add, increase, or reduce appropriations or to add restrictive language. Committees can also decide to adopt narrative, which does not have the force of law but is included in the committee report. If a Budget Reconciliation and Financing Act is introduced, committee decisions may amend the legislation. The types of committee actions are described below.

Budget Changes

The decisions concerning changes to the Governor's allowance (such as the proposed appropriation) are usually made at the work program level. Sometimes the changes to agency budgets are quite specific (*e.g.*, abolish position number 123456), while other times they may be quite general (*e.g.*, reduce funding by a specific amount but allow an agency administrator the flexibility to distribute a particular reduction among the various units of the agency as they deem appropriate). Changes are reflected in the budget bill as amendments and can be made either through language or as a dollar change only. The committee report explains the action taken in each amendment and is presented to the full chamber along with the amended bill. Examples of budget changes as reflected in a committee report are included in **Exhibit 5.4**.

Exhibit 5.4
Examples of Legislative Changes to Appropriations

C00A00
Judiciary

Add the following language to the general fund appropriation:

<u>Provided that $12,502,610 in general funds made for the purpose of providing judicial compensation enhancements are reduced to bring available funds in line with the recommendations of the Judicial Compensation Commission. The Chief Judge is authorized to allocate this reduction across programs within the Judiciary.</u>

Explanation: This action reduces funds in the fiscal 2023 budget to bring judicial compensation enhancements in line with the Judicial Compensation Commission's recommendations. This includes a $10,000 salary increase in fiscal 2023 for all judges.

Add the following language to the general fund appropriation:

<u>Further provided that $6,400,000 in general funds are added to the appropriation for the Maryland Legal Services Corporation within the Administrative Office of the Courts. These funds are to be transferred to the Access to Counsel in Evictions Special Fund for the purpose of funding the Access to Counsel in Evictions program.</u>

Explanation: This action adds funds to the fiscal 2023 Judiciary appropriation for the purpose of funding the Access to Counsel in Evictions program in accordance with Chapter 746 of 2021. These funds are added to the Administrative Office of the Courts budget and should be transferred to the Access to Counsel in Evictions Special Fund, which is administrated by the Maryland Legal Services Corporation.

		Funds		Positions
1.	Reduce general funds based on the availability of special funds from the Board of Pharmacy Fund authorized in the Budget Reconciliation and Financing Act of 2020. The special funds were not included in the fiscal 2022 budget.	-750,000	GF	
2.	Reduce general funds for the non-emergency transportation program based on the most recent actual federal fund attainment.	-4,500,000	GF	
3.	Reduce general funds based on service utilization.	-77,000,000	GF	
4.	Reduce general funds based on the unanticipated availability of enhanced federal matching funds through calendar 2021.	-244,600,000	GF	
	Total Changes	-326,850,000		

Effect	Allowance	Appropriation	Amount Change	Position Change
Position	609.0	609.0		0
General Fund	3,724,129,522	3,397,279,522	-326,850,000	
Special Fund	705,963,656	705,963,656	0	
Federal Fund	6,592,096,258	6,592,096,258	0	
Total Funds	**11,022,189,436**	**10,695,339,436**	**-326,850,000**	

Note: At the time of publication, the appearance of legislative increases or additions made by the Maryland General Assembly are still in development. Selections above are intended to be a sample of the output, but may not be identical to future documents.

Source: Department of Legislative Services

Budget changes are sometimes made to items applicable across the budget. To implement these changes, the legislature commonly adds a separate section to the budget bill (referred to as a back of the bill section), which identifies the items to be changed and stipulates an aggregate amount of funding to be changed. Section 7-213 of the State Finance and Procurement Article delegates to the Governor and the Board of Public Works the authority to allocate such changes to the appropriate programs of the budget.

Budget Bill Language

In addition to changes in the amount of appropriations, the committees may also propose language for inclusion in the budget bill placing limitations on the expenditure of funds, withholding funds until a certain action is completed (typically submission of a report), or expressing legislative intent as to the use of funds. As previously noted, the General Assembly may not impose a condition that contradicts or circumvents a statute or lawful regulation. **Exhibit 5.5** is an example of how budget bill language is presented in committee reports.

Exhibit 5.5
Example of Budget Bill Language

M00L01.02 Community Services

Add the following language:

<u>Provided that these funds are to be used only for the purposes herein appropriated, and there shall be no transfer to any other program or purpose except that funds may be transferred to programs M00L01.03 Community Services for Medicaid State Fund Recipients or M00Q01.10 Medicaid Behavioral Health Provider Reimbursements. Funds not expended or transferred shall be reverted or canceled.</u>

Explanation: This language restricts the entire appropriation for substance use disorder treatment, uninsured treatment, or other community service grants for that purpose or for provider reimbursements in M00L01.03 Community Services for Medicaid State Fund Recipients or M00Q01.10 Medicaid Behavioral Health Provider Reimbursements.

Source: Department of Legislative Services

Committee Narrative

At times, the budget committees wish to express legislative intent or request a department to perform certain studies or report on particular issues during the interim without restricting funds. This is usually written as "committee narrative" in the *Joint Chairmen's Report*. This committee narrative does not have the effect of law nor does it require agreement to the language on the part of the entire House and Senate. However, for committee narrative to appear in the joint report, both budget committees must agree. Aware that future appropriations must be approved by the committees, departments are generally responsive to narrative requests. **Exhibit 5.6** is an example of committee narrative.

Exhibit 5.6
Example of Committee Narrative

M00L01.02 Community Services

Adopt the following narrative:

Prevalence and Access to Medication-Assisted Treatment (MAT): The committees are interested in the availability and prevalence of MAT statewide. The committees request that the Maryland Department of Health (MDH) submit a report detailing the prevalence of MAT providers by jurisdiction. This report should also include a discussion of barriers to the access or further availability of MAT for individuals with substance use disorders.

Information Request	Author	Due Date
MAT availability and barriers to access or expansion	MDH	October 1, 2022

Source: Department of Legislative Services

Budget Reconciliation and Financing Acts

As is the case with any other piece of legislation, the committees can make amendments to a Budget Reconciliation and Financing Act by adding, altering, or striking provisions. **Exhibit 5.7** is an example of an amendment to a Budget Reconciliation and Financing Act. This type of legislation, as noted previously, is not introduced in all years; the most recent Budget Reconciliation and Financing Act was introduced in the 2021 session. The provision in the example below authorizes the transfer of special fund balances to other purposes within the Maryland Department of Health. Actions on the Budget Reconciliation and Financing Act do not appear within committee reports.

Exhibit 5.7
Example of a Budget Reconciliation and Financing Act Provision

SECTION ~~5.~~ ~~4.~~ *5.* AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, on or before June 30, 2022, the Governor may transfer to the Behavioral Health Administration within the Maryland Department of Health ~~$2,000,000~~ *$1,500,000* of the fund balance in the State Board of Professional Counselors and Therapists Fund established under § 17–206 of the Health Occupations Article.

SECTION ~~6.~~ ~~5.~~ *6.* AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, on or before June 30, 2022, the Governor may transfer to the Behavioral Health Administration within the Maryland Department of Health ~~$6,000,000~~ ~~**$3,000,000**~~ *$2,000,000* of the fund balance in the Natalie M. LaPrade Medical Cannabis Commission Fund established under § 13–3303 of the Health Occupations Article.

Source: Department of Legislative Services

Budget Committee Reports and Actions

For agency budget hearings conducted by subcommittees, a report of each subcommittee's recommended actions is prepared, and these reports are presented to the full committee. Each item is considered for acceptance, rejection, or modification to arrive at the final position of the committee.

When the Senate Budget and Taxation Committee and the House Appropriations Committee arrive at their final positions on the budget bill, the Department of Legislative Services prepares the respective committee reports.

The First House Report

The first house report (*i.e.*, the house moving the bill first) details and illustrates budget changes, restrictive language, and committee narrative adopted by the committee. These actions are listed in the same order that the programs affected appear in the budget bill. Actions altering appropriations or altering, striking, or adding language are linked to numbered amendments in the budget bill.

Exhibit 5.8 is a page from a Senate Budget and Taxation Committee report from the 2022 session. This document is used in conjunction with the budget bill to explain the action recommended by the committee to the full Senate. In the example, the committee recommended two amendments for the Maryland Judiciary: first, under program C00A04.04 District Court, Amendment 2 restricted $8.25 million of the general fund appropriation for the District Court to be used only for the implementation of *DeWolfe v. Richmond*; next, Amendment 3 added $6.4 million to the general fund appropriation for the program for the C00A00.06 Administrative Office of Courts to fund the Access to Council in Evictions program. The committee report explains each change, details the amount of the change, and provides the overall impact on the appropriation.

Exhibit 5.8
Example of First House Action – Committee Report

JUDICIARY

C00A00

Budget Amendments

C00A00.04 District Court

Add the following language to the general fund appropriation:

, provided that $8,250,000 of this appropriation made for the purpose of providing attorneys for required representation at initial appearances before District Court Commissioners consistent with the holding of the Court of Appeals in DeWolfe v. Richmond may be expended only for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund.

Explanation: This language restricts the use of $8.25 million of the Judiciary's general fund appropriation for the implementation of DeWolfe v. Richmond.

Amendment No. **2**

C00A00.06 Administrative Office of the Courts

Add the following language to the general fund appropriation:

, provided that $6,400,000 in general funds are added to the appropriation for the Maryland Legal Services Corporation within the Administrative Office of the Courts. These funds shall be transferred to the Access to Counsel in Evictions Special Fund for the purpose of funding the Access to Counsel in Evictions program.

Explanation: This action adds funds to the fiscal 2023 Judiciary appropriation for the purpose of funding the Access to Counsel in Evictions program in accordance with Chapter 746 of 2021. These funds are added to the Administrative Office of the Courts budget and should be transferred to the Access to Counsel in Evictions Special Fund, which is administrated by the Maryland Legal Services Corporation.

Amendment No. **3**

Source: Department of Legislative Services

The First House Committee Reprint of the Budget Bill and the Budget Reconciliation and Financing Act

To facilitate consideration of the budget, an official committee reprint of the bill incorporating the amendments adopted by the committee is used as the basis for legislative action. Each proposed amendment in the reprinted bill is numbered. This committee reprint of the bill and the committee report are used for the floor action as explained below. The rules of the Senate and the House explicitly provide for use of the reprint (Rule 52(d)).

Exhibit 5.9 is a sample of a committee reprint indicating the action of the first house on the budget bill for the Judiciary. Amendments 2 and 3 in this example match Exhibit 5.8.

Additionally, if a Budget Reconciliation and Financing Act is introduced and acted upon by the committee, an official committee reprint of the bill incorporating the amendments adopted by the committee is also used as the basis for legislative action.

Exhibit 5.9
Example of First House Action – Committee Reprint

BUDGET BILL 3

JUDICIARY

Provided that $12,502,610 in general funds made for the purpose of providing judicial compensation enhancements are reduced to bring available funds in line with the recommendations of the Judicial Compensation Commission. The Chief Judge is authorized to allocate this reduction across programs within the Judiciary.

1

C00A00.01 Court of Appeals
General Fund Appropriation 14,741,778

C00A00.02 Court of Special Appeals
General Fund Appropriation 15,148,859

C00A00.03 Circuit Court Judges
General Fund Appropriation 89,639,817

Funds are appropriated in other agency budgets to pay for services provided by this program. Authorization is hereby granted to use these receipts as special funds for operating expenses in this program.

C00A00.04 District Court
General Fund Appropriation, provided that $8,250,000 of this appropriation made for the purpose of providing attorneys for required representation at initial appearances before District Court Commissioners consistent with the holding of the Court of Appeals in DeWolfe v. Richmond may be expended only for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund 234,000,496

2

C00A00.06 Administrative Office of the Courts
General Fund Appropriation, provided that $6,400,000 in general funds are added to the appropriation for the Maryland Legal Services Corporation within the

3

Source: Department of Legislative Services

First House Action

When the budget committee in the first house has completed its deliberations and its report is prepared, the budget bill and, if applicable, the Budget Reconciliation and Financing Act, are brought to the floor for their second reading. This usually occurs at the start of the tenth week of the session. Recent practice has been to report the bills out of committee and to special order them to be heard on second reading two days later. This additional time prior to floor action on the bills permits the members to review the recommended amendments and the other supporting documentation. Each member is provided information that includes:

- the budget committee report;
- a committee reprint of the budget bill and, if applicable, the Budget Reconciliation and Financing Act, which contain each of the committee amendments;
- a revised fiscal note to show the effect of committee amendments; and
- a summary report that provides information on the status of the General Fund, compliance with Spending Affordability Committee recommendations and other important issues.

During the period that the budget and Budget Reconciliation and Financing Act are special ordered, the analysts of the Department of Legislative Services are available to respond to inquiries and to provide additional data or background information concerning the amendments or any item pertaining to the budget. During second reading debate, legislative analysts are available by phone to answer questions.

For second reading debate, the budget is debated first and, if applicable, the Budget Reconciliation and Financing Act is debated second, and the following procedure is used for both pieces of legislation. To expedite floor action, amendments are considered in blocks. The chair of the budget committee briefly explains the effect of the amendments in each block and moves that all amendments in the block be accepted. Unless there is an objection to an amendment, a vote is taken upon the block. If there are objections, the block is divided so that the vote is taken on noncontroversial amendments without objection. The controversial amendments are then resolved separately.

This procedure is followed until all committee amendments have been considered, and a vote is taken. At this point, a motion is made to adopt the committee report and the budget bill or Budget Reconciliation and Financing Act as amended. Each bill is then opened to other amendments from the floor. Floor amendments are drafted to the committee reprint of each bill. Upon resolution of floor amendments, each bill is ordered printed for third reading. The third reading and passage in the first house is usually completed by the end of the tenth week.

Bill Sent to the Second House

When the budget bill and, if applicable, the Budget Reconciliation and Financing Act, are received in the second house, they are referred to the budget committee for review. The changes made as a result of the actions in the first house are explained to the committee by the Department of Legislative Services' analysts. Committee amendments are written to the budget bill and the Budget Reconciliation and Financing Act as amended by the first house (third reader file copy).

Second House Action

The second house committee reprint of the budget bill and associated committee report reflect changes desired to the budget bill as passed by the first house. Those amendments made by the first house with which the second house committee agrees are unchanged in the reprinted bill and unnumbered. The amendments that the committee makes to the first house bill are renumbered in the bill and the second house committee report that accompanies the bill to the floor. In the event that the committee recommends a change to an amendment adopted by the first house, the report will be formatted in the same manner as the bill; *i.e.*, first house language or numbers are stricken, and new language or numbers are inserted and shown in italics.

Exhibit 5.10 presents a section of the second house report from the 2022 session concerning the Governor's Office of Crime Prevention, Youth and Victims Services. The House Appropriations Committee added new language to the budget with Amendment 6. For Amendment 7, while the House Appropriations Committee agreed with the language added, the committee disagreed with the amount of the restriction adopted by the Senate and thus modified it from $100,0000 to $125,000. **Exhibit 5.11** shows the pages of second house committee reprint that include this House Appropriations Committee's amendments.

Exhibit 5.10
Example of Second House Action – Committee Report

D21
Governor's Office of Crime Prevention, Youth, and Victim Services

Budget Amendments

Administrative Headquarters

D21A01.01 Administrative Headquarters

Add the following language:

Provided that $750,000 of the appropriation made for the purpose of grant expenditures may only be used to provide an operating grant to the National Center for Victims of Crime. Funds not expended for this purpose may not be transferred by budget amendment or otherwise to any other purpose and shall be canceled or revert to the General Fund.

Explanation: *This language restricts grant funding to be directed to the National Center for Victims of Crime.*

Amendment No. **6**

D21A01.01 Administrative Headquarters

Amend the following language to the general fund appropriation:

, provided that ~~$100,000~~*$125,000* of this appropriation made for the Administrative Headquarters may not be expended until the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) submits a report to the budget committees reporting on Managing for Results data for the percentage of grants in a regular status, the percentage of grants in risk status audited, the percentage of closed grants with above average compliance with conditions and regulations of grants, the percentage of unused federal funds returned, and the percentage of unused State funds returned. GOCPYVS shall submit fiscal 2021 and 2022 actual data for each measure, along with estimated data for fiscal 2023 and 2024 in a draft report no later than November 1, 2022. The official submission shall be provided with the fiscal 2024 budget. The budget committees shall have 45 days from the date of the receipt of the report to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: Public reporting of data and Managing for Results (MFR) is one of the primary tools that the legislature and the public have for evaluating the performance of GOCPYVS. The Department of Legislative Services recommends that the office return to reporting five MFR measures that were previously included in its annual submission.

Information Request	**Author**	**Due Date**
Draft report on grants management MFR data	GOCPYVS	November 1, 2022
Grants management MFR	GOCPYVS	With the fiscal 2024 budget submission

Amendment No. **7**

Source: Department of Legislative Services

Exhibit 5.11
Example of Second House Action – Committee Reprint

GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES

ADMINISTRATIVE HEADQUARTERS

D21A01.01 Administrative Headquarters

Provided that $750,000 of the appropriation made for the purpose of grant expenditures may only be used to provide an operating grant to the National Center for Victims of Crime. Funds not expended for this purpose may not be transferred by budget amendment or otherwise to any other purpose and shall be canceled or revert to the General Fund. **6**

General Fund Appropriation, provided that ~~$100,000~~ *$125,000* of this appropriation made for the Administrative Headquarters may not be expended until the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) submits a report to the budget committees reporting on Managing for Results data for the percentage of grants in a regular status, the percentage of grants in risk status audited, the percentage of closed grants with above average compliance with **7**

Source: Department of Legislative Services

Additionally, if applicable, the second house committee reprint of the Budget Reconciliation and Financing Act reflects changes to the bill as passed by the first house. If the second house committee agrees with the amendments made by the first house, those provisions are unchanged in the reprinted bill. If the committee recommends a change to an amendment adopted by the first house, the bill is changed to reflect the actions of the second house (*i.e.*, first house language or numbers are stricken, and new language or numbers are inserted and shown in italics and underlined). For example, Exhibit 5.7 previously in this chapter shows a provision of the Budget Reconciliation and Financing Act as amended by the second house. The first house amended a provision included by the Administration that authorized a transfer from the Natalie M. LaPrade Medical Cannabis Commission Fund to the Behavioral Health Administration from $6 million to $3 million. This was further reduced by the second house to $2 million.

