

**T00**  
**Department of Commerce**

***Operating Budget Data***

(\$ in Thousands)

	<b>FY 15 Actual</b>	<b>FY 16 Working</b>	<b>FY 17 Allowance</b>	<b>FY 16-17 Change</b>	<b>% Change Prior Year</b>
General Fund	\$71,859	\$72,166	\$92,879	\$20,714	28.7%
Deficiencies and Reductions	0	20,000	-49	-20,049	
<b>Adjusted General Fund</b>	<b>\$71,859</b>	<b>\$92,166</b>	<b>\$92,831</b>	<b>\$665</b>	<b>0.7%</b>
Special Fund	84,570	50,002	51,073	1,070	2.1%
Deficiencies and Reductions	0	0	-15	-15	
<b>Adjusted Special Fund</b>	<b>\$84,570</b>	<b>\$50,002</b>	<b>\$51,058</b>	<b>\$1,056</b>	<b>2.1%</b>
Federal Fund	9,958	1,945	9,489	7,544	387.8%
Deficiencies and Reductions	0	0	-2	-2	
<b>Adjusted Federal Fund</b>	<b>\$9,958</b>	<b>\$1,945</b>	<b>\$9,487</b>	<b>\$7,542</b>	<b>387.7%</b>
Reimbursable Fund	298	266	206	-61	-22.8%
<b>Adjusted Reimbursable Fund</b>	<b>\$298</b>	<b>\$266</b>	<b>\$206</b>	<b>-\$61</b>	<b>-22.8%</b>
<b>Adjusted Grand Total</b>	<b>\$166,684</b>	<b>\$144,379</b>	<b>\$153,581</b>	<b>\$9,201</b>	<b>6.4%</b>

- The fiscal 2017 allowance includes a fiscal 2016 deficiency appropriation of \$20 million in general funds for the Economic Development Opportunities Program to provide a four-year retention incentive to a division of Northrop Grumman located in Linthicum.
- After adjusting for fiscal 2016 deficiencies and a back of the bill reduction in health insurance, the fiscal 2017 allowance for the Department of Commerce increases by \$9.2 million over the fiscal 2016 working appropriation. The increase in general funds is significantly understated due to the one-time fiscal 2016 deficiency appropriation. Absent the deficiency, general funds grow considerably, primarily due to the rebudgeting of the film production incentive program (from an off-budget tax credit program) and to an increase in funds under the Maryland Economic Development Assistance Authority and Fund.

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

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- Special funds increase mainly due to an increase in Video Lottery Terminal revenues dedicated to the Small, Minority, and Women-Owned Business Account. Additionally, federal funds increase due to the last installment of State Small Credit Business Initiative program.

## ***Personnel Data***

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	<b>FY 15 <u>Actual</u></b>	<b>FY 16 <u>Working</u></b>	<b>FY 17 <u>Allowance</u></b>	<b>FY 16-17 <u>Change</u></b>
Regular Positions	217.00	208.00	206.00	-2.00
Contractual FTEs	<u>17.60</u>	<u>17.95</u>	<u>20.40</u>	<u>2.45</u>
<b>Total Personnel</b>	<b>234.60</b>	<b>225.95</b>	<b>226.40</b>	<b>0.45</b>

### ***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	10.05	4.88%
Positions and Percentage Vacant as of 12/31/15	23.00	11.06%

- The fiscal 2017 allowance reflects the abolition of 2.0 vacant positions in order to achieve budgetary savings: 1.0 administration position under the Office of Policy and Research and 1.0 industrial development supervisor within the Office of Strategic Industries and Entrepreneurship.
- At the end of calendar 2015, the department reported 23.0 full-time equivalent (FTE) vacancies; well above the amount needed to meet budgeted turnover in fiscal 2017 even with the proposed vacant position abolitions.
- Contractual staff increase by 2.45 FTEs, primarily due to the reopening of welcome centers.