As in the case of the first house, a committee report and explanatory documents are prepared for each member, and the budget bill and the Budget Reconciliation and Financing Act are brought to the floor for second reading approximately during the eleventh week. The bills are then special ordered to permit time for review and study. If the second house has not further amended the budget bill, it would be presented. However, the second house will usually amend the budget bill and the Budget Reconciliation and Financing Act, and both bills must be returned to the first house. At this point, the first house must either accept the bills as amended by the second house or call for a conference committee on each bill to resolve the points of difference. If the first house accepts the bills as amended by the second house, the bills would be presented to the Governor. Even though the same recommendations are considered in each house, many differences do occur. For example, in fiscal 2023, as the budget went to conference, there were 49 amendments to resolve.

Supplemental Budgets

The Constitution of Maryland provides that the Governor may amend or supplement the budget, with the consent of the General Assembly, before final action on the budget bill (Article III, Section 52(5)). The General Assembly usually permits the Governor to submit supplemental budgets, and the supplemental budget automatically becomes part of the budget bill. However, supplemental budgets may only be attached to the budget by consent of the legislature. The General Assembly may refuse to introduce a supplemental budget on the floor, in which case the additional appropriations are not added to the budget as was the case during the 2015 session when the General Assembly did not attach Supplemental Budget No. 2 to the budget bill. The General Assembly may also delay the reading of a supplemental budget. This maneuver took place in 1990 so that the first house (the Senate) could complete its deliberation of the Governor's budget and move the budget bill to the second house in order to meet constitutional deadlines.

The constitution specifies that a budget supplement shall be for the purpose of correcting an oversight, providing funds contingent upon passage of pending legislation, or for an emergency. The restrictions applied to supplemental budgets are reinforced by Section 7-102 of the State Finance and Procurement Article stating that supplemental budget amendments be restricted to the correction of mechanical errors in the initial budget or to provide funding for legislation enacted in the current session.

However, in practice, supplemental budgets fit these criteria only broadly. Supplemental budgets also play a part in negotiations over the Governor's legislative priorities. In years when the Board of Revenue Estimates revises the estimate upon which the budget is based, supplemental budgets are used to fine tune proposed appropriations to bring spending in line with revised revenue estimates. It is even possible for the Governor to use a supplemental budget to reduce current fiscal year appropriations. The Governor may also reallocate funds that are withdrawn in a supplemental budget.

Supplemental budgets may be submitted at any time prior to final action on the budget bill. The number of supplemental budgets introduced can vary from year to year. When supplemental budgets are received, there is often very little time for analysis, and decisions have to be made on statements of purpose, explanations of why the items were not in the original budget bill, and applicable background information that may be available to the legislative analysts. The General Assembly may make any changes that it desires, including reducing the supplemental budget to zero.

According to the rules of both houses, if a supplement is added to the budget bill after the first house has acted on the budget, the first house may consider the supplement and second house amendments made to it. Amendments to these supplements subsequently adopted by the first house, and rejections or modifications to second house amendments made by the first house are returned to the second house for concurrence. If the second house refuses to concur, the differences are referred to the conference committee. If a supplemental budget is submitted when the budget is in conference, it is deferred to the conferees.

The Conference Committee

The conference committee for the budget bill is composed of five members from each house, and is, by House rule, restricted to dealing only with those amendments in disagreement. The Senate rule is somewhat less restrictive. The conference committee usually meets during the twelfth week of session. The conference committee recommendations must be accepted in their entirety by each house. If they are not, the conference committee must be reinstituted or another appointed. As has been previously discussed, the conference committee recommendations must be adopted by the eighty-third day, or the Governor must issue a proclamation extending the session should the budget not be passed by the ninetieth day.

If a Budget Reconciliation and Financing Act has items of difference and is sent to conference, the conference committee is again composed of five members from each house; however, the committee is not restricted to dealing only with those amendments in disagreement. In practice, differences between both bills are resolved at the same time.

The report of the budget conference committee is sent to the President of the Senate and the Speaker of the House. The fiscal 2023 report consisted of the following items:

- a letter from the two committee chairs summarizing the position of the conference committee on the operating budget bill and the impact of its actions;

- a listing of amendments by number that were adopted and/or rejected, or the adoption of new conference committee amendments;

- the language of each new conference committee amendment (**Exhibit 5.12** contains examples of conference committee amendments); and

- a summary table of conference committee amendments indicating the action taken on each item at issue before the committee. (**Exhibit 5.13** contains an example of a portion of an amendment table).

Also distributed with the conference report is a second document that provides summary information on the status of the general fund budget, budget growth, expenditures by major category for each fund, and an updated fiscal note on the budget bill.

Exhibit 5.12

Example of Conference Committee Amendments

Conference Committee Amendment No. 7

On page 77 of the Committee Reprint, under the heading Land Acquisition and Planning, in program K00A05.10 Outdoor Recreation Land Loan, adopt Amendment 15, and in line 21, strike "$4,400,000" and substitute "$5,900,000"; and in line 22 following "purposes;" insert "and"; and in line 23, strike beginning with "$500,000" down through "(5)" in line 29; and in line 31, strike beginning with "; and" down through "Park" in line 33.

Conference Committee Amendment No. 8

On page 79 of the Committee Reprint, under the heading Natural Resources Police, in program K00A07.01 General Direction, adopt Amendment 16, and in line 26 strike "2021"; and in line 27 following "demographics" insert "in the 2020 Census to the greatest extent practicable"; and in line 29 following "2027" insert ", to the greatest extent practicable"; and in line 33 following "preceding" strike "calendar year" and substitute "Census to the greatest extent practicable"; and in line 38 following "from the" insert "date of the"; and on page 80, strike beginning with "be" in line 3 down through "canceled" in line 4 and substitute "revert to the General Fund".

Conference Committee Amendment No. 9

On page 92 of the Committee Reprint, under the heading Office of the Secretary, in program M00A01.01 Executive Direction, adopt Amendment 18; and on page 118 of the Committee Reprint, under the heading Health Regulatory Commissions, in program M00R01.01 Maryland Health Care Commission, strike beginning with ", provided" in line 2 down through "canceled" in line 1 on page 120.

Source: Department of Legislative Services

Exhibit 5.13
Example of a Page in the Summary Table of Conference Committee Amendments

Senate/House Differences on SB 290
House Amendments

Budget Code	Fund	Report Page	Amd. No.	Description	House Change	Senate Change	Final Change	Conference Position
B75A0104	GF	1	1	Department of Legislative Services (DLS) – Adds funds for DLS cannabis business disparity study contingent on HB 837.	$250,000		$26,750,000	Senate Position with modifications to move funds supporting a cannabis study to another program and to add funds to the budgets of the General Assembly and DLS
B75A0104	GF	1	2	DLS – Adds funds for DLS support of Family and Medical Leave Insurance Program commission contingent on HB 497.	750,000		$750,000	Adopt House with modification to move funds supporting a family medical leave commission to another program
C00A0004	GF	3	3	Judiciary – Adds funds for District Court for implementation of statutory changes to expungement laws contingent on HB 837.	3,000,000		$6,600,000	Adopt House with modification to add positions for the District Court and funds to Maryland Legal Services Corporation
C00A0006	GF	4	4	Judiciary – Adds funds for Maryland Legal Services Corporation to provide legal support and education related to statutory changes to expungement laws and the legal use and possession of cannabis contingent on HB 837.	2,500,000		$2,500,000	Adopt House
D13A1308	SF	15	5	Maryland Energy Administration – Restricts $9.25 million of Maryland Energy Infrastructure Grant Program funds to be used only for bill payment or arrearage assistance for residential electric and natural gas customers.				Adopt House
D21A0101	All	19	6	Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) – Restricts $750,000 in grant funds to be used only for the National Center for Victims of Crime.				Adopt House with modification to add restrictions on source of funds
D21A0101	GF	19-20	7	GOCPYVS – Increases from $100,000 to $125,000 the amount withheld pending a report on Managing for Results data.				Adopt House
E80E0001	GF	47-48	8	Property Tax Assessment Appeals Board – Amends language restricting funds until the agency submits a report to the committees on steps taken to remedy the backlog of appeals and on board member appointments and communication.				Adopt House
F10A0201	GF	50	9	Department of Budget and Management (DBM) – Strikes language requiring a report on rebasing of salary scales. Similar language is added in Amendment No. 44.				Adopt House
J00B0101	SF	68	10	State Highway Administration – Restricts funds for system preservation projects to be used only for the Route 5 Reconstruction Project at Great Mills in St. Mary's County.				Senate Position with modifications to change a position cap, restrict funds pending two reports, and restrict funds pending a letter
J00D0001	SF	69-70	11	Maryland Port Administration/Maryland Transportation Authority – Restricts funds pending a report on a performance audit of E-ZPass.				Adopt House with modifications to increase amount withheld, to make the restriction contingent on failure to enact either HB 29 or SB 59, and to alter requirements related to an audit.

Source: Department of Legislative Services

Enrolled Bill

When the budget bill has passed both houses, the actions of the conference committee are applied to the budget bill. The final bill is proofed and verified by the Editing and Bill Processing unit of the Department of Legislative Services and printed as an enrolled bill. The enrolled bill is then presented to the Governor, who is able to line-item veto additions or increases made by the General Assembly to Executive Branch agencies.

Once enacted, the budget bill becomes law, and any deficiency appropriations (for the current fiscal year) contained in the bill become immediately available to the agencies. All other appropriations become available July 1, at the start of the new fiscal year.

Supplementary Appropriation Bills

There is a difference between a supplemental budget and a supplementary appropriation bill. A supplemental budget is the Governor's modification to the budget bill. A supplementary appropriation bill is a separate piece of legislation that may be passed by the General Assembly only after the budget bill is enacted. A supplementary appropriation bill permits the General Assembly to add an appropriation to the State budget.

The appropriation in this type of bill must be limited to a single object, must include a tax or new revenue source to cover the amount of the appropriation, and is subject to the Governor's veto. This type of bill is infrequently used (except for bond bills, which the Court of Appeals has ruled must meet the requirements of supplementary appropriation bills).

Chapter 6. Maryland State Operating Budget: Implementation and Closeout

In carrying out the provisions of the budget bill, there are a number of documents available to provide guidance by providing details about the budget passed by the General Assembly. These documents include the *Report on the State Operating Budget and Related Recommendations* (*Joint Chairmen's Report*), *The 90 Day Report*, the *Effect of the Legislative Program on the Financial Condition of the State* (*Fiscal Effects Report)*, and the *Fiscal Digest*. These documents are produced following each legislative session (or for the start of each fiscal year in the case of the *Fiscal Digest*). The process also allows the Governor the flexibility to change appropriations through the budget amendment and reduction processes. The Department of Budget and Management has established processes by which it monitors and controls spending.

Budget Implementation Documents

Joint Chairmen's Report

The final report detailing every action taken by the General Assembly on the budget bill, commonly called the *Joint Chairmen's Report*, is submitted by the chairs of the Senate Budget and Taxation Committee and the House Appropriations Committee. Prepared by the Department of Legislative Services, the *Joint Chairmen's Report* contains a summary of legislative additions and reductions and final operating and capital budget appropriations for each agency; indicates items contingent upon the enactment of legislation, subject to review by legislative committees, or otherwise restricted; and details and explains budget actions. Budget actions consist of additions or reductions in funds and personnel, budget bill language, and committee narrative. Budget bill language has the force of law; however, the authority of budget bill language lasts only during that fiscal year. Committee narrative expresses legislative intent and is generally used to make policy statements or request additional information such as plans, reports, or special studies.

Any action in the *Joint Chairmen's Report* that requires follow-up, such as an agency submission of a report, is sent to the Department of Legislative Services. These reports are posted on the Department of Legislative Services website and provided to members of the budget committees. The department prepares a brief analysis of any item for which funds are withheld pending submission of the report for the budget committees, which may choose to conduct a hearing.

The 90 Day Report and *Fiscal Effects Report*

The 90 Day Report is prepared by the Department of Legislative Services immediately upon the adjournment of the General Assembly. The report includes summary information on most of the recently enacted legislation, including the operating and capital budgets. It also includes information on major policy and fiscal issues of the session as well as a summary of State aid to local governments.

The *Fiscal Effects Report* is also prepared by the Department of Legislative Services in June after the Governor has completed action on the General Assembly's legislative program. The report summarizes the fiscal effect of all legislation signed by the Governor on State revenues and expenditures as well as on local government finances. The report also includes summary information on the recently enacted operating and capital budgets, incorporating final action on the legislative program.

Fiscal Digest

The *Fiscal Digest* is prepared by the Department of Budget and Management and is published shortly after the beginning of the fiscal year. The digest includes a summary of the status of the General Fund, an estimate of revenues for the fiscal year, the details of the appropriations for operating purposes, and a summary of the capital budget and bond bill projects that received funding for the fiscal year. The *Fiscal Digest* consolidates all modifications made to the allowance (changes made by the Governor through the supplemental budgets and the changes made by the General Assembly). The resulting appropriations provide the basis for the Comptroller's office to pay expenditures for the fiscal year. The *Fiscal Digest* also summarizes deficiency appropriations by agency program included within the budget bill and supplemental budgets.

Increases and Transfers in Appropriations After Budget Enactment

Budget Amendments

Enactment of the budget bill establishes the appropriations that the General Assembly intends to apply to each government entity. These appropriations can be changed through the budget amendment process. As provided for in the State Finance and Procurement Article, the process allows for:

- the transfer of funds within an agency or department between work programs;
- the transfer of funds between agencies as specifically authorized by statute or in the budget bill; and
- the utilization of additional federal or special funds with legislative review, as specifically authorized in the budget bill.

Budget amendments to transfer funds within an agency or department are submitted to the Secretary of Budget and Management for the Governor's approval. Transfers of this type change the appropriation of a certain program but do not change the total appropriation of a department or agency. For instance, the Secretary of Health may, upon approval of the Governor, transfer funds from programs of the Springfield Hospital Center (in the Behavioral Health Administration) to programs at the Holly Center (in the Developmental Disabilities Administration), as this transfer does not change the total appropriation for the Department of Health.

Funds appropriated to a department or agency, however, may not be transferred to another department or agency unless authorized by law. For example, in the fiscal 2023 Budget Bill, funds appropriated for Major Information Technology Development projects were authorized to be transferred to programs of the respective financial agencies.

Appropriations dealing with special and federal funds are recognized as estimates for these types of revenue. If revenues in excess of the estimates are attained, the budget bill authorizes use of the excess revenue by approved budget amendment. The budget committees review both special and federal fund amendments that increase special, federal, or higher education fund appropriations by $100,000 or more. As specified in Section 28 of the fiscal 2023 operating Budget Bill, budget amendments may not:

- restore funds for items or purposes specifically denied by the General Assembly;
- fund a capital project not authorized by the General Assembly exclusive of the Maryland Department of Transportation;
- increase the scope of a capital project by more than 7.5% over the approved estimate or 5.0% over the approved net square footage without consideration by the budget committees exclusive of the Maryland Department of Transportation; or
- provide more than $100,000 for the reclassification of positions.

Budget amendments solely for the purpose of appropriating federal disaster relief funds or transferring funds from the State Reserve Fund – Economic Development Opportunities Fund for projects approved by the Legislative Policy Committee are excluded from the requirement of budget committee review.

Most commonly, budget amendments increase the legislative appropriation because they recognize special and federal funds that were not appropriated by the General Assembly.

Deficiency Appropriations

The budget amendment process essentially allows for transferring funds among programs and adding unanticipated special and federal fund receipts to programs. Occasionally, general funds appropriated for a program are insufficient to support the costs of the program;

however, in order to provide additional general funds for a program during the current fiscal year, a deficiency appropriation is required.

A deficiency appropriation is an amount included in Section 1 of the budget bill to supplement the appropriation for the current year. The funds become available immediately upon enactment of the budget bill. Deficiencies can consist of any fund type and may also be included in supplemental budgets.

Common reasons for funding deficiencies include inflation or workload exceeding expectations. Examples of deficiencies are increased gas prices resulting in insufficient funding for motor vehicle gasoline in the Department of State Police or increased prison inmates adding unexpected food and medical costs to the budget of the Department of Public Safety and Correctional Services. **Exhibit 6.1** is an example from the fiscal 2022 Budget Bill of a deficiency appropriation for the Maryland Department of Health to fund additional COVID-19 services in the public health administration and the Office of the Chief Medical Examiner to fund overtime expenses for the medical examiner staff.

Exhibit 6.1

Example of Deficiency Appropriation

MARYLAND DEPARTMENT OF HEALTH

FY 2022 Deficiency Appropriation

OFFICE OF POPULATION HEALTH IMPROVEMENT

M00F02.07 Core Public Health Services
To become available immediately upon passage of this budget to supplement the appropriation for fiscal 2022 to fund a deficit in fee–for–services as a result of the COVID–19 pandemic.

General Fund Appropriation 9,400,474

OFFICE OF THE CHIEF MEDICAL EXAMINER

M00F05.01 Post Mortem Examining Services
To become available immediately upon passage of this budget to supplement the appropriation for fiscal 2022 to fund anticipated overtime expenses.

General Fund Appropriation 101,744

Source: Department of Legislative Services

The amount of deficiency appropriations can vary substantially from year to year. **Exhibit 6.2** summarizes the deficiency appropriation by fiscal year for fiscal 2018 through 2022.

Exhibit 6.2
Summary of Deficiency Appropriations
($ in Millions)

		Deficiency Amount by Fund Type			
Budget Bill Fiscal Year	**Appropriation Fiscal Year**	**General Fund**	**Special Fund**	**Federal Fund**	**Total Funds***
2023	2022	$617.05	$209.13	$4,890.98	**$5,717.16**
2022	2021	-166.90	-235.79	6,534.81	**6,132.13**
2021	2020	239.36	137.21	258.30	**634.87**
2020	2019	52.08	77.28	86.40	**215.76**
2019	2018	46.62	-69.62	76.37	**53.37**

*Excludes reimbursable and higher education funds.

Note: Negative numbers represent withdrawn appropriations.

Source: *Fiscal Digest*; Department of Legislative Services

Contingent Fund

The budget also makes a provision to supplement the appropriations in the budget for the operation of the State government. This is accomplished by the contingent fund, which is a specific appropriation of general funds to the Board of Public Works. It is a reserve available, among other things, to increase the appropriation of an agency for an emergency for which funds have not been included in its budget. The fiscal 2023 budget contains $500,000 for the contingent fund. Transfers from the contingent fund, after approval by the Board of Public Works, are made by budget amendment.

Reductions in Appropriations after Budget Enactment

Section 7-213 of the State Finance and Procurement Article authorizes the Governor to reduce an appropriation by up to 25% with the approval of the Board of Public Works. Funds may be reduced under this provision only when the Governor finds that an appropriation is unnecessary or when the reduction results from legislative action on the budget bill. Certain restrictions are placed on this authority. The Governor may not reduce Legislative or Judicial Branch appropriations, appropriations for payment of the principal or interest on State debt, or appropriations for public schools. The Governor may also use this authority to allocate across-the-board reductions made by the General Assembly or to implement reductions in response to revenue shortfalls, also referred to as cost containment reductions. Cost containment reductions were implemented via the Board of Public Works in each budget from fiscal 2003 through 2009 and in fiscal 2015, 2017, 2018, and 2021. Most recently, this authority was used to address State fiscal concerns in the immediate onset of the COVID-19 pandemic at the July 1, 2020 Board of Public Works meeting for the fiscal 2021 budget.

Budgetary Control and Monitoring Processes

As adjuncts to the budget amendment process, a number of procedures have been put in place by the Secretary of Budget and Management to ensure that the Executive Branch maintains control and is kept informed on budgetary matters. These procedures involve the creation, abolishment, or transfer of positions; selection of contractors; purchase of supplies and equipment; and employment of students and others by State departments and agencies. Two of the more important procedures in this regard are those relating to procurement and creating State positions.

Procurement

The General Assembly has delegated supervision and control of the procurement process to the Board of Public Works. The board may implement the procurement law by setting policy, adopting regulations, and establishing internal procedures.

There was a comprehensive reform of the State's procurement laws during the 2017 legislative session (Chapters 588, 589, and 590 of 2017). These reforms consolidated oversight of procurement under the new position of Chief Procurement Officer in the Department of General Services, reduced the number of primary procurement units in the State to seven, and created a unit in the Office of the Attorney General to handle legal matters related to procurement.

Per Chapters 588 and 589, the small procurement threshold for all State agencies that have delegated approval authority for services and information technology procurements increased from $25,000 to $50,000. Some agencies have higher delegation levels for certain types of procurements. In addition, all agencies have $200,000 of delegated approval authority for awards to preferred providers as described in State Finance and Procurement Article Section 14-103. Preferred providers are (in order of preference) Maryland Correctional Enterprises, Blind Industries and Services of Maryland, and Community Service Providers through the Employment Works Program.

All procurements over $50,000 must be entered into the Advanced Purchasing and Inventory Control System module of the State's Financial Management Information System. To obtain approval under the Advanced Purchasing and Inventory Control System, agencies (excluding the Maryland Department of Transportation, which has its own system) must establish an electronic approval path to the Department of Budget and Management. This approval path must also include the Board of Public Works for any procurement action that requires Board of Public Works approval.

Personnel

Most departments and agencies must request permission to create, transfer, or abolish a position under their budgetary control. A personnel transaction form is submitted to the Department of Budget and Management for every such action with respect to an authorized position, whether the position is in the professional, skilled, management, or executive service. The same policy applies to positions paid from general, special, or federal funds. Some agencies, notably public higher education institutions, operate outside this system.

Withheld Allotments

Section 2 of the Budget Bill authorizes the Secretary of Budget and Management to place funds in contingency reserve pending the satisfaction of certain statutory restrictions, as enumerated in the bill. Appropriations may be restricted by specific contingencies imposed by the General Assembly, which require legislative review prior to expenditure. For example, $100,000 of the fiscal 2023 appropriation to the Secretary of Health may not be expended until the department submits a report on staffing vacancies throughout the department.

Closeout

Closeout is the process of closing the books at the end of each fiscal year. In Maryland, the fiscal year begins on July 1 and ends on June 30. At the end of each fiscal year, each entity that received an appropriation for operating expenses during the fiscal year must report to the Comptroller regarding the amount of the appropriation that is unspent and the amount of the unspent appropriation that is needed to meet unpaid obligations incurred during the fiscal year.

During the closeout process, all appropriations for the fiscal year that just ended are placed into one of three categories. If an obligation was incurred and payment was made, that appropriation is placed in the expended appropriations category. If an obligation was incurred but payment was not made, that appropriation is placed in the encumbered appropriations category. Finally, if an appropriation was unexpended and unencumbered, that appropriation is placed in the reverted or canceled category. General funds in the reverted or canceled category revert to the State’s General Fund, while special funds revert to the appropriate special fund.

The Department of Legislative Services reviews closeout information for activity that is unusual or raises policy issues. Additionally, audit staff from the Office of Legislative Audits conduct an annual special performance audit of closeout information.

Chapter 7. Cash Management

This chapter examines how the State defines a balanced budget. The differences between having a budget balanced structurally and on a cash basis are examined. This chapter also discusses budget balancing strategies and the general fund forecast.

Cash Balance versus Structural Balance

Article III, Section 52 of the Maryland Constitution requires that the budget be balanced on a cash basis. This means that the total amount of revenues available for expenditure in a fiscal year must equal or exceed the total amount of money budgeted to be spent in that fiscal year.

In order for the budget to be structurally balanced, the amount of ongoing revenues must be at least equal to the amount of ongoing expenditures. Ongoing revenues are sources of income that the State receives on a continuing basis such as personal income tax receipts and retail sales tax collections. Ongoing expenditures are expenses that the State must pay on a continuing basis such as personnel costs for State employees. One-time revenues and one-time expenditures, such as fund transfers and fund balances on the revenue side and pay-as-you-go capital improvements on the expenditures side, are not calculated into the structural balance of the budget.

If ongoing revenues exceed ongoing expenditures, the State experiences a structural surplus. On the other hand, if ongoing revenues are less than ongoing expenditures, the State experiences a structural deficit.

The constitution requires the budget to be balanced on a cash basis; however, there is no constitutional requirement for the budget to be balanced on a structural basis. Even though the State is not required to have a structurally balanced budget, an effort is made to achieve structural balance as a budget that is balanced only on a cash basis is not sustainable in the long term.

Budget Balancing Strategies

Numerous strategies can be employed to achieve the goal of a balanced budget. One set of strategies that can be used is actions that are taken one time, such as transferring funds from the Revenue Stabilization Account (Rainy Day Fund), transferring funds from other fund balances, using the general fund balance, or taking one-time reductions. The advantage of one-time actions is that they allow the State to balance the budget without reducing out-year funding commitments. The disadvantage of one-time actions is that they do not provide ongoing assistance in balancing the budget and, therefore, have no impact on projected structural imbalances.

Another set of strategies that can be used is actions that are taken on an ongoing basis, such as raising taxes and fees or reducing the amount of mandated expenditures in the budget. If the tax or fee increase occurs for more than one fiscal year or the mandated expenditures are reduced for more than one fiscal year, these actions can provide ongoing assistance in balancing the budget.

One-time Actions

Rainy Day Fund

The State established the Revenue Stabilization Account, more commonly known as the "Rainy Day Fund," in 1986 to retain State revenues to meet future needs and to reduce the need for future tax increases by moderating revenue growth. The Rainy Day Fund consists of direct appropriations in the budget and interest earned from all reserve fund accounts.

During difficult economic times, transferring funds from the Rainy Day Fund to the General Fund is one of the one-time fund balancing strategies that can be used. For example, after revenues were written down by nearly $300.0 million for fiscal 2017, $170.0 million was transferred from the Rainy Day Fund to support fiscal 2017 spending. This action left a $832.6 million fund balance in the Rainy Day Fund that was 5% of general fund revenues. Current law allows this action to be authorized in the budget bill; however, if the resulting fund balance was less than 5%, it would have required the transfer to be authorized in an act of the General Assembly other than the budget bill.

Due to the recent State surplus, largely attributed to federal funds during the COVID-19 pandemic, the fiscal 2023 budget anticipates a closing balance of $2.4 billion in the Rainy Day Fund, or 10% of estimated general fund revenues.

Other Fund Transfers

In addition to transferring funds from the Rainy Day Fund, sometimes funds are transferred from other fund balances in order to balance the budget on a one-time basis. Typically, the vehicle that is used to transfer the funds is a Budget Reconciliation and Financing Act, which is a separate piece of legislation passed by the General Assembly in addition to the budget bill. Through a Budget Reconciliation and Financing Act, the General Assembly can authorize the transfer of various monies in special funds to the General Fund to allow their use for other purposes such as balancing the budget.

For example, the Budget Reconciliation and Financing Act of 2021 authorized a transfer of $5.0 million from the Maryland Health Care Provider Rate Stabilization Fund to the General Fund.

General Fund Balances

The general fund balance is the unrestricted, unobligated amount left in the General Fund at the end of the fiscal year. The general fund balance can result from the General Assembly planning to leave a balance, appropriated funds that are unspent reverted to the General Fund at the end of the fiscal year, or higher than anticipated revenue growth in general fund sources.

The general fund balance can be used as a cushion in case expenditures are too high or revenues are too low compared to the projections. Additionally, the general fund balance can be used to help balance the budget for the following fiscal year. For instance, the fiscal 2023 budget is anticipated to have a general fund cash balance of $380 million, which will be available to support expenditures in the fiscal 2024 budget.

However, using the projected general fund balance from the previous year to balance the budget for the following year has risks. If anticipated revenues for the previous year come in lower than expected, the projected fund balance is no longer available to fund the budget for the following year, which can result in a budget that is out of balance. To address potential shortfalls, the Executive Branch would need to develop a plan to reduce expenditures and have that plan approved by the Board of Public Works. For more information on the authority of the Governor to make reductions during the fiscal year through the Board of Public Works, see "Chapter 6. Implementation and Closeout" of this handbook.

One-time Reductions

As mentioned previously, one-time actions allow the State to balance the budget without reducing out-year funding commitments; however, they do not provide ongoing assistance in balancing the budget. For instance, the Board of Public Works at its July 1, 2020 meeting reduced funding for the fiscal 2021 contribution to the State's fund for unemployment insurance. The reduction totaled $13.1 million ($9.3 million in general funds). Often, one-time reductions are implemented again if planned spending continues to exceed revenues.

Ongoing Actions

Taxes and Revenues

One example of an ongoing budget balancing strategy is raising revenues by implementing tax or fee increases. One example of a fee increase can be found in the Budget Reconciliation and Financing Act of 2021, which raised the monthly fee for the Drinking Driver Monitor Program from $55 to $75. This fee increase was projected to raise $1.9 million in additional revenue for fiscal 2021. Several examples of tax increases occurred during the special session of 2007, which raised the sales tax from 5.0% to 6.0%, the corporate income tax from 7.0% to 8.25%, and the tobacco tax by $1 per pack. All of these actions were put in place for more than one fiscal year; therefore, the actions offered assistance in balancing future budgets on a cash basis as well as structurally.

To help maintain structural balance, Chapters 4 and 550 of 2017 earmark extraordinary revenues from nonwithholding income tax (*e.g.* capital gains) for one-time purposes such as capital projects and increasing the balance in the Rainy Day Fund. Nonwithholding revenues such as capital gains are extraordinarily volatile, and reliance on them to support ongoing spending has contributed to structural budget deficits in the past.

Expenditures

Reducing the amount of expenditures in the budget is another common fund balancing strategy. While the General Assembly often does reduce the amount appropriated for certain programs for one fiscal year, in order for the action to be an ongoing fund balancing strategy, the action must reduce expenditures for several fiscal years. Ongoing reductions generally involve permanent changes to programs like deleting positions and reducing an agency's mission or services. For example, due to years of declining inmate populations, ongoing reductions were achieved within the Department of Public Safety and Correctional Services by shutting down a portion of the Maryland Correctional Institution – Hagerstown in fiscal 2018. This closure was expected to reduce State expenditures by $16.9 million per year mostly by reducing personnel costs.

In many instances, the Governor or the General Assembly use a Budget Reconciliation and Financing Act to reduce the amount of a mandated appropriation. A mandated appropriation is a statutorily required level of funding, and some examples include funding for the Maryland Tourism Board, soil conservation districts, local health grants, and the Cade and the Sellinger funding formulas for community and private colleges. For an additional discussion of the relationship between mandates and Budget Reconciliation and Financing Acts, see "Chapter 5. Legislative Review and Enactment" of this handbook.

General Fund Forecast

The general fund forecast is an estimate of out-year general fund revenues and expenditures. When the Governor introduces the budget at the beginning of each legislative session, the budget includes a long-term general fund forecast. For example, when the fiscal 2023 budget was introduced, it included a general fund forecast for fiscal 2022 through 2027. The Governor's general fund forecast relies on the December revenue estimates from the Board of Revenue Estimates.

As the budget moves through the legislative process, actions taken by the General Assembly affect the long-term forecast. So that the budget is based on the most recent economic data, the revenue forecast is also updated during the legislative session. Each March, the Board of Revenue Estimates updates its estimate to reflect any new factors in either economic or collection data.

After the budget is passed by the General Assembly, the Department of Legislative Services updates the long-term general fund forecast, accounting for both legislative actions on the budget, changes in revenue forecast, and enacted legislation. **Exhibit 7.1** is the long-term forecast prepared following the 2022 legislative session.

Exhibit 7.1
General Fund Budget Outlook
Fiscal 2023-2027
($ in Millions)

	2023 Leg. Approp.	2024 Est.	2025 Est.	2026 Est.	2027 Est.	2023-2027 Avg. Annual Change
Revenues						
Opening Fund Balance	$4,634	$380	$0	$20	$0	
Transfers	1,166	379	0	77	0	
One-time Revenues	100	0	0	0	0	
One-time Revenues – Legislation	-830	-15	-1	0	0	
Subtotal One-time Revenue	***$5,070***	***$745***	***-$1***	***$97***	***$0***	
Ongoing Revenues	$23,566	$24,706	$25,577	$26,364	$27,298	
Revenue Adjustments – Legislation	-386	-582	-631	-709	-748	
Subtotal Ongoing Revenue	***$23,180***	***$24,124***	***$24,945***	***$25,654***	***$26,550***	***3.5%***
Total Revenues & Fund Balance	**$28,250**	**$24,868**	**$24,945**	**$25,752**	**$26,550**	**-1.5%**
Ongoing Spending						
Operating Spending	$22,668	$23,366	$23,964	$25,025	$26,258	
Ongoing (Reductions)/Additions	42	22	22	23	23	
Ongoing Spending – Legislation	33	194	224	-16	-504	
Subtotal Ongoing Spending	***$22,744***	***$23,582***	***$24,210***	***$25,033***	***$25,777***	***3.2%***
One-time Spending						
PAYGO Capital	$1,258	$445	$434	$439	$417	
One-time Reductions	-22	0	0	0	0	
Legislation/One-time Adjustments/Swaps	421	281	97	96	23	
Appropriation to Reserve Fund	3,469	560	184	184	183	
Subtotal One-time Spending	***$5,126***	***$1,286***	***$714***	***$719***	***$623***	
Total Spending	**$27,870**	**$24,868**	**$24,924**	**$25,751**	**$26,400**	**-1.3%**
Ending Balance	**$380**	**$0**	**$20**	**$0**	**$150**	
Rainy Day Fund Balance	$2,350	$2,303	$2,326	$2,272	$2,295	
Balance over 5% of GF Revenues	1,174	1,100	1,082	993	971	
As % of GF Revenues	10.2%	9.6%	9.4%	8.9%	8.7%	
Structural Balance	**$436**	**$541**	**$735**	**$622**	**$772**	

GF: general fund

PAYGO: pay-as-you-go

Source: Department of Legislative Services

Chapter 8.
Capital Budget Funding Sources and Debt Affordability

Formal Powers

Article III, Section 52 of the Constitution of Maryland establishes the respective powers of the Governor and the General Assembly in adopting the capital budget. Further law pertaining to the capital budget is set forth at § 8-101 *et seq.* of the State Finance and Procurement Article.

Governor

The capital budget is regarded as a supplementary appropriation bill; as such, it may be introduced in accordance with and subject to rules and timelines applicable to other bills under the Maryland Constitution, Article III, Section 27 and the Rules of the House and Senate. While § 8-114 of the State Finance and Procurement Article requires that the Administration present the capital bill by the twentieth day of the session, in recent years, the bill has been introduced on the same day as the operating bill. Because the capital budget is regarded as a supplementary bill, under the constitution, the capital budget bill has the following characteristics and requirements that are distinct from the operating budget bill:

- the capital budget must be introduced as a separate bill;

- the bill must contain a single work, object, or purpose (under State Finance and Procurement § 8-114(d)(2), an authorization of State debt to fund any part of the capital bill meets this criteria);

- the entire bill is subject to the Governor's line-item veto power (or becomes law without the Governor's signature under Article II, Section 17(b)); and

- the bill must include a tax revenue by which the appropriations contained in the bill are to be paid. With respect to the capital budget bill, the revenue is the issuance of State general obligation debt backed by the State tax on accessible property.

The capital budget, as with any other supplementary appropriation bill, may not be finally acted upon until after the operating budget has passed. The bill may also include amendments to authorizations made in prior capital budget bills and may include preauthorizations for future capital budgets. However, these preauthorizations are not binding and require an authorization in a future bill.

Legislature

The capital budget bill is typically introduced by the Presiding Officer of each house as an Administration bill. Similar to the operating budget, it is customary for the House and Senate to move the bill in alternate years.

In acting on the capital budget bill, the legislature may amend the budget to add and delete projects from the capital bond program. The legislature may also increase or decrease project funding and add contingent, conditional, or restrictive language to the bill regarding how the funds may be applied.

Funding Sources

Maryland has authorized the issuance of the following types of State debt:

- tax-exempt general obligation bonds that include Qualified Zone Academy Bonds, Qualified School Construction Bonds, Qualified Energy Conservation Bonds, and Build America Bonds;
- taxable general obligation bonds;
- transportation debt;
- bay restoration bonds;
- stadium authority bonds; and
- capital leases.

The State has also granted some agencies the authority to issue revenue bonds. With respect to revenue bonds, the State does not pledge its full faith and credit, and the revenue source is quite limited (such as students' auxiliary fees). Consequently, this debt is not considered State debt.

General Obligation Bonds

State general obligation bonds are backed by the full faith and credit of the State. The State constitution limits general obligation bonds' maturities to a maximum of 15 years. General obligation bonds are authorized and issued to provide funds for State-owned capital improvements as well as to provide grants to local governments and nonprofit organizations for capital projects that serve a public purpose.

Authorizing and Issuing General Obligation Bonds

The General Assembly authorizes the State to incur debt for specific capital projects. Prior to 1990, general obligation debt was authorized through a series of separate bond bills: the general construction loan for State-owned facilities; the general public school construction loan to provide funds for local governments to build schools; and water quality loans to assist local governments to address water quality problems. Since 1990, however, the authorization of general obligation debt has primarily been consolidated into a single authorization bill known as the Maryland Consolidated Capital Bond Loan, also referred to as the capital bond bill.