## ***Analysis in Brief***

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### **Major Trends**

***Department Reports Jobs Created or Retained:*** The department aims to develop and maintain a pipeline of projects resulting in facility location decisions and other projects that create or retain jobs. As a result of its actions, the department reports that 11,764 jobs were created or retained in fiscal 2015; an increase of about 9.7% over fiscal 2014.

***Effort to Improve Business Friendliness – Difficult to Measure:*** National surveys of “business friendliness” often rank Maryland in an unfavorable light. There is a statewide effort to counteract this perception, although it is often difficult to measure progress. The department attempts to measure it by reporting on the number of issues that it was able to resolve for businesses. The department reports that it resolves issues related to financing, workforce, environmental concerns, marketing, permitting, and technical issues.

***Biotechnology Investment Tax Credit:*** The Maryland Biotechnology Investment Tax Credit program aims to spur seed and early stage investment in eligible Maryland biotechnology companies. The popularity of the program has remained high, and funds have grown over the life of the program. Job creation is not considered a goal of the program, but rather to stimulate private investment in State businesses.

### **Issues**

***Maryland Economic Development and Business Climate Commission and the Newly Reorganized Department of Commerce:*** In fiscal 2014, the President of the Senate and the Speaker of the House appointed a private-sector commission to examine the structure, funding, and efficacy of the State’s current economic development activities. The Maryland Economic Development and Business Climate Commission (Augustine Commission) had the charge to make policy and funding recommendations to improve the State’s business climate and competitiveness. In Phase I, the commission recommended structural changes to the Department of Business and Economic Development to streamline its operations and to make it more customer focused. Legislation was enacted to effectuate these recommendations in fiscal 2015. This includes the renaming and the reorganizing of the Department of Commerce. The commission issued a report on the second phase of its work in January 2016 that included a thorough review of the State’s tax structure and how it affects the perception of the State’s business climate. **The Department of Legislative Services (DLS) recommends that the department brief the budget committees on its new structure and how that structure contributes to a more business-friendly culture. Additionally, DLS recommends that budget language be added that would transfer funds to the Maryland Technology Development Corporation to fund the support services related to the BioMaryland Center as intended by the Augustine Commission and by the General Assembly.**

**Department's Efforts to Improve Program Evaluation:** Measuring the effectiveness of economic development programs is a difficult task, and the department has often struggled with finding appropriate measures. However, several efforts are underway to improve program effectiveness and accountability. **DLS recommends that the department comment on its recent efforts to improve its program performance and how it has incorporated any changes into its programs.**

**Reports on the Small, Minority, and Women-Owned Business Account:** At the request of the Senate Budget and Taxation Committee, the department has prepared a report on its process for distributing the funds from the Small, Minority, and Women-Owned Business Account. The committee was concerned with delays in the deployment of funds and how the funds were distributed to fund managers and ultimately to small businesses. Additionally, the Office of Legislative Audits released a performance audit of this program in October 2015 raising some issues related, primarily, to the oversight of the fund managers. **DLS recommends that the department comment on the current status of the program. Further, DLS also recommends restricting funds from the program until the department submits a report on legislative or administrative solutions to better manage the program. The report should consider how to better measure performance of fund managers and of the program itself. Other changes to consider include the appropriate number of fund managers, use of existing regional development staff to administer the financial assistance from the program, the development of a different geographic designation, ways to streamline the Request for Proposal process each year, and a different structure for expense reimbursement.**

## **Recommended Actions**

	<u>Funds</u>	<u>Positions</u>
1. Add language authorizing the transfer of funds to the Maryland Technology Development Corporation for biotechnology business assistance activities.		
2. Delete a long-term vacant position. Duties have been transferred to another agency.	\$ 195,527	1.0
3. Add language restricting funds pending a report on improvements to the Small, Minority, and Women-Owned Business Account.		
<b>Total Reductions</b>	<b>\$ 195,527</b>	<b>1.0</b>

## **Updates**

***Report on the State Small Business Credit Initiative:*** The fiscal 2016 budget bill included language that restricted funds under the department's Office of Finance Programs until the department submits a report on the activities under the State Small Business Credit Initiative (SSBCI). Since the receipt of the federal funds under the SSBCI, the department had been slow to deploy the funds and was at risk of losing the funds to the U.S. Department of the Treasury. However, several issues have been resolved and the program will be allotted its final installment of funding.

***Major Grants:*** The department expects to award close to \$21.7 million in various economic development, tourism, and arts related grants in fiscal 2017.



**T00**  
**Department of Commerce**

## ***Operating Budget Analysis***

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### **Program Description**

The mission of the Department of Commerce (Commerce), formerly the Department of Business and Economic Development, is to strengthen the Maryland economy. Commerce develops and implements programs that aim to generate new jobs or retain existing jobs, attract business investment in new or expanding companies, and promote the State's strategic assets. The department's primary goals are to increase business investment in Maryland; enhance business success and the competitiveness of businesses in their distinct markets; and develop a diverse economic base and ensure that all jurisdictions share in the State's economic vitality.

The department's divisions include the Office of the Secretary; the Division of Business and Enterprise Development; the Division of Marketing and Communications; and the Division of Tourism, Film, and the Arts. The department's mission and goals are supported by these three divisions:

- ***Office of the Secretary:*** The Office of the Secretary provides leadership and direction to the activities of the department and maintains working relationships with State and federal agencies, county and municipal governments, businesses, and organizations. Included in the program are the offices of the Attorney General, Policy and Research, International Investment and Trade, Administration and Technology, Military and Federal Affairs, and the Division of Marketing and Communication. Also included under the purview of the Secretary is the Maryland Marketing Partnership.
- ***Division of Business and Industry Sector Development:*** This division unites the department's field staff, small business, and finance teams to provide assistance to the Maryland business community and to the department's local economic development partners. This division also includes the offices of Biohealth, Business Development, Strategic Industries and Entrepreneurship, and Cybersecurity and Aerospace. The division provides access to capital markets through a variety of financing programs, worker training assistance for new and expanding businesses, and funding assistance to local jurisdictions to support infrastructure and economic development efforts.
- ***Division of Tourism, Film, and the Arts:*** This division's mission is to strengthen the State's quality of life and encourage economic development by investing in and promoting Maryland's unique historic, cultural, and natural assets.

## Business Assistance Programs

Commerce administers several primary business assistance programs. These programs provide resources upon which the Division of Business and Industry Sector Development draws when assembling incentives to help a business expand or locate in Maryland. The following are the five main assistance programs in the operating budget:

- ***Maryland Economic Development Assistance Authority and Fund:*** The Maryland Economic Development Assistance Authority and Fund (MEDAAF) was established by the General Assembly under Chapter 301 of 1999 as a revolving loan fund. The fund provides below market, fixed-rate financing in the form of loans, grants, conditional loans, conditional grants, and direct investment to local jurisdictions and businesses. Businesses, in particular those in growth industries that are locating or expanding in priority funding areas, are targeted. Funds may be used for property acquisition, construction, or renovation of buildings including tenant improvements and capital equipment.
- ***Maryland Small Business Development Financing Authority:*** This program provides financing assistance to socially or economically disadvantaged persons in Maryland. Legislation enacted as Chapter 172 of 2001 broadened the Maryland Small Business Development Financing Authority's (MSBDFA) scope to reach all businesses unable to obtain adequate, reasonable financing through private lending institutions due to credit criteria. A private contractor, currently Meridian Management Group, Inc., reviews the financing applications for presentation to the MSBDFA board. MSBDFA has four programs: Contract Financing Program, Long-Term Guaranty Program, Surety Bond Program, and Equity Participation Investment Program.
- ***Small, Minority, and Women-Owned Business Account:*** This program is designed to provide capital investments and loans for small, minority, and women-owned businesses that are primarily located in areas of the State with gaming facilities. The statute requires that 1.5% of the proceeds of video lottery terminals (VLT) at authorized locations across the State be deposited in the Small, Minority, and Women-Owned Business Account.
- ***Maryland Industrial Development Financing Authority:*** This program is designed to provide financing support to manufacturing, industrial, and technology businesses. The program provides the support by partnering with private-sector financing by issuing bonds and providing credit enhancements that increase access to capital for small and mid-size companies.
- ***Economic Development Opportunities Program Fund (Sunny Day Fund):*** This program provides conditional loans and investments to take advantage of extraordinary economic development opportunities, defined in part as those situations that create or retain substantial numbers of jobs and where considerable private investment is leveraged.