The Board of Public Works, by resolution, authorizes the issuance of bonds. Typically, general obligation bonds authorized in a given year are not issued by the board in the same year in which they are authorized. For instance, the most recent bond sale resulted in the issuance of $1.05 billion in general obligation debt, but only a small portion of the issuance was for authorizations made in the 2022 session. According to the State Treasurer's Office, just over half of the bonds authorized in a given year are typically issued within the first two fiscal years. The Capital Debt Affordability Committee assumes bonds authorized in a given year will be fully issued over a five-year period.

Upon approval by the board, the Comptroller of Maryland may expend general obligation bond proceeds from the State and Local Facilities Loan Fund for any project authorized by an enabling act. All grants and contracts for projects other than local schools must come before the Board of Public Works and receive approval prior to the disbursement of funds. In the case of public schools, the Interagency Commission on School Construction has the authority to grant final approval for public school construction projects.

The Comptroller must account for all expenditures from the fund on a project-specific basis. The Comptroller must pay the expenses of each bond sale from the proceeds of that bond sale credited to a premium and expense account. After the expenses have been paid, the remaining proceeds from the bond sale are transferred to the Annuity Bond Fund to pay debt service on those bonds, and if approved by the board, the costs of other capital projects. This cash flow accounting basis allows the Comptroller to use the proceeds for projects that are moving forward and avoids the accumulation of large cash balances for projects that are delayed. Generally, proceeds are used for near-term cash needs for projects in progress. However, in some instances, proceeds are used as reimbursements for amounts advanced to a specific loan account.

Tax-exempt Bonds

The most commonly issued general obligation bonds are tax-exempt bonds. Bond purchasers do not pay federal income taxes on the interest earned from general obligation bonds. Because bond holders do not pay federal taxes on interest earnings, the interest rates for tax-exempt bonds are generally lower than taxable bonds. This reduces the State's debt service expenditures.

In addition to tax-exempt general obligation bonds, the State has also taken advantage of temporary federal programs that allow the State to issue bonds whereby the buyers can receive federal tax credits, or the State will receive a direct payment to offset interest costs. These bonds are issued in the place of tax-exempt general obligation bonds. To date, the State has issued Qualified Zone Academy Bonds, Qualified School Construction Bonds, Qualified Energy Conservation Bonds, and Build America Bonds. None of these programs are currently active.

Federal laws and regulations limit the amount of tax-exempt bond proceeds that may be used to support "private activities." Bond proceeds are limited to 5%, or $15 million, of any given issue. Additionally, private loan use is limited to 5%, or $5 million, of any given issue. This limitation primarily impacts the use of general obligation bonds for industrial development or low-cost government subsidized housing loans. Federal tax laws do permit use of general obligation bonds for public housing owned by a governmental agency or private nonprofit corporation (*e.g.*, Maryland's Partnership Rental Housing Program). These federal restrictions would not apply to the extent that the State chooses to issue taxable debt.

Taxable Bonds

Another type of debt is taxable debt that is issued in the place of tax-exempt bonds. The difference between the two is that holders of taxable bonds are required to pay income taxes on interest earnings. Because bond holders pay federal taxes on interest earnings, the interest rates for tax-exempt bonds are generally higher than tax-exempt bonds. This increases the State's debt service expenditures.

As discussed previously, the federal government limits the amount of tax-exempt bond proceeds that may be used to support private activities to 5%, or $15 million, of each issuance. If the level of general obligation debt supporting private activity programs exceeds federal guidelines, the State cannot issue tax-exempt debt and issues taxable debt instead. Data from bond sales show that issuing taxable bonds is more expensive than issuing tax-exempt bonds. However, the use of taxable bonds has increased since the Great Recession as more capital programs are supported by general obligation bonds instead of pay-as-you-go operating funds. From fiscal 2019 to 2022, the State issued $730.6 million in taxable bonds, in comparison to $200 million issued from fiscal 2016 to 2018.

Payment of Debt Service on General Obligation Bonds

Debt service on general obligation bonds is paid from the Annuity Bond Fund. The fund is structured with a separate account for each enabling act, and debt service is paid according to a defined schedule. General obligation bonds are generally structured at issuance to mature in serial installments with interest-only payments made during the first 2 years and with an approximately equal level of annual amortization of principal and interest over the remaining 13 years. The funding sources deposited into the Annuity Bond Fund to pay the debt service include:

- ***State Property Tax:*** The Constitution of Maryland prohibits the contracting of debt unless, in the same act authorizing the debt, an annual tax or taxes are levied sufficient to pay debt service within 15 years. Repeal of the dedicated tax or its use for other purposes until the debt is repaid is also prohibited. As a uniform practice, each debt authorization pledges toward repayment an *ad valorem* property tax on all taxable property in the State. The Board of Public Works is required annually to set a tax rate by May 1 that will produce revenue sufficient for debt service requirements. The Constitution of Maryland (Article III, Section 34) provides that the tax or taxes so levied need not be collected if, or to the extent that, funds sufficient for debt service requirements in the next fiscal year are appropriated in the annual State budget. Prior to fiscal 2002, the property tax rate on real property was $0.21 per $100 of assessed value. During this time period, real property was assessed at only 40% of the full value. Beginning in fiscal 2002, assessments were made at 100% of the value, and the rate was reduced to $0.084 per $100, equivalent to $0.21 per $100 at the 40% assessed value level. In fiscal 2004 and 2005, the Board of Public Works increased the State property tax rate to $0.132 per $100 of assessable base. However, since fiscal 2007, the rate has been maintained at $0.112 per $100 of assessed value. The rate used to assess the value on operating real property of public utilities is $0.280 per $100 of assessed value. In fiscal 2023, the State property tax is expected to contribute $933.3 million to the payment of debt service.

- ***General Fund Appropriations:*** General funds may be appropriated in the operating budget to subsidize general obligation bond debt service. When general funds are appropriated for this purpose, the property tax can be set at a rate that does not fully fund general obligation debt service costs.

  From fiscal 2004 to 2013, the State appropriated general funds only once to subsidize general obligation debt service: $29.3 million in fiscal 2008. General fund appropriations were not needed during this time period because bond premiums were used to support debt service payments and a real estate bubble increased State property tax revenues. As property tax revenues declined and premiums moderated, general fund appropriations were again used to fund debt service costs.

  Since fiscal 2014, property tax revenues have been insufficient to make debt service payments solely from the Annuity Bond Fund, requiring the use of general fund support. The fiscal 2023 legislative appropriation provides includes $430 million of general funds for this purpose.

- ***Other Repayments and Receipts:*** Debt service on some State bonds is repaid by certain State agencies, subdivisions, and private organizations. Loans authorized for hospital construction, airport development, shore erosion control, sanitary facilities, and sewer construction are repaid by those benefiting from the bond proceeds. In some instances, these loans are repaid over a period longer than the 15-year maximum maturity on State bonds or are repaid interest free. The difference between bond redemption and loan repayment is made up from other sources. Receipts generally include rental of land, accrued interest on bond proceeds held prior to disbursement, and other profits.

- ***Bond Sale Premiums:*** Premiums received on the sale of general obligation bonds are also deposited into the Annuity Bond Fund. Although bidders are allowed to bid on general obligation bonds with up to a 1% discount, bids at a premium are also allowed. Bidding at a premium means that the financial syndicate agrees to pay the State some amount in addition to the par value of the bonds. The most recent sale in June 2022 generated a net premium of $169.3 million. Bond sale premiums are typically used for combination of debt service and to fund capital projects.

Transportation Debt

The Maryland Department of Transportation issues Consolidated Transportation Bonds that are tax-supported debt. These bonds, which have a maturity of 15 years, provide the financial support for highway construction and other transportation capital projects. Debt service on Consolidated Transportation Bonds is payable solely from the Transportation Trust Fund. Revenues from taxes, fees, and other funding sources accrue to the Transportation Trust Fund to pay debt service and to support the capital program.

Consolidated Transportation Bonds

In an effort to control transportation debt, the Maryland Department of Transportation must meet two criteria – an outstanding debt limit and a coverage test. The outstanding debt limit is set by Section 3-202 of the Transportation Article and is adjusted periodically to reflect the increased revenue potential of the Transportation Trust Fund. During the 2013 session, the maximum outstanding debt limit was increased to $4.5 billion. The General Assembly also sets an annual debt ceiling in language in each budget bill. The fiscal 2023 Budget Bill set the maximum ceiling for June 30, 2023, at $3.32 billion.

The bond revenue coverage test, established in each bond resolution, mandates that the department's annual net revenues and pledged taxes must each equal at least twice the maximum future debt service. The department has adopted an administrative policy establishing a minimum coverage of 2.5 maximum future annual debt service payments as a hedge. The department has agreed with bondholders that if the coverage ratio falls below 2.0, it will not issue any additional bonds until the 2.0 ratio level is achieved. At the end of fiscal 2021, the Maryland Department of Transportation's debt outstanding was approximately $3.7 billion, and the net revenues coverage ratio, the limiting test, was 3.6. In fiscal 2023, the level of debt outstanding is expected to decrease to about $3.3 billion, and the net revenues coverage ratio is expected to increase to 3.7.

Other Special Transportation Financing

Several forms of alternate financing that the Maryland Department of Transportation uses include:

- ***Grant Anticipation Revenue Vehicle Bonds:*** Chapter 470 of 2002 authorized the Maryland Department of Transportation to issue Grant Anticipation Revenue Vehicle Bonds. These bonds are backed by future federal aid highway and transit appropriations. To increase the Grant Anticipation Revenue Vehicle Bonds' rating and reduce borrowing costs, the State pledges Transportation Trust Fund revenues should federal appropriations be insufficient to pay the Grant Anticipation Revenue Vehicle Bonds debt service. Grant Anticipation Revenue Vehicle Bonds were limited in State law to the issuance of $750 million in support of the Intercounty Connector project, an east-west highway running from Interstate 270 in Montgomery County to Interstate 95/U.S. Route 1 in Prince George's County (Chapters 471 and 472 of 2005). The last Grant Anticipation Revenue Vehicle Bonds were retired in March 2020. Additional issuances would require General Assembly authorization.

- ***Public-private Partnerships Utilizing Availability Payments:*** Public-private partnerships, also referred to as P3 agreements, are long-term financial agreements in which the public sector assigns the right to design, build, finance, operate, and/or maintain an infrastructure asset for a defined period to a private-sector company. Although the private sector may finance the project up front, it receives a return on investment through project revenues or payments from the public sector over the life of the contract. These payments may take the form of availability payments, which provide compensation to the private sector on a periodic basis (*e.g.*, quarterly or annually) based on the project being available for use and performance standards being met as per the contract. An availability payment can be structured to cover just the capital costs of a project, or both the capital and ongoing operating cost, depending on the contract. The Purple Line Light Rail Project was initially approved for construction as a public-private partnership project by the Board of Public Works in November 2013, and after delays, revenue service is projected to begin in October 2026.

- ***Transportation Infrastructure Finance and Innovation Program:*** Chapter 470 authorized the Maryland Department of Transportation to participate in a federal financing program established by the Transportation Infrastructure Finance and Innovation Act of 1998. This program offers credit assistance to State and local governments, transit agencies, railroad companies, special authorities, special districts, and private entities for large-scale, surface transportation projects, such as highways, transit, railroads, intermodal freight, and port access. The State has accessed this loan program twice. Chapters 471 and 472 authorized the Maryland Transportation Authority to secure a loan or line of credit from the Transportation Infrastructure Finance and Innovation Program to finance construction of the Intercounty Connector. In December 2008, the Maryland Transportation Authority agreed to terms with the United States Department of

Transportation for a $516 million line of credit under the program. The second time the State used this program has been as part of the financing for the Purple Line project. After an initial loan agreement was cancelled, the program provided a $1.76 billion loan in 2022 to Purple Line Transit Partners, the firm managing construction of the Purple Line. Toll revenues are being used to pay down the debt for the Intercounty Connector, and fare revenues will be used to pay down the Purple Line loan.

- ***Nontraditional Debt:*** The Maryland Department of Transportation also uses nontraditional debt to finance construction of transportation-related facilities. Nontraditional debt is any debt instrument that is not a consolidated transportation bond or a Grant Anticipation Revenue Vehicle Bond. This includes certificates of participation; debt backed by customer facility charges, passenger facility charges, or other revenues; and revenue bonds issued by the Maryland Transportation Authority or the Maryland Economic Development Corporation on behalf of the Maryland Department of Transportation. Certificates of participation are purchase agreements that are backed by a dedicated revenue source. Once the certificates of participation are repaid, the Maryland Department of Transportation will own the facility being built; until that time, however, other parties have a financial hold on the facility.

The General Assembly began placing limits on certificates of participation in fiscal 2002 and then on all the Maryland Department of Transportation's nontraditional debt in fiscal 2005. Language in the fiscal 2023 Budget Bill limits the nontraditional debt outstanding, excluding the Transportation Infrastructure Finance and Innovation Program debt, to $1.383 billion, which may be increased through a review process by the budget committees.

The Maryland Department of Transportation currently has 11 nontraditional debt issuances outstanding with 2 issuances planned (see **Exhibit 8.1**).

Exhibit 8.1
Nontraditional Debt Outstanding and Debt Service Payments
($ in Thousands)

Year Issued and Maturity	Principal Outstanding (06/30/23)	Fiscal 2023 Debt Service Payment	Purpose
Certificates of Participation			
2010-2025	$3,225	$1,690	Expand Pier B and a de-icing facility at the Baltimore/Washington International Thurgood Marshall Airport (BWI Marshall Airport).
2010-2025	3,270	1,168	Construction of a parking garage at Maryland Area Regional Commuter Amtrak station near BWI Marshall Airport.
2016-2024	2,295	2,404	Refunding of 2006 certificates of participation used for construction of a paper shed at South Locust Point.
2019-2034	18,625	2,057	Acquisition of 25 40-foot and 15 60-foot clean diesel buses for parking shuttle services at BWI Marshall Airport.
Subtotal	***$27,415***	***$7,319***	
Maryland Transportation Authority Revenue Bonds			
2002-2032	$64,755	$8,926	Construction of consolidated rental car facility at BWI Marshall Airport. Bonds backed by customer facility charge of $3.25 per vehicle rental per day.

Year Issued and Maturity	Principal Outstanding (06/30/23)	Fiscal 2023 Debt Service Payment	Purpose
2012-2032	28,220	3,841	Passenger Facility Charge revenue bonds to construct B/C concourse connector.
2012-2027/32	73,350	10,138	Passenger Facility Charge to complete Runway Safety Area and Pavement Management Program improvements.
2014-2034	26,290	2,957	Passenger Facility Charge revenue bonds to construct D/E concourse connector.
2019-2039	97,295	8,470	Passenger Facility Charge revenue bonds for various improvements to concourses A/B, restroom improvements, Federal Inspection Hall reconfiguration, and concourse D HVAC replacement.
Subtotal	***$289,910***	***$34,332***	
Maryland Department of Transportation Special Transportation Project Revenue Bonds			
2021-2030	$219,880	$2,352	Refunding of 2012 Maryland Transportation Authority Parking Revenue Bonds used for the construction of the Elm Road parking garage and associated improvements near BWI Marshall Airport and refunding of Maryland Economic Development Corporation Lease Revenue bonds used for construction of a new 11-gate concourse A and reconstruction of a portion of concourse B at BWI Marshall Airport.
2021-2041	190,485	8,612	Concourse A/B Connector and Baggage Handling System at BWI Marshall Airport.
Subtotal	***$410,365***	***$10,964***	

Year Issued and Maturity	Principal Outstanding (06/30/23)	Fiscal 2023 Debt Service Payment	Purpose
Total: Issued Debt	**$727,690**	**$52,615**	
Pending Debt			
2022-To Be Determined	$1,760,500	To Be Determined	Transportation Infrastructure Finance and Innovation Act federal loan for the Purple Line Transit Project.
2021-To Be Determined	655,000	To Be Determined	Maryland Economic Development Corporation Private Activity Bonds for the Purple Line Transit Project.

HVAC: heating, ventilation, and air conditioning

Source: Maryland Department of Transportation; Department of Legislative Services

Bay Restoration Bonds

Chapter 428 of 2004 created the Bay Restoration Fund as two accounts: a wastewater account to provide grants for enhanced nutrient removal pollution reduction upgrades at the State's 67 major wastewater treatment plants; and a septic system account to provide septic system upgrade grants and funding for the Maryland Department of Agriculture's Cover Crop Program. The fund is administered by the Maryland Department of the Environment Maryland Water Infrastructure Financing Administration (prior to Chapter 238 of 2022, this administration was known as the Maryland Water Quality Financing Administration).

The fund is financed by a bay restoration fee collected by counties from users of wastewater facilities, septic systems, and sewage holding tanks. Chapter 150 of 2012 roughly doubled the Bay Restoration Fund fee and established additional authorized uses for the Bay Restoration Fund beginning in fiscal 2018. Chapter 153 of 2015 added to the authorized uses of the Bay Restoration Fund by providing funding for up to 87.5% of the cost of projects relating to combined sewer overflow abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations. Chapters 368 and 369 of 2017 further expanded the allowable uses of the Bay Restoration Fund to include biological nutrient removal projects. Maryland's major wastewater treatment plants have been identified for up to 100% Bay Restoration Fund grant funding for an enhanced nutrient removal technology upgrade.

Although bonds issued by the Bay Restoration Fund are not backed by the full faith and credit of the State, they are considered State debt since they are backed by a fee imposed by the State through its general taxation power. Since they are considered State debt, the maturity of the bonds is limited to 15 years. There is currently no statutory limit on the amount of Bay Restoration Fund bonds that the Administration may issue (but the total amount sold is limited by annual fee revenues generated); however, approval must be granted by the Board of Public Works and the Secretary of the Environment before bonds can be issued.

The program plans to issue no revenue bonds in fiscal 2023. The total amount of revenue bonds supported by the fund is $330 million, which, when combined with the fee revenues deposited into the fund, is projected to be sufficient to cover fund expenses. An additional $260 million in revenue bonds have been authorized for the program but are not expected to be issued. All debt will be retired by the end of fiscal 2030, when the fee is reduced to $30 per year. This limits the final issuance to a seven-year maturity.

Stadium Authority Bonds

The Maryland Stadium Authority was established in 1986 to build, maintain, and operate separate baseball and football stadiums at Camden Yards in Baltimore City. As part of its original enabling statute, the authority was authorized to issue up to $235 million in revenue bonds to help pay for the construction of the stadiums. In subsequent years, the authority's role was expanded to include managing and issuing revenue bonds to renovate and expand convention centers in Baltimore City and Ocean City, construct a conference center in Montgomery County, renovate the Hippodrome Performing Arts Center, manage a program of school construction and renovation in Baltimore City, manage a statewide school construction and renovation program, and manage renovations of racing facilities at Pimlico and Laurel Park. **Exhibit 8.2** lists the debt authorized and the amount of debt outstanding for the projects that the Maryland Stadium Authority has been authorized to issue revenue bonds.

Exhibit 8.2
Maryland Stadium Authority
Revenue Debt Authorizations and Debt Outstanding
July 2021
($ in Millions)

Project	Authorized	Outstanding as of July 2021
Baseball and Football Stadiums	$235.0	$86.0
Hagerstown Multi-Use Sports and Events Facility	59.5	0.0
Montgomery County Conference Center	23.2	4.2

Project	Authorized	Outstanding as of July 2021
Baltimore City Convention Center	55.0	0.0
Ocean City Convention Center	24.5	20.9
Hippodrome Performing Arts Center	20.3	1.5
Camden Station	n/a	2.9
Baltimore City Public Schools	1,100.0	978.5
Built to Learn	2,200.0	0.0
Horse Racing Facilities	375.0	0.0
Supplemental Facilities Fund	25.0	0.0
Total	**$4,117.4**	**$1,094.1**

Note: Numbers may not sum to total due to rounding. Includes non-State debt.

Source: Maryland Stadium Authority

Chapter 60 of 2022 increased the amount of taxable or tax-exempt bonds that the Maryland Stadium Authority may issue for sports facilities at Camden Yards to $1.2 billion, split evenly between the football and baseball stadiums. Chapter 61 of 2022 also authorized the Maryland Stadium Authority to issue up to $200.0 million in bonds for “sports entertainment facilities,” and up to $400.0 million in bonds for Prince George’s County Blue Line Corridor facilities, subject to specified requirements.

The authority is also authorized to assist State agencies and local governments by conducting feasibility studies approved by the budget committees or managing construction projects upon notification of the budget committees and with the proviso that funding be provided entirely by the agency or local government requesting assistance unless funding is specifically provided in the budget for the project. Several feasibility studies are currently in various stages of completion, such as a study on proposed sports and entertainment facilities along the Blue Line Corridor in Prince George’s County.

Chapter 647 of 2013 authorized the authority to issue up to $1.1 billion in revenue bonds for the purpose of constructing and improving public school facilities in Baltimore City. Any debt issued by the authority to finance construction or improvement of Baltimore City public school facilities is not a debt, liability, or pledge of the faith and credit or taxing power of the State. While the authority is responsible for managing all public school construction and improvement projects in Baltimore City that are financed under Chapter 647, the authority may not use any of its own funds, whether appropriated or nonbudgeted, to pay for any costs or expenses related to its role as project manager.

To date, 24 schools have been completed and occupied, with 3 schools in the construction phase and 1 school still in the planning phase. Of the 3 schools under construction, 2 are projected to open by January 2023 and 1 is projected to open by September 2023. The final school is projected to be completed by September 2023. The authority previously planned for three bond issuances to finance construction. The first three bond sales closed with $320 million issued in 2016, $426 million issued in 2017, and $228 million issued in 2020. The Maryland Stadium Authority is planning on one more issuance with a value of about $67.7 million in 2022; annual debt service will remain $60 million.

Chapter 20 of 2020 established the Built to Learn program, which uses a financing model similar to the Baltimore City schools program to construct or renovate schools statewide. Unlike the Baltimore City program, Built to Learn is fully financed by the State. The Built to Learn Act authorizes the Maryland Stadium Authority to issue up to $2.2 billion in revenue bonds, backed by annual payments from the Education Trust Fund beginning in fiscal 2022, for public school construction projects in the State, including to support a possible public-private partnership agreement for Prince George's County. Annual disbursements from the Education Trust Fund continue until the 30-year Maryland Stadium Authority bonds are no longer outstanding. Total debt service for all bond issuances may not exceed $30 million in fiscal 2022, $60 million in fiscal 2023, and $125.0 million annually thereafter; it may not exceed $100.0 million annually if Prince George's County enters into a public-private partnership agreement.

Chapter 20, the Built to Learn Act, also changed the project management for public school construction. The Maryland Stadium Authority is required to manage school construction projects (subject to a waiver process) financed with the proceeds from the Built to Learn revenue bonds. Except for Baltimore City, the authority may authorize a local school board to contract for, manage, and oversee public school facility projects under its jurisdiction.

Capital Leases

Beginning in 1987, the State's capital program began utilizing lease/leaseback financing for capital projects. These leases are used to acquire both real property and equipment. Beginning in fiscal 1994, the State instituted a program involving equipment leases for energy conservation projects at State facilities to improve energy performance.

Sections 8-401 to 8-407 of the State Finance and Procurement Article regulate capital leases. The law requires that the Treasurer submit the total financing request and any supporting information to the Legislative Policy Committee; then, the committee has 45 days to review and comment on any capital lease prior to submission to the Board of Public Works for approval. Section 12-204 of the State Finance and Procurement Article further requires that capital leases that execute or renew a lease of land, buildings, or office space must be certified by the Capital Debt Affordability Committee to be affordable within the State's debt affordability ratios or must be approved by the General Assembly in the budget of the requesting unit prior to the Board of Public Works approval. Capital leases undertaken by the State are considered tax-supported debt under debt affordability calculations.

All three types of leases (equipment, energy performance, and property) have advantages. Equipment leases often involve high technology equipment, such as data processing or telecommunications equipment. Equipment leases offer the State more flexibility than purchases since leases may be for less (typically three to five years) than the entire economic life of the equipment. Equipment leases are especially attractive in an environment where technology is changing very rapidly. Leases may also be written with a cancellation clause that allows the State to cancel the lease if the equipment is no longer needed. Currently, the Treasurer's lease-purchase program consolidates the State's equipment leases in order to lower the costs through volume purchasing of financing. The rate that the Treasurer receives for the State's equipment leases financed on a consolidated basis is less than the rates that individual agencies would receive if they financed the equipment leases themselves.

For energy performance projects, agencies make lease payments using the savings that result from implementation of energy conservation projects. Using the savings realized in utility cost reductions to pay off energy performance project leases allows projects to proceed that otherwise might not be of high enough priority to be funded given all of the other competing capital needs statewide. Under the capital program, utility costs will decrease; as the leases are paid off, the savings from these projects will accrue to the State. While capital leases undertaken by the State are required to be considered tax-supported debt under debt affordability calculations, the law does allow an exception for energy performance contract leases if the savings generated exceed the costs, and they are properly monitored.

For real property, the transaction generally involves an agreement in which the State leases property to a developer, which in turn builds or renovates a facility and leases it back to the State. At the end of the lease period, ownership of the facility is transferred to the State. The primary advantage of property leases, when compared to general obligation bonds, is that they allow the State to act more quickly if an unanticipated opportunity presents itself. Because of the extensive planning and legislative approval process involved in the State's construction program, it often takes years to finance a project. In contrast, lease agreements only require the budget committees and Board of Public Works approval. Since the Board of Public Works and the budget committees meet throughout the year, leases may be approved much more quickly than general obligation bonds, which must be approved by the entire General Assembly during a legislative session. Therefore, property leases give the State the flexibility to take advantage of economical projects that are unplanned and unexpected.

Other Capital Funding Mechanisms

Public-private Partnerships

A public-private partnership is a financing convention for the development of State facilities. Section 10A-101 of the State Finance and Procurement Article defines a public-private partnership as a method for delivering public infrastructure assets using a long-term, performance-based agreement between a reporting agency and a private entity where appropriate risks and benefits can be allocated in a cost-effective manner between the contractual partners in which (1) the private entity performs functions normally undertaken by the government, but the reporting agency remains ultimately accountable for the public infrastructure asset and its public function; and (2) the State may retain ownership in the public infrastructure asset and the private entity may be given additional decision making rights in determining how the asset is financed, developed, constructed, operated, and maintained over its life cycle. Reporting agencies include the Department of General Services, the Maryland Department of Transportation, the Maryland Transportation Authority, the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College.

Chapter 5 of 2013 established a State policy on the use of public-private partnerships and expressly authorized specified State reporting agencies to enter into public-private partnerships. The Act also established a process and associated reporting requirements for State oversight and instituted a process for solicited and unsolicited proposals that must be followed by the Board of Public Works prior to approval of a public-private partnership.

Public-private partnership agreements may not extend beyond 50 years unless the agency provides justification and receives Board of Public Works approval of an exemption. Moreover, public-private partnerships are explicitly excluded from most provisions of State procurement law but are subject to prevailing and living wage requirements and the Minority Business Enterprise Program.

In 2013, Executive Order 01.01.2013.03 established a State subcabinet for public-private partnerships to coordinate efforts related to and supportive of the use of public-private partnerships in Maryland. Membership of the subcabinet is comprised of representatives of the reporting agencies defined in the public-private partnership legislation, along with representatives from the Office of the Lieutenant Governor; the Secretary of Budget and Management; the Governor's Office of Small, Minority and Women Business Affairs; and the Maryland Stadium Authority.

The executive order required the subcabinet to maintain a website to provide information on State public-private partnership policies, processes, projects, and best practices. The Maryland Department of Transportation has completed two public-private partnerships, the Seagirt Marine Terminal and I-95 Travel Plazas, and is in the construction phase for the Purple Line Light Rail Project. A fourth project that would add four new express toll lanes to I-270 and MD-295 is in predevelopment.

Nondebt Capital Funding

Some capital projects and grant and loan programs are not funded through debt. General, special, and federal funds budgeted in the operating budget are sometimes used for capital expenditures. Known as pay-as-you-go, or more commonly referred to as PAYGO, cash is used in instances where federal law limits or prohibits use of tax-exempt debt financing (such as economic development, housing, and environmental projects) and to supplement or replace debt financing when revenues are available.

Revenue and Enterprise Bonds

Certain agencies of State government are authorized to borrow money under laws that expressly provide that the loan obligations do not constitute a debt or a pledge of the full faith and credit of the State. The principal and interest on bonds issued by these bodies are usually payable solely from fees generated from the use of facilities (revenue) or enterprises financed by the bonds.

Projects financed by revenue bonds can be divided into two general categories – traditional governmental activities and private purposes. Traditional governmental activities include transportation projects, the construction of public educational facilities, and water and sewer treatment facilities. Agencies that issue traditional governmental activity revenue bonds are the Community Development Administration of the Department of Housing and Community Development, higher education institutions (including the University System of Maryland, St. Mary's College of Maryland, Morgan State University, and Baltimore City Community College), the Maryland Transportation Authority, the Maryland Water Infrastructure Financing Administration, and the Maryland Environmental Service.

Private activity bonds are securities issued to provide financing for projects that are generally used by private users. They can be issued for such purposes as housing, hospitals, private higher education, economic development, and energy conservation. State entities that issue private purpose bonds include the Community Development Administration, the Maryland Economic Development Corporation, the Maryland Health and Higher Education Facilities Authority, and the Maryland Industrial Development Financing Authority.

Community Development Administration

The Community Development Administration, part of the Division of Development Finance of the Department of Housing and Community Development, administers the State's housing programs. The goals are to expand and improve the housing supply for low- and moderate-income families, the elderly, and the disabled; to stimulate the flow of capital into the State's housing market; and to facilitate rehabilitation loans to those who are unable to obtain conventional financing. In addition, loans are made to developers for the construction of multifamily housing to provide affordable rental units to Marylanders. Chapter 482 of 2016 authorized the Community Development Administration to lend to business projects in specified areas of the State as well.

The Community Development Administration funds its programs with a combination of taxable and tax-exempt revenue bonds, low-income housing tax credits, federal Home Investments Partnership Program funds, State appropriations, and revenues generated by its operation. Debt issued by the Community Development Administration is secured by mortgages on the property, mortgage insurance, and federal subsidies. Loan repayments are applied to debt service. As of the end of fiscal 2021, the Community Development Administration had $2.9 billion of outstanding debt.

Maryland Economic Development Corporation

The Maryland Economic Development Corporation is a nonbudgeted entity that allows the State to own or develop property for economic development purposes. The Maryland Economic Development Corporation was created in 1984 with the mission to help expand, modernize, and retain existing Maryland businesses and to attract new businesses to the State.

The Maryland Economic Development Corporation purchases or develops property that is leased to others under favorable terms. The corporation also makes direct loans to companies throughout the State to maintain or develop facilities, and it often serves as the conduit for loans administered by the Department of Commerce. The Maryland Economic Development Corporation issues bonds to raise funds for its loans. The bond debt consists primarily of revenue bonds and notes payable to government agencies, such as the Department of Commerce. The debt represents nonrecourse obligations because the corporation is not liable to bondholders and lenders in the event of a project or borrower default. Each project must have self-supporting revenues, and no projects are cross-collateralized. As a result, the corporation's debt is not debt of the State, and there is no implied State guaranty or obligation to protect bondholders from losses.

The Maryland Economic Development Corporation has been involved in 322 projects through fiscal 2021. Of these, the corporation currently owns and operates 15 projects as operating facilities, meaning that the corporation is involved in management decisions and has a hand in ensuring successful daily operations. For most other projects, the corporation generally serves as an arms-length financing entity.

The corporation is governed by statute under the Economic Development Article, Sections 10-101 through 10-132. A 12-member board of directors oversees and approves actions pertaining to the corporation's affairs and appoints the executive director. The Secretary of Commerce and the Secretary of Transportation serve as *ex-officio* voting members. The Maryland Economic Development Corporation's activities complement the marketing and financing programs of the Department of Commerce. There are currently 12 full-time employees.

Maryland Health and Higher Educational Facilities Authority

The Maryland Health and Higher Educational Facilities Authority provides financing to nonprofit hospitals and educational institutions for expansion or improvements of existing facilities, new construction, and equipment. The authority may also finance continuing care communities that provide residential facilities for the elderly. The authority provides financing by acting as a conduit issuer. The debt remains the responsibility of the entity for which the debt was issued.

The authority provides for the issuance of tax-exempt revenue bonds for specific projects. In addition, the authority operates a pooled loan program. The authority administers the loans by controlling expenditures of the proceeds until construction is completed. Each issue is secured differently, depending on the borrower, but generally, a lien is placed on the property. Revenues generated for the particular enterprise are pledged to retire the debt. In addition, a debt service reserve fund, equal to the highest debt service cost in any future year, must be maintained. The debt outstanding as of June 30, 2021, was approximately $8.5 billion.

Public College and University Bond Authority

The University System of Maryland, St. Mary's College of Maryland, Morgan State University, and Baltimore City Community College have statutory authority to issue revenue bonds to finance the acquisition, construction, renovation, or operation of academic and auxiliary facilities. The proceeds from such debt financing can be used for classrooms, laboratories, residence halls, dining centers, athletic facilities, parking garages, or other facilities. The General Assembly must expressly authorize each academic project and the maximum principal amount of bonds for the project. Legislative authorization is not required for the issuance of auxiliary facility bonds; however, the General Assembly does establish a limit on the total amount of debt (including both academic and auxiliary bonds) that may be outstanding at any time.

The revenue bonds are secured by auxiliary fees (income, fees, rents, charges, and other revenues from the use of auxiliary facilities) and academic fees (tuition, student, and activity fees). Repayment of debt service is available from those sources as well as from the proceeds of bonds and investment earnings and reserves or other funds established for the bonds under the trust agreement. Separate accounting and reports are required for auxiliary and academic facilities. The term of the bonds may not exceed the useful life of the facility, which may not be more than 33 years for auxiliary facilities or more than 21 years for academic facilities.

Section 19-102 of the Education Article sets the maximum amounts of outstanding bonds for each system as follows:

- $1.4 billion for the University System of Maryland;
- $60 million for St. Mary's College of Maryland;
- $88 million for Morgan State University; and
- $65 million for Baltimore City Community College (may only issue revenue bonds for auxiliary facilities).

Maryland Transportation Authority

The Maryland Transportation Authority is empowered to issue bonds to finance the construction and improvement of revenue-producing transportation facilities projects. It is also authorized to finance the construction of vehicle parking facilities in priority funding areas and may also serve as a conduit for the issuance of debt by the Maryland Department of Transportation or any of its modal administrations. The authority currently operates and maintains three toll bridges (the Thomas J. Hatem Memorial Bridge, the Harry W. Nice/Thomas "Mac" Middleton Bridge, and the

William Preston Lane, Jr. Memorial Bridge), two tunnels (the Fort McHenry Tunnel and the Baltimore Harbor Tunnel), the Francis Scott Key toll roadway (includes a bridge and highway), the John F. Kennedy Memorial Highway, the Intercounty Connector, and the express toll lanes on Interstate 95.

The authority may issue revenue bonds that are backed by revenues from its toll facilities. A 2007 trust agreement requires that the authority collect tolls and other charges for the use of its facilities sufficient to pay 120% of the amount of the debt service requirements for each bond year and any current operating expenses and to provide for adequate deposits to a maintenance and operations reserve account. The authority also has several administrative debt policies that limit debt issuances. Chapter 567 of 2008 increased the maximum debt outstanding limit from $1.9 billion to $3.0 billion. At the end of fiscal 2021, the Maryland Transportation Authority's debt outstanding was $2.1 billion.

The authority is also authorized to be a conduit issuer to finance Maryland Department of Transportation projects. This is now known as nonrecourse debt. Current outstanding nonrecourse debt issuances were used to fund the expansion of the Baltimore/Washington International Thurgood Marshall Airport and a parking garage in Annapolis for State employees. In fiscal 2023, outstanding nonrecourse debt is expected to reach $302.3 million.

Maryland Food Center Authority

The Maryland Food Center Authority is authorized to establish, operate, and maintain wholesale food markets throughout the State. The Maryland Food Center Authority may operate projects including a market; food handling, storage, or distribution facility; commercial seafood facility or operation; and any ancillary facility or services that the authority determines will enhance the public attractiveness of a development or project. Ancillary facilities include parking, transportation facilities, restaurants, shops, stores, banks, or other commercial enterprises. The Maryland Food Center Authority projects include the wholesale produce and wholesale seafood markets at the Maryland Food Center in Howard County, now known as the Maryland Market Center Site A and B. The authority also owns the Rock Hall Clam House in Kent County, which is fully occupied. In addition, the authority leases space to companies in the Maryland Food Center.