## Types of Financing Assistance

Commerce's business assistance may take the form of investments, loans, conditional loans and grants, grants, and tax credits.

- ***Investments:*** Commerce considers investments the primary tool for business assistance. The agency purchases equity from companies to provide capital for them. Investments are made with the hope of an eventual financial return, but the timing and the amount of the return are unknown.
- ***Loans:*** Commerce loans are structured similar to conventional loans, but they have a favorable interest rate. The interest rate may scale down annually if the business is meeting or exceeding the job creation goals as agreed to in the loan documents. Likewise, the rate may scale up if the business is not meeting these goals.
- ***Conditional Loans and Grants:*** With conditional loans, repayment is forgiven if the business achieves employment goals. In effect, conditional loans become grants if conditions are met. Commerce treats conditional grants the same as conditional loans, but in some cases, a company may not want to account for Commerce assistance as debt, and so they receive a conditional grant. In other cases, conditional grants are used if a company must meet a target, such as completing a feasibility study, before the funds are awarded.
- ***Grants:*** With grants, there is no repayment of the funds, and no conditions are attached. Commerce does not often use this form of assistance.
- ***Tax Credits:*** The department administers several tax credit programs including the Biotechnology Investment Tax Credit; the Base Realignment and Closure Revitalization and Incentive Zone Program; the Brownfields Tax Incentive; the Enterprise Zone Tax Credits; the Job Creation Tax Credit; the One Maryland Tax Credit; the CyberMaryland Investment Incentive Tax Credit, the Film Production Activity Tax Credit, and the Research and Development Tax Credit. Only three programs, the Biotechnology Investment Tax Credit, the CyberMaryland Investment Incentive Tax Credit, and the Film Production Activity Tax Credit are budgeted within the department's appropriation.

## Performance Analysis: Managing for Results

### 1. Department Reports Jobs Created or Retained

The department aims to develop and maintain a pipeline of projects resulting in facility location decisions and other projects that create or retain jobs. A facility location decision is defined as a statement by a top-level executive indicating a company's intention to locate in Maryland or to remain

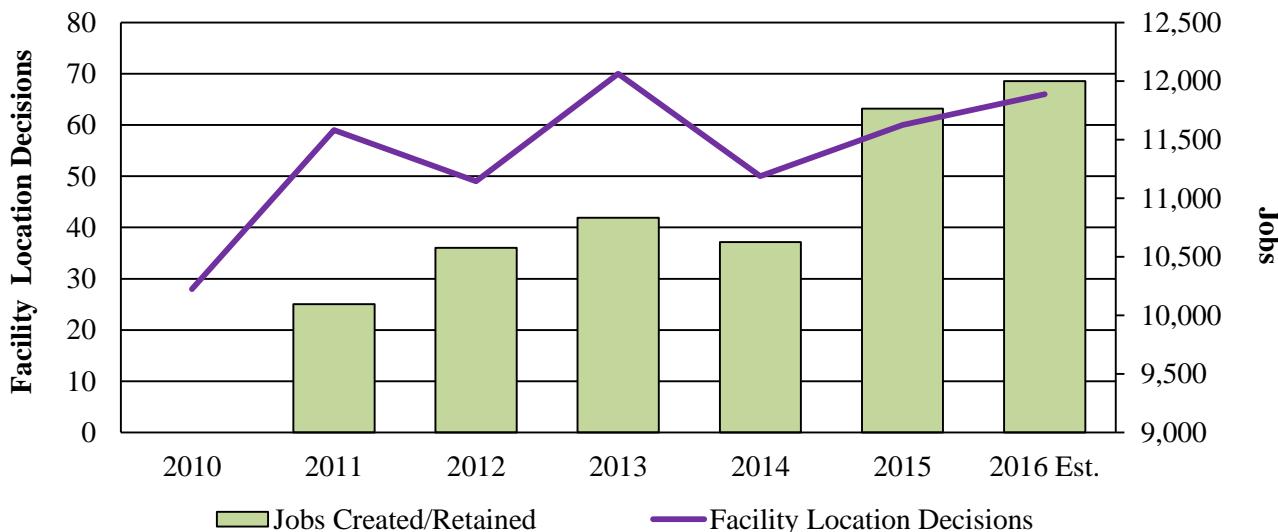
or expand in Maryland after considering potential locations outside the State and after intervention by the department. That intervention can include assistance related to workforce training, financing, marketing, permitting, or technical assistance.