The Maryland Food Center Authority does not need the approval of the legislature to issue debt; however, all issuances must be approved by the Board of Public Works. In addition, prior to beginning construction for a development outside of the Maryland Food Center, the authority must submit to the Legislative Policy Committee, for review, an analysis of the economic benefits of the proposed development.

The authority issues revenue bonds with maturities not exceeding 40 years to finance development projects. As of June 30, 2022, the authority did not have any outstanding debt.

Capital Debt Affordability Committee

Creation of the Capital Debt Affordability Committee was an outgrowth of two events: the dramatic increase in outstanding debt during the mid-1970s; and, in 1974, the release of the Department of Fiscal Services' two-year study on the State's debt picture titled *An Analysis and Evaluation of the State of Maryland's Long-Term Debt: 1958-1988*.

In response to this study and the rising level of State debt, the 1978 session of the General Assembly adopted the current State Finance and Procurement Article, Section 8-108, which created the committee as a unit of the executive department. The Treasurer chairs the committee and the Comptroller, the Secretary of Budget and Management, the Secretary of Transportation, and one public member appointed by the Governor serve as members. The 2005 capital budget bill (Chapter 445 of 2005) amended the State Finance and Procurement Article to add the chairs of the capital budget subcommittees of the Senate Budget and Taxation Committee and the House Appropriations Committee as nonvoting members.

The committee is required to review the size and condition of State debt on a continuing basis and to submit to the Governor, by October 1 of each year, an estimate of the total amount of new general obligation debt that prudently may be authorized for the next fiscal year. Although the committee's estimates are advisory only, the Governor is required to give due consideration to the committee's findings in determining the total authorizations of new State debt and in preparing a preliminary allocation for the next fiscal year. The committee is required to consider:

- the amount of additional general obligation debt that will be authorized during the next fiscal year;

- capital program needs during the next 5 fiscal years;

- projected debt service requirements for the next 10 fiscal years;

- criteria established or used by recognized bond rating agencies in judging the quality of State bond issues;

- on a continuing basis, the size and condition of higher education debt, taking into account any debt issued for academic facilities as part of the committee's affordability analysis;

- other factors relevant to the ability of the State to meet its projected debt service requirements for the next 5 fiscal years or relevant to the marketability of State bonds; and

- the effect of new authorizations on each of the factors enumerated above.

History of Debt Affordability Criterion

In 1979, the Capital Debt Affordability Committee adopted three criteria to evaluate debt affordability: (1) State debt outstanding cannot exceed 3.2% of State personal income; (2) State debt service cannot exceed 8.0% of State revenues; and (3) new authorizations should be kept in the range of redemptions of existing debt. When the criteria were adopted, the State did not meet either the debt outstanding or debt service criterion. Debt outstanding was 5.4% of personal income, and debt service was 11.3% of revenues in fiscal 1979. By adopting a policy to limit authorizations by redemptions, the committee limited new authorizations. This criterion was referred to as the "get out of debt" criterion. The debt affordability process achieved its goal to reduce debt outstanding and debt service costs. By fiscal 1987, debt outstanding was less than 3.2% of personal income, and debt service was less than 8.0% of revenues.

In 1987, the committee determined that the criterion limiting new authorizations to redemptions was no longer an applicable guideline. The goal of reducing debt had been met, and the committee's objective was no longer to reduce debt but rather to maintain a stable capital program. At the time, the high ratings of the State's debt indicated that the existing level of debt and the planned increases were acceptable to the rating agencies. The criterion also tied annual authorizations to amount of debt issued as much as 15 years before, thereby producing highly variable bond authorizations, which is inconsistent with a stable capital program. For these reasons, the committee dropped this criterion.

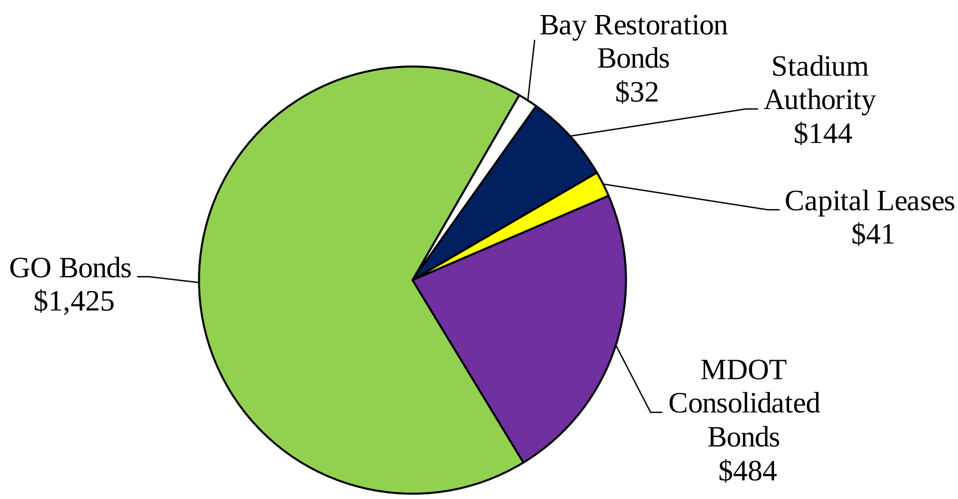
In its November 2008 report to the General Assembly, the committee again recommended to change the affordability criteria. As it reviewed the criteria, the committee consulted with rating agencies, investment bankers, and its financial advisor. The committee determined that the first criterion was no longer appropriate and recommended increasing the debt outstanding limit to not exceed 4% of State personal income. No change was made to the limit on debt service. By maintaining debt service at 8% of revenues, the new affordability policy did not increase the amount of tax resources that support debt service. The policy did increase the amount of total debt that the State may issue. This total debt has increased in recent years, as the State has expanded general obligation bond authorizations and issued new kinds of debt that were not supported by the State's General Fund (such as bay restoration bonds and Maryland Stadium Authority bonds). The new policy accommodates these bonds without expanding the annual resources committed to pay debt service.

The Government Accounting Standards Board provided new guidance on lease accounting in 2017, effective for fiscal years beginning after June 15, 2021. The guidance changes the definition of tax-supported debt and makes all leases, other than short-term leases, appear on financial statements in the same way that capital leases currently do. The Capital Debt Affordability Committee advises that changes in the definition of capital leases could have an impact on the affordability ratio, but the committee is under no obligation to change its current practices.

Tax-supported Debt

In keeping with a narrow interpretation of its statutory charge, the Capital Debt Affordability Committee's efforts through 1986 focused mainly on bringing the State's general obligation debt in line with certain parameters. In 1987, however, the committee began to adopt a more comprehensive view of State debt that included all tax-supported debt in addition to general obligation debt. Tax-supported debt includes general obligation bonds, consolidated transportation bonds, Maryland Stadium Authority bonds, Bay Restoration Fund revenue bonds, and capital leases. In the 2021 report, the Capital Debt Affordability Committee anticipated $2.1 billion in tax-supported debt service in fiscal 2023, as shown in **Exhibit 8.3**.

Exhibit 8.3
Tax-supported Debt Service Distribution by Type
($ in Millions)



GO: general obligation
MDOT: Maryland Department of Transportation

Note: These figures represent preliminary fiscal 2023 figures and are subject to change.

Source: *Report of the Capital Debt Affordability Committee*, 2021

The committee's decision to adopt a broader view regarding the type of debt reviewed was driven by the fact that both the rating agencies and the investment community took a more comprehensive view of Maryland's debt when analyzing the State's obligations. A second reason for adopting a more comprehensive view of debt was that other forms of long-term commitments were becoming more common. Lease obligations, particularly lease purchases, were at least more visible, if not more widely used.

Debt affordability is measured by the ability of the State to pay debt service when due. A careful and comprehensive determination takes into account the demand for capital projects, the relationship between debt authorization and debt issuance, available and potential funding mechanisms, overall budgetary priorities, and revenues. One of the challenges of debt management is to provide sufficient funds to meet growing capital needs within the framework of the State's debt capacity.

Exhibit 8.4 and **Exhibit 8.5** show that the debt levels for the past 10 fiscal years have remained within the affordability guidelines.

Exhibit 8.4

State Tax-supported Debt Outstanding Relationship to Personal Income

(Affordability Standard = 4.0%)

($ in Thousands)

Fiscal Year	Total Tax-supported Debt	Debt as % of Personal Income
2014	$11,152,430	3.36%
2015	11,559,686	3.43%
2016	12,542,924	3.59%
2017	12,702,638	3.53%
2018	13,067,216	3.50%
2019	13,554,210	3.44%
2020	13,970,048	3.42%
2021	14,087,390	3.29%
2022	14,227,228	3.31%
2023	14,015,677	3.15%

Note: Fiscal 2021 through 2023 numbers are preliminary and subject to change.

Source: *Report of the Capital Debt Affordability Committee*, 2019 and 2021

Exhibit 8.5
State Tax-supported Debt Service Relationship to Revenues
(Affordability Standard = 8.0%)
($ in Thousands)

Fiscal Year	Total Tax-supported Debt Service	Debt Service as % of Revenues
2014	$1,378,609	6.86%
2015	1,454,630	6.66%
2016	1,548,621	7.27%
2017	1,659,881	7.52%
2018	1,743,863	7.61%
2019	1,802,005	7.54%
2020	1,807,004	7.52%
2021	1,770,172	6.62%
2022	1,917,645	6.98%
2023	2,007,081	7.06%

Note: Fiscal 2021 through 2023 numbers are preliminary and subject to change.

Source: *Report of the Capital Debt Affordability Committee*, 2019 and 2021

The General Assembly's Spending Affordability Committee annually reviews the recommendations of the Capital Debt Affordability Committee and recommends a debt authorization level to the General Assembly prior to the beginning of the session. The Spending Affordability Committee often concurs with the Capital Debt Affordability Committee, and the General Assembly normally approves the consensus level of authorizations. For the 2016 through 2019 sessions and in 2021, the Spending Affordability Committee recommended a higher level of authorizations. The General Assembly adopted the higher authorization level recommended by the Spending Affordability Committee in 2017, 2018, 2019, and 2021. For the 2022 session, the Spending Affordability Committee recommended exceeding the Capital Debt Affordability Committee recommendation if the Governor's capital budget failed to meet certain conditions. The Governor's proposal failed to meet those conditions, and the General Assembly ultimately authorized a higher debt level than recommended by the Capital Debt Affordability Committee. **Exhibit 8.6** displays authorization levels recommended by the Debt Affordability Committee and actual levels of authorizations over the past 10 sessions.

Exhibit 8.6
History of Capital Debt Affordability Committee Recommended Debt Level to Authorization

Legislative Session	Recommended Debt Level	Actual Authorization	Variance
2013	$1,075,000,000	$1,079,549,000	$4,549,000[1]
2014	1,160,000,000	1,164,625,000	4,625,000
2015	1,170,000,000	1,045,000,000	-125,000,000[2]
2016	995,000,000	995,000,000	0[3]
2017	995,000,000	1,065,000,000	70,000,000
2018	995,000,000	1,075,000,000	80,000,000
2019	995,000,000	1,085,000,000	90,000,000
2020	1,095,000,000	1,095,000,000	0
2021	1,095,000,000	1,105,000,000	10,000,000
2022	900,000,000	1,165,000,000	265,000,000[4]

[1] During its deliberations, the Capital Debt Affordability Committee did not consider the issuance of Qualified Zone Academy Bonds for the Aging Schools Program. Previously, these bonds were not counted against the debt limit as there was little concern that the State would breach the debt limit. Excluding the Qualified Zone Academy Bonds, the amount authorized by the General Assembly remained within the affordability guidelines.
[2] The General Assembly did not authorize new general obligation bonds to the $1,095 million Spending Affordability Committee limit and instead constrained the limit to $1,045 million, although $48 million in bond premium was used to supplement State capital spending.
[3] The General Assembly did not authorize new general obligation bonds to the $1,055 million Spending Affordability Committee limit and instead constrained the limit to the Governor's recommendation of $995 million. Bond authorizations were supplemented by the use of general funds.
[4] The Spending Affordability Committee recommended that the General Assembly adhere to the $900 million limit if the Governor's pay-as-you-go and general obligation bond proposals: funded all the projects preauthorized by the General Assemble for fiscal 2023; allocated funds to make strategic investments in facility renewal for State parks, State facilities managed by the Department of General Services, and higher education facilities; and set aside $300 million in general obligation bonds from allocation by the General Assembly.

Note: Actual authorization figures only include net new debt.

Source: Department of Legislative Services

Chapter 9.
The State Capital Program and Capital Budget Process

The Department of Budget and Management oversees the State capital program. The program includes capital construction projects (excluding transportation), grant and loan programs administered by State agencies, and miscellaneous grants to local governments and nonprofit organizations. The program is supported by general obligation bonds authorized in the capital budget and pay-as-you-go funds appropriated in the operating budget. The Maryland Department of Transportation administers its own transportation program, and State universities have the authority to issue revenue bonds.

The Definition of a Capital Project

A capital budget funds the construction of buildings and infrastructure. In order for a project to be classified as a capital improvement project, the following two criteria must be met: (1) a project must have a useful life greater than or equal to the life of the bonds sold to finance the project (the State constitution limits State debt to 15 years); and (2) the cost of the project must be at least $100,000.

Examples of capital improvement projects include the acquisition of real property, site development and improvements, architectural and engineering services, and the construction or renovation of facilities.

Capital Program Accounting Procedures

Monies derived from the issuance of State construction bonds may be used only for capital improvements. The Board of Public Works must approve individual contracts prior to the expenditure of capital funds. When a capital project is complete, any remaining unexpended funds may either be used to reduce State debt authorizations, credited to the Annuity Bond Fund to help pay debt service, or allocated to the Construction Contingency Fund to supplement any capital appropriation under guidelines stipulated in the law. If unissued bonds exist for a completed project, the authorization may be canceled, thereby reducing the amount of authorized but unissued State debt. Authorizations that are unencumbered by the board are automatically terminated within seven years of the date of authorization unless the enabling act authorizing the debt provides otherwise, or the board grants an emergency one-year temporary exemption. Sections 8-128 and 8-129 of the State Finance and Procurement Article require the Treasurer, in consultation with the Comptroller, to submit a report to the Governor and the General Assembly that lists all projects or programs that are expected to terminate in the upcoming fiscal year.

Capital Improvement Projects

Maryland's capital program may be divided into two broad categories: (1) State-owned capital projects; and (2) grant and loan programs.

State-owned Capital Projects

State-owned capital projects comprise projects that are constructed with State funds for the purpose of providing State services to the citizens of Maryland. Unlike the grant and loan program, once constructed, these facilities are owned by the State. Authorizations for State-owned projects are made within the capital and operating budgets to various departments and agencies in State government. Examples of State-owned projects include the construction of buildings and infrastructure such as correctional institutions, public university buildings, and State office buildings (see **Exhibit 9.1**).

Exhibit 9.1
Examples of State-owned Capital Projects

Agency	Purpose
University System of Maryland, Morgan State University, St. Mary's College of Maryland, Baltimore City Community College, and Higher Education Centers	Construction and renovation of academic, administrative, and athletic facilities.
Juvenile Services	Construction and renovation of juvenile detention and treatment facilities.
Military	Construction and renovation of National Guard armories and support facilities.
Emergency Management	Construction and renovation of Maryland Department of Emergency Management facilities.

Agency	**Purpose**
Planning	Construction and renovation of the Maryland Archaeological Conservation Laboratory.
Public Safety and Correctional Services	Construction and renovation of correctional institutions.
State Police	Construction and renovation of barracks and the Tactical Services Facility and purchase of helicopters for the Maryland State Police Aviation Command.
University of Maryland Medical System	Construction and renovation of health care facilities, including the Comprehensive Cancer Treatment and Organ Transplant Center and the R Adams Cowley Shock Trauma Center.
Information Technology	Construction of an integrated statewide public safety wireless communication system and a primary radio communication system for public safety first responders throughout the State.
Veterans Affairs	Construction of a skilled nursing facility for veterans; and the expansion and update of State veterans' cemeteries.
Board of Public Works	Construction and renovation of State agency facilities to address urgent upgrades and to respond to the needs of the Department of General Services and the Judiciary.
Maryland Stadium Authority	Construction and renovation of Maryland projects, including the new Department of Legislative Services Building.

Source: Department of Legislative Services

Grant and Loan Programs

In addition to State-owned facilities, the grant and loan programs provide funding for capital projects for health and social programs, community colleges, agriculture, environment, economic development, and housing.

State-administered Programs

State-administered programs provide grants or loans to State agencies, local governments, and private organizations for the construction of capital projects that serve a public purpose and meet State policy objectives (*e.g.*, public school construction; Chesapeake Bay restoration; and projects relating to local jails, community colleges, housing, health and social programs, and economic development). There are a number of State-administered programs that provide full or partial capital funding in a variety of areas. **Exhibit 9.2** shows grant and loan programs included in the 2022 *Capital Improvement Program*. These programs are administered through related State agencies.

Exhibit 9.2
State-administered Grant and Loan Programs

Aging, Health, and Social Programs

Senior Citizen Activities Centers Capital Improvement Grants	Provides grants to local governments for up to 50% of the costs for the acquisition, design, construction, renovation, and equipping of senior centers, not to exceed $800,000.
Community Health Facilities Grant Program	Provides grants to public and nonprofit groups for up to 90% of the costs for acquisition, design, construction, renovation, and equipping of community health facilities for mental health, developmental disabilities, and substance abuse treatment services.
Federally Qualified Health Centers Grant Program	Provides grants to local governments and private nonprofit organizations formally designated by the federal government as Federally Qualified Health Centers. The State provides grants for up to 90% of eligible costs for the acquisition, construction, renovation, and equipping of centers that offer health services to all persons regardless of the ability to pay.
Access Maryland	Provides funding for modifications to eliminate architectural barriers in State-owned facilities.

Agriculture

Maryland Agricultural Cost-Share Program	Provides financial assistance to Maryland farmers for installing nationally recognized best management practices that reduce soil and nutrient runoff from farmland.
Agricultural Land Preservation Program	Provides funds for the purchase of perpetual preservation easements to preserve productive agricultural land and limit the extent of urban sprawl.

Commerce

Maryland Arts Capital Grant Program	Provides funds to eligible organizations that participate in the Maryland State Arts Council Grant for Organization Program of the Community Arts Development Program for the acquisition, expansion, renovation, or major repairs of facilities or other infrastructure. This program will receive funding beginning in fiscal 2024.