Historically, the department's attempts to measure the impact of its activities have met with varied success. Many of the department's performance measures only show a few years of data. This is a result of several departmental reorganizations and of prior issues with the data collection and control procedures raised by the Office of Legislative Audits (OLA). Measures continue to evolve but show improvement.

**Exhibit 1** shows the number of facility location decisions and the number of jobs created or retained. Data on jobs is not available prior to fiscal 2011. Jobs are counted as created or retained if there is a facility location decision or if the department was able to resolve a major issue for a company. The company must document the number of jobs created or retained before it may be counted. According to the data, the department was able to document a significant increase (10.7%) in jobs created or retained in fiscal 2015. Counted within the fiscal 2015 results are: 558 jobs created or retained at Pandora Jewelry in Howard County; 220 jobs created or retained at Thompson Creek in Prince George's County; and 800 jobs retained at McCormick and Company in Baltimore County. **DLS recommends that the department separately report the number of jobs created and the number of jobs retained, beginning in the fiscal 2018 budget cycle.**

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**Exhibit 1**  
**Impact of Departmental Assistance**  
**Fiscal 2010-2016 Est.**



Source: Governor's Budget Books, Fiscal 2015-2016; Department of Budget and Management

## 2. Effort to Improve Business Friendliness – Difficult to Measure

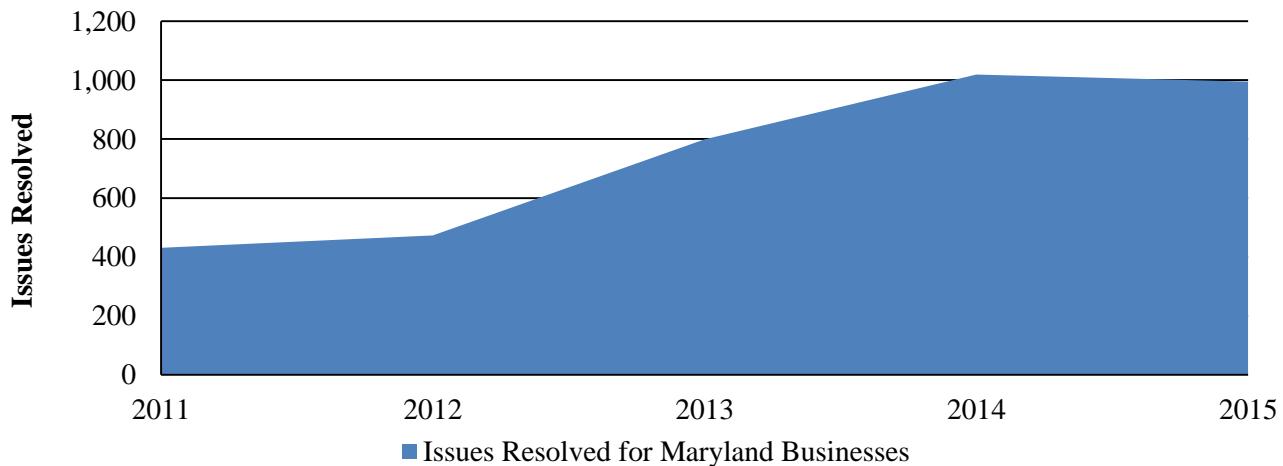
Several national surveys (Forbes, CNBC, and Tax Foundation) rank Maryland unfavorably in a variety of measures of friendliness to businesses. The General Assembly, through the work of the Maryland Economic Development and Business Climate Commission (Augustine Commission), and the Administration are attempting to address the issues raised by those surveys. A newly reorganized Commerce has developed an “open for business” marketing campaign and it has instituted customer service measures.

It is hoped that the State’s efforts will improve the national standings; however, it may take time to move that needle. Tracking its progress through the Managing for Results (MFR) process is a useful means to ensure that efforts are having a positive impact over time. Currently, there are few measures that directly examine business friendliness. It is a concept that is often difficult to measure; as evidenced by the national surveys that consider dozens of factors. However, one current MFR measure is a reasonable proxy.

As shown in **Exhibit 2**, the department reports on the number of issues that it was able to resolve for businesses. The department reports that it resolves issues related to financing, workforce, environmental concerns, marketing, permitting, and technical issues. The number of issues resolved increased significantly in fiscal 2014 and remained high in fiscal 2015. The department should consider adding other measures to demonstrate how it is “open for business.” Other measures could include the results of customer services surveys, outreach efforts, or random business surveys.

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**Exhibit 2**  
**Measuring Business Friendliness**  
**Fiscal 2011-2015**



Source: Governor’s Budget Books, Fiscal 2015-2016; Department of Budget and Management

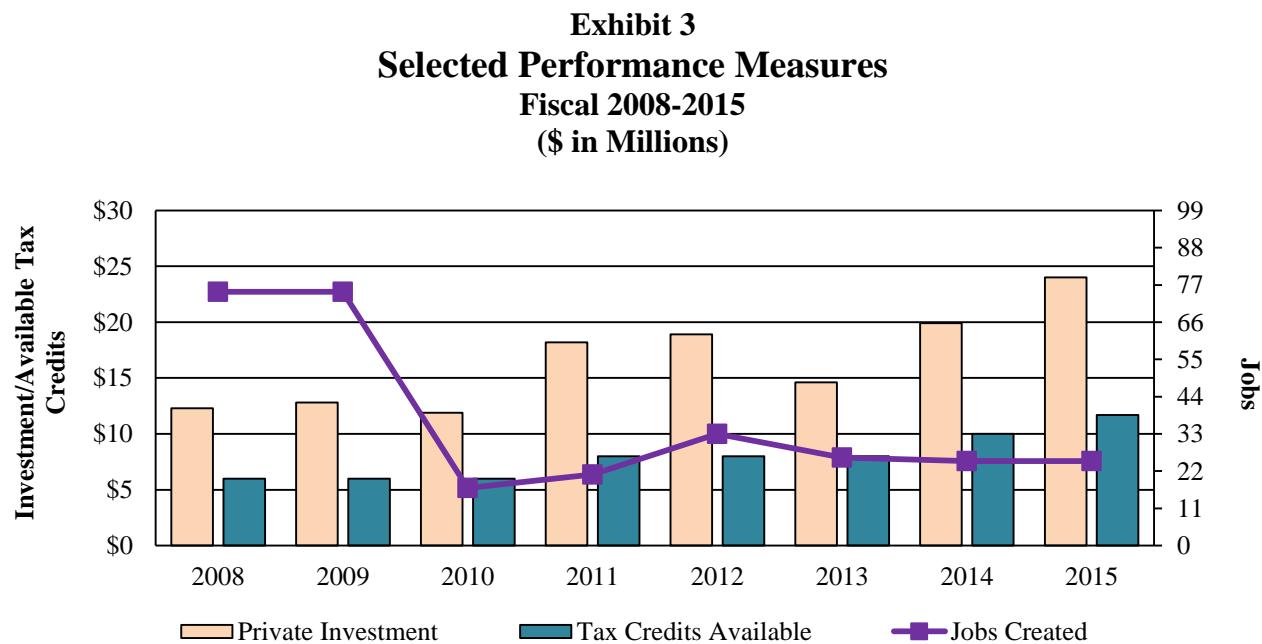
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### 3. Biotechnology Investment Tax Credit

Budget language adopted in the fiscal 2010 budget bill restricted funds under the Maryland Biotechnology Investment Tax Credit program until the department submitted a report on goals, objectives, and outcome measures for the program. Prior to this, the department did not report this data through the MFR process. The language asked that the department consider including in MFR reporting the number of tax credit recipients, the amount of private investment leveraged, any new jobs created, long-term company retention data, and any other measure deemed reflective of the program's mission.