Public School Construction, Maryland State Library Agency, and Education Programs

Baltimore City 21st Century Schools Program	Chapter 647 of 2013 authorized the Maryland Stadium Authority to issue up to $1.1 billion in debt for the purpose of constructing and improving school facilities in Baltimore City. Chapter 20 of 2020, the Built to Learn Act, and Chapter 32 of 2022 made changes to the program's funding.
Public Library Capital Grant Program	Provides funds to local libraries and library systems for capital improvements to existing libraries or construction of new facilities.
Aging Schools Program	Provides funds to local school systems for improvements, repairs, and deferred maintenance in public school buildings.
Built to Learn Fund	Provides funding for school construction projects statewide in accordance with Chapter 20. Projects are managed by the Maryland Stadium Authority or local education agencies.
Healthy School Facility Fund	Provides grants to public primary and secondary schools to address facility problems that impact the health of students, staff, and other building occupants.
Public School Construction Program	Provides matching grants to local educational agencies for the construction and renovation of public school facilities, including major projects, systemic renovations, the movement and installation of State-owned relocatable classrooms, science facility renovations, and kindergarten and prekindergarten projects.

School Construction Revolving Loan Fund	Provides low- or no-interest loans to local governments to fund the local share of school construction costs for local education agencies.
Nonpublic Aging Schools Program	Provides funds to nonpublic schools for repairs, security and other improvements, and deferred maintenance in nonpublic school buildings.
Supplemental Capital Grant Program	Provides grants to local school systems for the construction and renovation of public school facilities in jurisdictions that have enrollment growth that exceeds 150% of the statewide average or with more than 250 relocatable classrooms over a five-year period.

Emergency Management

Resilient Maryland Revolving Loan Fund	Provide low- or no- interest loans to public organizations and nonprofits for local resilience projects that address the mitigation of all hazards, including natural disasters.

Environment Programs

Bay Restoration Fund	The Bay Restoration Fund was established to address the significant decline in Chesapeake Bay water quality due to overenrichment by phosphorus and nitrogen. This dedicated fund, financed in large part by wastewater treatment plant users, is used to upgrade Maryland's major wastewater treatment plants with enhanced nutrient removal technology. Within the fund, a separate account was established to fund replacement of failing septic systems. As of fiscal 2018, the fund also supports biological nutrient removal projects.
Water Quality Revolving Loan Fund	Provides low-interest loans to counties and municipalities to finance water quality improvement projects.
Supplemental Assistance Program	Provides supplemental grant assistance – up to 87.5% of project costs but not more than $1.5 million – to local governments participating in the construction of compliance-related wastewater facility improvements, including projects where the local government is unable to completely afford participation in the Water Quality Revolving Loan Fund.
Drinking Water Revolving Loan Fund	Provides low-interest loans to counties and municipalities to finance drinking water supply improvements and upgrades.
Conowingo Dam Watershed	Provides funding to public-private partnerships for natural filtration and watershed protection efforts as a component of the Conowingo Watershed improvement plan.

Comprehensive Flood Management Program	Provides grants (up to 75% of nonfederal project costs) to local governments for flood mitigation projects. State funds may be used to provide 50% of the match requirement when the Federal Emergency Management Agency or the U.S. Army Corps of Engineers are participating.
Water Supply Financial Assistance Program	Provides grants (up to 87.5%, not to exceed $1.5 million per project) to assist small communities in the acquisition, construction, rehabilitation, and equipping of publicly owned water supply facilities.
Hazardous Substance Cleanup Program	Provides funds for cleaning up uncontrolled waste sites listed on the federal National Priorities List (Superfund) and other uncontrolled waste sites within the State that do not qualify for federal funding through the Superfund program.
Mining Remediation Program	Provides funding for remediation of abandoned lands and waters impacted by inadequate coal mining reclamation practices prior to the passage of the federal Surface Mine Control and Reclamation Act of 1977 if there is no financially responsible party.

Higher Education

Community College Construction Grant Program	Provides grants to Maryland's 15 locally governed community colleges based on a cost-sharing formula for the construction or improvement of community colleges.
Community College Facilities Renewal Grant Program	Provides grants to Maryland's 16 community colleges, including Baltimore City Community College, for eligible facility renewal projects. Funds are in addition to, and may not supplant, funds provided by the Community College Construction Grant Program.

Housing and Community Development

Strategic Demolition Fund	Provides funding to local governments and community development organizations to assist in demolition, land assembly, housing development or redevelopment, and revitalization projects to accelerate economic development, job creation, and smart growth.
Community Legacy Program	Provides financing to assist with the revitalization of neighborhoods in areas that are at risk of physical, economic, or social deterioration.
Neighborhood Business Development Program	Provides grants and loans for community-based economic development activities in revitalization areas designated by local governments. The program provides gap financing to small businesses that are unable to finance 100% of the project's total costs through a traditional lender.

Community Development Block Grants	Provides competitive federally funded grants to local governments in nonentitlement areas of the State for use in revitalizing neighborhoods, expanding affordable housing and economic opportunities, and/or improving community facilities and services.
Shelter and Transitional Housing Facilities Program	Provides grants to local governments and nonprofit organizations to develop emergency shelters and transitional housing for homeless individuals and families.
Local Government Infrastructure Fund – Statewide Broadband	Provides funding to the Statewide Broadband program to construct infrastructure required to expand high-speed internet where other sources of funding are limited.
Rental Housing Programs	These programs rehabilitate and increase new affordable housing for low- to moderate-income individuals, families, and elderly residents, or special needs populations. Low-interest loans or deferred-payment loans are provided to housing developers for the financing of affordable housing developments.
Homeownership Programs	Provides below-market interest rate mortgage loans to low- and moderate-income families for the purchase of homes as well as down payment and closing cost assistance for first-time homebuyers.
Special Loan Programs	Provides loans or grants for abatement of lead hazards; rehabilitation or installation of indoor plumbing; rehabilitation to create accessory, shared, and sheltered housing facilities; rehabilitation to eliminate health, safety, and maintenance deficiencies in residential properties; and acquisition, construction, and modification of group homes for low-income, elderly, handicapped, disabled, or others with special housing needs.
Partnership Rental Housing Program	Provides deferred payment loans or grants to local governments or housing authorities for low-income rental housing construction and rehabilitation. The funds are also used to provide financing to private developers that agree to include some units for disabled individuals.
Housing and Building Energy Programs	Provides loans and grants to promote energy-efficient improvements for single-family and rental housing properties.
Strategic Demolition Fund	Provides grants to local governments, nonprofit organizations, and private entities for redevelopment and revitalization projects in sustainable communities.

Baltimore Regional Neighborhoods Initiative	Provides grants to fund revitalization strategies in State-designated sustainable community areas in Baltimore City and Anne Arundel and Baltimore counties. Eligible projects include residential and commercial strategic property acquisition, redevelopment, rehabilitation, and new infill development.
National Capital Strategic Economic Development Fund	Provides funds to nonprofit community development organizations and government agencies to improve the economic potential of blighted areas through blight removal and redevelopment projects, primarily within the I-495 Inner Beltway. The program reserves 85% of funding for projects located in sustainable communities.
Seed Community Development Anchor Institution Fund	Provides investments in community enhancement projects located near educational and health care anchor institutions in defined blighted areas. Applicants for the competitive awards must be hospitals or higher educational institutions.

Planning

African American Heritage Preservation Program	Chapter 278 of 2010 established the African American Preservation Program to identify and preserve buildings, communities, and sites of historical and cultural importance to the African American experience in Maryland. Program grants to businesses, individuals, or political subdivisions require matching funds from any combination of federal, county, municipal, or private sources and may not exceed 50% of a project's total cost.
Maryland Historical Trust Capital Grant Fund	Provides grants to nonprofit organizations, local jurisdictions, businesses, and individuals to assist with the acquisition, rehabilitation, or restoration of properties listed on, or eligible for listing on, the Maryland Register of Historic Properties.
Maryland Historical Trust Loan Fund	Provides loans to nonprofit organizations, local jurisdictions, businesses, and individuals to assist with the acquisition, rehabilitation, or restoration of properties listed on, or eligible for listing on, the Maryland Register of Historic Properties.

Natural Resources

Resiliency Through Restoration Initiative Program	Provides funding for natural and nature-based shoreline stabilization and flood reduction projects at vulnerable locations.

Waterway Improvement Program	Provides funds to local jurisdictions to finance projects that expand and improve recreational boating.
Local Parks and Playgrounds Infrastructure Program	Provides grants to county administrative units managing local parks to design, construct, and capital equip indoor and outdoor park infrastructure and other capital-eligible projects that enhance recreational amenities.
Community Parks and Playgrounds	Provides grants to municipalities and Baltimore City to restore or create community parks and playgrounds in priority funding areas.
Rural Legacy	Provides funding for the purchase of conservation easements and fee-simple acquisition of land in designated protection areas.
Program Open Space	Acquires recreation and open space for public use as well as administers funds for the acquisition of open and recreational space by local communities.
Ocean City Beach Replenishment and Hurricane Protection	Funds annual maintenance for the Ocean City beach replenishment project.
Oyster Restoration Program	Provides funding to construct and rehabilitate oyster bar habitat and provide for aquaculture infrastructure improvements.
Public Safety	
Local Jails and Detention Centers	Provides grants to local governments for a portion of construction costs of local jail facilities. Grants are made for 50% of costs, except for capacity necessitated by sentencing changes enacted in 1986 requiring inmates serving sentences of up to one year to be held in local detention centers. Based on certain criteria, 100% of per-bed costs are paid by the State.

Source: Department of Legislative Services

Public School Construction

State and local governments share financial responsibility for funding the public school construction program. Prior to 2018, the Interagency Committee on School Construction oversaw the public school construction program, and the Board of Public Works had final approval of school construction allocations to local jurisdictions. Chapter 14 of 2018, the 21st Century School Facilities Act, made comprehensive changes to the funding and approval processes for school construction projects. The Interagency Committee on School Construction was renamed the Interagency Commission on School Construction and was made an independent commission within the Maryland State Department of Education. The Board of Public Works' authority to adopt regulations and grant final approval with respect to public school construction projects was transferred to the commission. The commission is also tasked with adopting educational facilities sufficiency standards and completing an initial statewide facilities assessment for Maryland public schools.

The Interagency Commission on School Construction determines annually which projects to fund through the Public School Construction Program. The commission may reject projects that are not consistent with the local school system's facilities master plan. By December 31 of each year, the commission must approve projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school systems may appeal these preliminary decisions to the full commission. By March 1 of each year, the commission must recommend to the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, the commission approves projects comprising the balance of school construction funds included in the enacted capital budget, no earlier than May 1. The final allocations are not subject to appeal.

Exhibit 9.3 shows the State's share of eligible school construction costs by county. This share is based on a formula that includes local wealth, at-risk student populations, enrollment growth, economic condition of the county, and local effort for school construction. Chapter 14 requires the formula to be updated every two years for incremental changes in local wealth and other factors. The most recent update to the formula covers fiscal 2023 through 2024.

Exhibit 9.3

Public School Construction Program
State Share of Eligible School Construction Costs
Fiscal 2023-2024

County	Cost Share	County	Cost Share
Allegany	90%	Harford	63%
Anne Arundel	50%	Howard	56%
Baltimore City	96%	Kent	50%
Baltimore	61%	Montgomery	50%
Calvert	56%	Prince George's	73%
Caroline	88%	Queen Anne's	51%
Carroll	59%	St. Mary's	58%
Cecil	66%	Somerset	100%
Charles	65%	Talbot	50%
Dorchester	93%	Washington	79%

County	Cost Share	County	Cost Share
Frederick	65%	Wicomico	100%
Garrett	90%	Worcester	50%

Note: Chapter 144 of 2012 made the Maryland School for the Blind eligible for Public School Construction funding from fiscal 2013 through 2028. In fiscal 2023 and 2024, the cost share for the school is 93%.

Source: Interagency Commission on School Construction; Department of Legislative Services

Baltimore City Public Schools

Chapter 647 of 2013, the Baltimore City Public School Construction and Revitalization Act, established a partnership between the State, Baltimore City, and Baltimore City Public Schools to fund up to $1.1 billion in public school facility improvements through revenue bonds issued by the Maryland Stadium Authority. With respect to the partnership created with Baltimore City, the authority will use annual revenue contributions of $20 million each from the State, Baltimore City, and Baltimore City Public Schools to issue revenue bonds in support of the project. Additional changes were made to the program's funding by Chapter 20 of 2020, the Built to Learn Act, and Chapter 32 of 2022.

Under the terms of the memorandum of understanding between the Maryland Stadium Authority, the Baltimore City Board of School Commissioners, the Interagency Commission on School Construction, and Baltimore City, between 23 and 28 schools were to be replaced or renovated; due to favorable financial conditions and effective project management, the program is on track to complete 28 new or renovated buildings, housing 32 schools, by September 2024. As of June 2022, 24 schools have been completed and occupied, with 3 schools in the construction phase and 1 school still in the planning phase. Of the 3 schools under construction, 2 are projected to open by January 2023, and 1 is projected to open by September 2023. The final school is projected to be completed by September 2024.

Built to Learn Program

Following the success of the Baltimore City 21st Century Schools program, Chapter 20 established the Built to Learn program, which uses a similar financing model to construct or renovate schools statewide. However, unlike the 21st Century Schools program, Built to Learn is fully financed by the State; as a result, Built to Learn projects are subject to the State and local cost-share formula. Built to Learn funding supplements State funding for school construction from other sources; local school systems can commingle funding from the Public School Construction Program and Built to Learn to finance school construction projects.

The Built to Learn Act authorizes the Maryland Stadium Authority to issue up to $2.2 billion in revenue bonds, backed by annual payments from the Education Trust Fund beginning in fiscal 2022, for public school construction projects in the State, including to support a possible public-private partnership agreement for Prince George's County. Annual disbursements from the Education Trust Fund continue until the 30-year Maryland Stadium Authority bonds are no longer outstanding. Total debt service for all bond issuances may not exceed $30 million in fiscal 2022, $60 million in fiscal 2023, and $125.0 million annually thereafter; it may not exceed $100.0 million annually if Prince George's County enters into a public-private partnership agreement by July 1, 2024.

Additional information on public school construction and related programs may be found in "Chapter 4. Public School Construction and Capital Improvement – Oversight and Funding" in *Volume IX, Education in Maryland*.

Non-State-administered Miscellaneous Grants

Unlike the State-administered program that is overseen by State agencies and departments, grants for non-State-administered capital projects are requested and overseen by local governments and private organizations.

In addition to small, local projects, the State funds a percentage of capital costs for projects at private higher educational facilities and private hospitals. For example, funds have been provided to the Maryland Independent College and University Association and the Maryland Hospital Association. Traditionally, the State has assisted private higher educational institutions in the construction of educational facilities. Generally, the assistance may represent up to 50% of construction costs.

Legislative Bond Initiatives

Legislative Bond Initiatives are member-sponsored capital grants for local projects that include, but are not limited to, various cultural, historic, health, educational, and economic development projects not funded by the previously mentioned State programs. These authorizations may require the recipient to provide matching funds equal to the State funds and to convey a historic easement, if applicable, to the Maryland Historical Trust.

Capital Budget Authorizations

The capital budget is funded by debt, through the sale of bonds, and by the use of current funds known as pay-as-you-go. In fiscal 2023, the *Capital Improvement Program* totaled $7.8 billion. Of this amount, $1.7 billion, or 22.3%, was financed by debt. **Exhibit 9.4** displays a four-year history of authorizations by major category for all fund sources.

Exhibit 9.4
Summary of Capital Funding Authorized 2019-2022 Sessions
All Funds
($ in Millions)

	2019 Session (Fiscal 2020)	2020 Session (Fiscal 2021)	2021 Session (Fiscal 2022)	2022 Session (Fiscal 2023)	Total
Uses of Funds					
State Facilities	$138.3	$69.4	$128.6	$370.2	$706.5
Health/Social	86.0	31.9	60.0	175.1	353.0
Environment	541.7	518.9	732.8	1,037.4	2,830.8
Public Safety	57.2	56.0	19.9	52.3	185.4
Education	368.9	415.8	1,239.9	1,257.1	3,281.7
Higher Education	338.0	441.2	465.0	747.1	1,991.3
Housing and Community Development	180.5	254.3	284.4	606.3	1,325.5
Local Projects	85.2	123.0	237.4	728.4	1,174.0
Transportation	2,864.0	2,319.6	3,114.2	2,785.7	11,083.5
Total	**$4,659.8**	**$4,230.1**	**$6,282.2**	**$7,759.6**	**$22,931.7**
Sources of Funds					
Debt					
General Obligation	$1,092.2	$1,108.1	$1,106.4	$1,219.5	$4,526.2
Academic Revenue Bonds	34.0	32.0	30.0	30.0	126.0
Built to Learn Revenue Bonds	0	0.0	785.0	480.0	1,265.0
MDOT Revenue Bonds	635.0	0.0	0.0	0.0	635.0
Subtotal	***$1,761.2***	***$1,140.1***	***$1,921.4***	***$1,729.5***	***$6,552.2***
Current Funds (PAYGO)					
General	$51.9	$68.1	$490.2	$2,057.6	$2,667.8
Special	1,480.4	1,462.3	2,087.4	1,832.8	6,862.9
Bond Premiums	0.0	136.0	222.9	259.7	618.6
Federal	1,366.3	1,423.6	1,560.3	1,880.0	6,230.2
Subtotal	***$2,898.6***	***$3,090.0***	***$4,360.8***	***$6,030.1***	***$16,379.5***
Total Funds	**$4,659.8**	**$4,230.1**	**$6,282.2**	**$7,759.6**	**$22,931.7**

MDOT: Maryland Department of Transportation
PAYGO: pay-as-you-go

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

Source: Department of Legislative Services

The General Assembly's action on the capital budget is somewhat different than the operating budget in that a portion of the financing for the capital budget is through the issuance of bonds. The Governor can veto specific line items or the entire bill. Like the operating budget, work on the capital budget is a continuous process.

Capital Budget Process

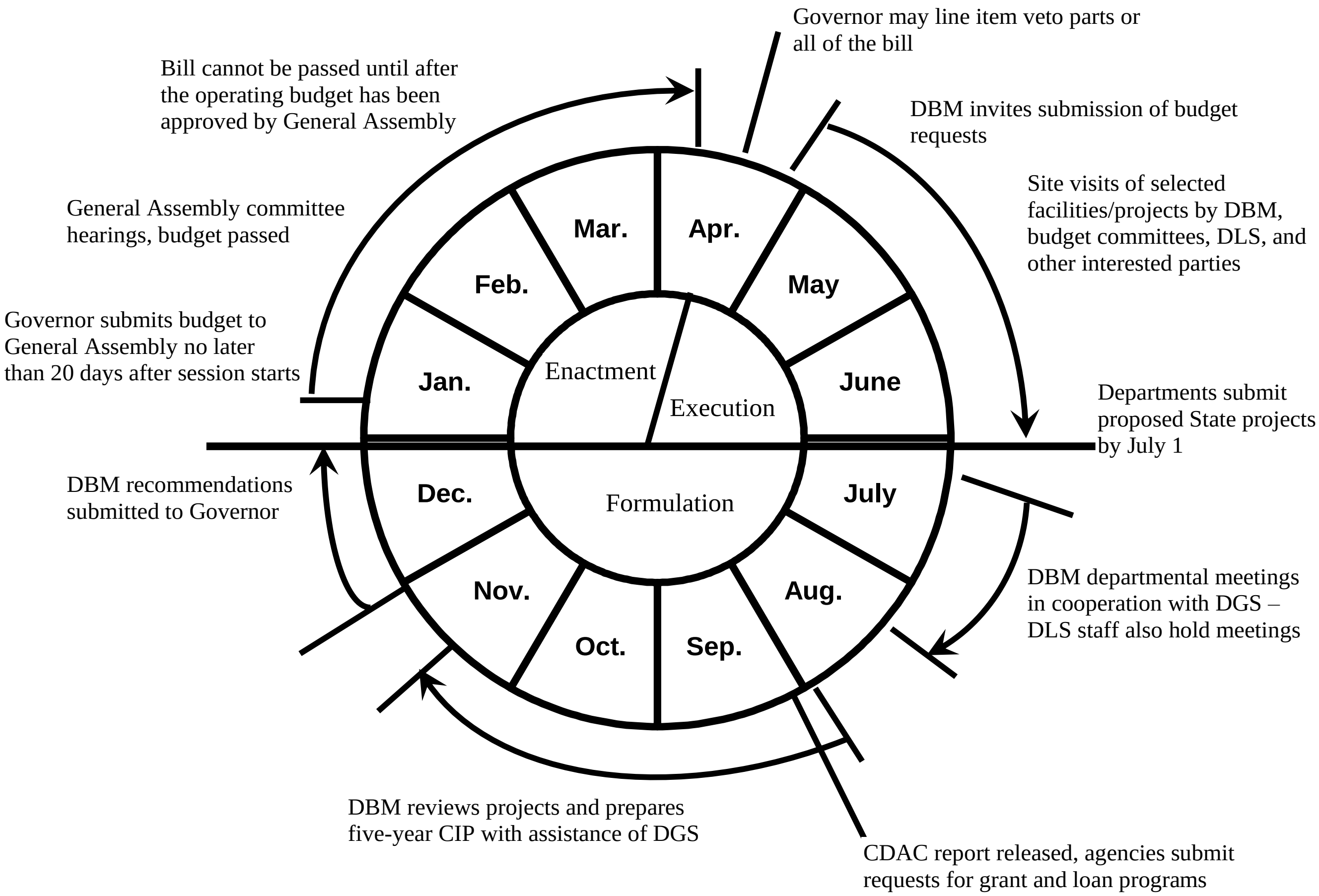
The capital budget cycle includes three continuing phases similar to the operating budget: formulation; legislative enactment; and execution. **Exhibit 9.5** graphically presents these phases, which are explained below.

Formulation

The formulation phase begins when the departments and agencies proposing capital improvements prepare capital budget requests. Project requests are submitted to the Department of Budget and Management, Office of Capital Budgeting no later than September 1 for introduction at the upcoming legislative session. Agencies utilize the Department of Budget and Management's Capital Budget Information System to submit project requests.

During the summer, the Capital Debt Affordability Committee meets to analyze the State's debt status and to make recommendations to the Governor and the General Assembly as to the maximum amount of new general obligation debt that should be authorized during the upcoming session of the General Assembly. The committee is chaired by the State Treasurer and includes the Comptroller of Maryland, the Secretary of Budget and Management, the Secretary of Transportation, and a member appointed by the Governor. The chairs of the Senate Budget and Taxation Committee and the House Appropriations Committee capital budget subcommittees are nonvoting members. By early November, after considering the committee's recommendations (which are due October 20), the Governor prepares a preliminary allocation of the amount of debt to authorize for State-owned facilities, public school construction, and other grants and loans. The preliminary allocations, which are required pursuant to Section 8-113 of the State Finance and Procurement Article, may be modified by the Governor as new information or priorities change.

Exhibit 9.5
Capital Improvement Program Budget Cycle



CDAC: Capital Debt Affordability Committee
CIP: Capital Improvement Program
DBM: Department of Budget and Management
DGS: Department of General Services
DLS: Department of Legislative Services

Source: Department of Legislative Services

In November, the Department of Legislative Services presents an independent analysis of debt affordability to the Spending Affordability Committee. The report is also provided to the budget committees. This report, *Effect of Long-term Debt on the Financial Condition of the State*, includes a recommended amount of new debt authorization for the forthcoming session of the legislature and responds to the recommendations of the Capital Debt Affordability Committee.

The report also includes:

- an analysis of the State's debt affordability based on the Capital Debt Affordability Committee's criteria;
- an analysis of the revenues supporting general obligation bond debt;
- an analysis of functions that influence general obligation bond debt costs; and
- an analysis of the State's special authority revenue debt.

After reviewing the Department of Legislative Services' report, the Spending Affordability Committee includes a recommendation on the appropriate level of new general obligation debt authorization for the coming year in its report to the Governor and the General Assembly.

By the end of November, the Department of Budget and Management, Office of Capital Budgeting has refined its analysis of the State's capital needs and makes recommendations to the Governor with respect to the general construction projects and administration programs. The recommendations include a draft of the *Five-year Capital Improvement Program*. During this time, the public school construction program is simultaneously developed by the Interagency Commission on School Construction, generally working within the preliminary allocation set by the Governor in November. Higher education institutions may also begin to draft legislation at this time to increase higher education's debt ceiling and authorize academic facilities to be funded by university academic and auxiliary revenue bonds.

Legislative Enactment

Following the Governor's decisions and review by the Department of Budget and Management, the capital budget is presented to the General Assembly. Section 8-114 of the State Finance and Procurement Articles requires that the capital budget bill be introduced by the Presiding Officer of each house as an Administration bill by the twentieth day of the session. Regarded as a supplementary appropriation bill, the capital budget bill is assigned to the budget committees (the Senate Budget and Taxation Committee and the House Appropriations Committee) and may not be finally acted upon until the operating budget bill has been passed.

One volume of the State budget books contains the Administration's *Five-year Capital Improvement Program*, which details the total amount of State general obligation debt to be authorized in the five-year planning cycle, including the funding and purpose for each capital project and program. The *Capital Improvement Program* also reflects pay-as-you-go funding included in the operating budget. Pay-as-you-go capital projects are reviewed in the same manner as capital projects authorized in the Maryland Consolidated Capital Bond Loan; however, legislative action is taken at the time that the operating budget is considered.

The Maryland Consolidated Capital Bond Loan bill is analyzed by the staff of the Department of Legislative Services in a manner similar to the analysis of the operating budget. Analyses and recommendations are presented to the budget committees and written analyses are also available on the Maryland General Assembly website.

The Senate Budget and Taxation Committee and the House Appropriations Committee have separate capital budget subcommittees that hear and review the capital budget. The capital budget subcommittees make recommendations to the full committees on the capital budget bill, including recommendations for member-sponsored Legislative Bond Initiatives that are incorporated into the Maryland Consolidated Capital Bond Loan bill and the committee report that is presented to the House of Delegates and the Senate.

Decisions concerning capital projects and committee amendments to the capital budget bill generally are not made until committee action on the operating budget bill is completed. The committees bring the capital budget bill to the floor in a manner similar to that described for the operating budget bill (*i.e.*, a reprint of the bill incorporating committee amendments and a report explaining each amendment).

The General Assembly has the power to modify the capital budget bill within broad parameters. The projects proposed by the Governor may be deleted, the amounts allocated for specific purposes of a project may be increased or decreased, and the General Assembly may add specific projects and dollar amounts. The capital budget bill must contain an effective date (usually June 1 of the session year). The bill is not enacted until the Governor either signs the bill into law or allows the bill to pass without his or her signature. The Governor has veto power or may exercise partial (line item) veto of the capital budget bill although such action is rarely taken.

Execution

The execution phase of most approved capital projects is managed by the Department of General Services. In addition, the Department of Public Safety and Correctional Services, the Maryland Environmental Service, Morgan State University, St. Mary's College of Maryland, and the University System of Maryland have been given autonomy to manage their own capital projects.

Capital projects progress through definable stages: a project program is developed; land is acquired; an architect is appointed and preliminary planning occurs; detailed plans are developed; and construction follows. Equipment essential to the operation of the facility is obtained. Finally, the capital project is accepted, staffed, and placed in operation. This process of execution takes considerable time under current practices. A period of four or more years may elapse between the time a project is submitted to the Office of Capital Budgeting and the State agency actually places it in operation.

Appendix 1
Extracts from State of Maryland Constitution

Article II, Section 17, Subsections (f) and (g).

(f)(1) The Governor may approve or disapprove items in the Budget Bill as provided in this subsection.

(2) The Governor may veto only items relating to the Executive Department that have been increased or added by the General Assembly. The Governor may not veto any other items in the Budget Bill.

(3) If the Governor vetoes an item that had been increased by the General Assembly and the General Assembly does not override the veto under subsection (g) of this section, that item shall revert to the proposed appropriation submitted by the Governor. the proposed appropriation shall then be law immediately without further action by the Governor.

(4) If the Governor vetoes an item that had been added by the General Assembly and the General Assembly does not override the veto under subsection (g) of this section, that item shall be void.

(5) Items not disapproved by the Governor shall be law immediately without further action by the Governor.

(g)(1) if the Governor vetoes an item in the Budget Bill, the General Assembly may convene in extraordinary session within 30 days after the date of the veto to consider whether to override the veto. If the General Assembly wishes to consider whether to override the Governor's veto of an item in the Budget Bill, the President of the Senate and the Speaker of the House of Delegates jointly shall issue a proclamation specifying the date on which to convene in extraordinary session.

(2) (i) The Budget Bill shall be returned by the Governor to the House in which it originated, and each vetoed item shall be considered individually.

(ii) If three-fifths of the members elected to that house vote to override the veto of an item, it shall be sent to the other house for consideration.

(iii) If three-fifths of the members of that house vote to override the veto of the item, that item shall revert to the appropriation originally passed by the General Assembly. the appropriation as originally passed shall then become law immediately, without further action by the Governor or the General Assembly.

Article III, Section 52.

(1) The General Assembly shall not appropriate any money out of the Treasury except in accordance with the provisions of this section.

(2) Every appropriation bill shall be either a Budget Bill, or a Supplementary Appropriation Bill, as hereinafter provided.

(3) On the third Wednesday in January in each year, (except in the case of a newly elected Governor, and then not later than ten days after the convening of the General Assembly), unless such time shall be extended by the General Assembly, the Governor shall submit to the General Assembly a Budget for the next ensuing fiscal year. Each Budget shall contain a complete plan of proposed expenditures and estimated revenues for said fiscal year and shall show the estimated surplus or deficit of revenues at the end of the preceding fiscal year. Accompanying each Budget shall be a statement showing: (a) the revenues and expenditures for the preceding fiscal year; (b) the current assets, liabilities, reserves and surplus or deficit of the State; (c) the debts and funds of the State; (d) an estimate of the State's financial condition as of the beginning and end of the preceding fiscal year; (e) any explanation the Governor may desire to make as to the important features of the Budget and any suggestions as to methods for reduction or increase of the State's revenue.

(4) Each Budget shall embrace an estimate of all appropriations in such form and detail as the Governor shall determine or as may be prescribed by law, as follows: (a) for the General Assembly as certified to the Governor in the manner hereinafter provided; (b) for the Executive Department; (c) for the Judiciary Department, as provided by law, as certified to the Governor; (d) to pay and discharge the principal and interest of the debt of the State in conformity with Section 34 of Article III of the Constitution, and all laws enacted in pursuance thereof; (e) for the salaries payable by the State and under the Constitution and laws of the State; (f) for the establishment and maintenance throughout the State of a thorough and efficient system of public schools in conformity with Article 8 of the Constitution and with the laws of the State; and (g) for such other purposes as are set forth in the Constitution or laws of the State.

(5) The Governor shall deliver to the presiding officer of each House the Budget and a bill for all the proposed appropriations of the Budget classified and in such form and detail as he shall determine or as may be prescribed by law; and the presiding officer of each House shall promptly cause said bill to be introduced therein, and such bill shall be known as the "Budget Bill." The Governor may, with the consent of the General Assembly, before final action thereon by the General Assembly, amend or supplement said Budget to correct an oversight, provide funds contingent on passage of pending legislation or, in case of an emergency, by delivering such an amendment or supplement to the presiding officers of both Houses; and such amendment or supplement shall thereby become a part of said Budget Bill as an addition to the items of said bill or as a modification of or a substitute for any item of said bill such amendment or supplement may affect.

(5a) The Budget and the Budget Bill as submitted by the Governor to the General Assembly shall have a figure for the total of all proposed appropriations and a figure for the total of all estimated revenues available to pay the appropriations, and the figure for total proposed appropriations shall not exceed the figure for total estimated revenues. Neither the Governor in submitting an amendment or supplement to the Budget Bill nor the General Assembly in amending the Budget Bill shall thereby cause the figure for total proposed appropriations to exceed the figure for total estimated revenues, including any revisions, and in the Budget Bill as enacted the figure for total estimated revenues always shall be equal to or exceed the figure for total appropriations.

(6) The General Assembly shall not amend the Budget Bill so as to affect either the obligations of the State under Section 34 of Article III of the Constitution, or the provisions made by the laws of the State for the establishment and maintenance of a system of public schools or the payment of any salaries required to be paid by the State of Maryland by the Constitution.

(6a) In enacting a balanced Budget Bill each fiscal year as required under this Section, the General Assembly may amend the bill by increasing or diminishing the items therein relating to the General Assembly, and by increasing or diminishing the items therein relating to the Judiciary, but except as hereinbefore specified, may not alter the said bill except to strike out or reduce items therein, provided, however, that the salary or compensation of any public officer shall not be decreased during the public officer's term of office. When passed by both Houses, the Budget Bill shall be presented to the Governor for approval or disapproval according to Section 17 of Article II of this Constitution.

(6b) In enacting a balanced Budget Bill as required under this Section for Fiscal Year 2024 and each fiscal year thereafter, the General Assembly may amend the bill by increasing, diminishing, or adding items therein relating to the General Assembly, by increasing, diminishing, or adding items therein relating to the Judiciary, and by increasing, diminishing, or adding items relating to the Executive Department, provided that the total of the appropriation for the Executive Department approved by the General Assembly does not exceed the total proposed appropriation for the Executive Department submitted by the Governor. The salary or compensation of any public officer may not be decreased during the public officer's term of office. When passed by both Houses, the Budget Bill shall be a law immediately without further action by the Governor.

(7) The Governor and such representatives of the executive departments, boards, officers and commissions of the State expending or applying for State's moneys, as have been designated by the Governor for this purpose, shall have the right, and when requested by either House of the General Assembly, it shall be their duty to appear and be heard with respect to any Budget Bill during the consideration thereof, and to answer inquiries relative thereto.

(8) Supplementary Appropriation Bill. Either House may consider other appropriations but both Houses shall not finally act upon such appropriations until after the Budget Bill has been finally acted upon by both Houses, and no such other appropriation shall be valid except in accordance with the provisions following: (a) Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a Supplementary Appropriation Bill; (b) Each Supplementary Appropriation Bill shall provide the revenue necessary to pay the appropriation thereby made by a tax, direct or indirect, to be levied and collected as shall be directed in said bill; (c) No Supplementary Appropriation Bill shall become a law unless it be passed in each House by a vote of a majority of the whole number of the members elected, and the yeas and nays recorded on its final passage; (d) Each Supplementary Appropriation Bill shall be presented to the Governor of the State as provided in Section 17 of Article 2 of the Constitution and thereafter all the provisions of said section shall apply.

(9) Nothing in this section shall be construed as preventing the General Assembly from passing at any time, in accordance with the provisions of Section 28 of Article 3 of the Constitution and subject to the Governor's power of approval as provided in Section 17 of Article 2 of the Constitution, an appropriation bill to provide for the payment of any obligation of the State within the protection of Section 10 of Article 1 of the Constitution of the United States.

(10) If the Budget Bill shall not have been finally acted upon by the Legislature seven days before the expiration of the regular session, the Governor shall issue a proclamation extending the session for some further period as may, in his judgment, be necessary for the passage of such bill; but no matter other than such bill shall be considered during such extended session except a provision for the cost thereof.

(11) For the purpose of making up the Budget, the Governor shall require from the proper State officials, (including all executive departments, all executive and administrative offices, bureaus, boards, commissions and agencies that expend or supervise the expenditure of, and all institutions applying, for State moneys and appropriations) such itemized estimates and other information, in such form and at such times as directed by the Governor. An estimate for a program required to be funded by a law which will be in effect during the fiscal year covered by the Budget and which was enacted before July 1 of the fiscal year prior to that date shall provide a level of funding not less than that prescribed in the law. The estimates for the Legislative Department, certified by the presiding officer of each House, of the Judiciary, as provided by law, certified by the Chief Judge of the Court of Appeals, and for the public schools, as provided by law, shall be transmitted to the Governor, in such form and at such times as directed by the Governor, and shall be included in the Budget without revision.

(12) The Governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and for all institutions applying for State moneys. After such public hearings he may, in his discretion, revise all

estimates except those for the legislative and judiciary departments, and for the public schools, as provided by law, and except that he may not reduce an estimate for a program below a level of funding prescribed by a law which will be in effect during the fiscal year covered by the Budget, and which was enacted before July 1 of the fiscal year prior thereto.

(13) The General Assembly may, from time to time, enact such laws not inconsistent with this section, as may be necessary and proper to carry out its provisions.

(14) In the event of any inconsistency between any of the provisions of this Section and any of the other provisions of the Constitution, the provisions of this Section shall prevail. But nothing herein shall in any manner affect the provisions of Section 34 of Article 3 of the Constitution or of any laws heretofore or hereafter passed in pursuance thereof, or be construed as preventing the Governor from calling extraordinary sessions of the General Assembly, as provided by Section 16 of Article 2, or as preventing the General Assembly at such extraordinary sessions from considering any emergency appropriation or appropriations.

(15) If any item of any appropriation bill passed under the provisions of this Section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or of any other item of such bill or bills.