The department reports that the Biotechnology Investment Tax Credit is a highly successful program and a “key industry incentive that supports Maryland’s robust Biotechnology industry.” Applications for the credit generally exceed the available funding. Despite the popularity of the program, it does not appear that the tax credit has helped to spur many direct jobs. According to the department’s MFR submission, in fiscal 2015, for the \$11.7 million in appropriations for the credit, qualified companies created 24 jobs. That equates to over \$486,000 in State investment per job.

**Exhibit 3** shows the history of job creation under the credit. The department advises that job performance is not a precondition for selection or approval of qualified investors or companies. The department further advises that the goal of the program is not job creation but to stimulate the growth of a strategic industry sector. It should be mentioned that the tax credit will be subject to the Tax Credit Evaluation Act in 2016.



Source: Governor’s Budget Books, Fiscal 2015-2016; Department of Budget and Management

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## **Fiscal 2016 Actions**

### **Proposed Deficiency**

The fiscal 2017 allowance includes a fiscal 2016 general fund deficiency of \$20 million under the Economic Development Opportunities Program, otherwise known as the Sunny Day Fund. The purported use of the deficiency is to “invest in aerospace and defense research” in the State. The purpose of the deficiency is to provide a retention incentive to Northrop Grumman’s mission systems facility in Linthicum. Funds would be allocated in equal installments over four years. The company would be required to commit to capital investment of at least \$100 million and the retention of at least 10,000 employees within Maryland. The incentive does not anticipate any new jobs. According to the department, the corporation would be held to these performance benchmarks for 10 years after the first disbursement of funds, scheduled for the current fiscal year. Before the department can disburse this incentive, approval must be obtained from the Legislative Policy Committee (LPC). The Department of Legislative Services (DLS) will prepare a comprehensive analysis on the proposed use of the Sunny Day fund for the benefit of LPC.

It has been several years since the Sunny Day Fund has had a general fund appropriation. **Exhibit 4** shows that, prior to the fiscal 2016 deficiency, the fund has not received general funds since fiscal 2002. Special funds have also declined significantly as most assistance from the fund takes the form of conditional grants or conditional loans, meaning the funds do not need to be repaid if the company meets certain benchmarks, such as employment goals or leveraging private investment.

One new project was approved in fiscal 2012 that required a total of \$9.5 million in Sunny Day incentives over seven years. The special fund appropriations for fiscal 2012 through 2014 represent the first three installments for this project (the retention of employees at Bechtel Group Inc. in Frederick County). However, in October 2014, Bechtel announced its intention to move the majority of its employees to its existing facility in Northern Virginia. Chapter 489 of 2015 (the Budget Reconciliation and Financing Act) included a provision that any loan repayment to the Sunny Day Fund in fiscal 2015 and 2016 must instead be deposited into the General Fund. To meet the employment conditions required for the incentive, the corporation reported its employment numbers as of each December 31. Bechtel met several of its benchmarks, and as such, a portion of the incentive it received will be forgiven. However, it was required to repay over \$3.1 million to the General Fund.

It should also be noted that Commerce has introduced a departmental bill (SB 1112 of 2016) that would create a new tax credit, narrowly drafted to benefit the corporation. The bill would provide a maximum of \$7.5 million in tax credits to a qualified aerospace, electronics, or defense contract project, which creates or retains 10,000 jobs and spends \$25.0 million a year on capital expenditures. This benefit would be in addition to the proposed Sunny Day incentive.

**Exhibit 4**  
**Sunny Day Fund**  
**Annual Appropriations**  
**Fiscal 2000-2017**

<b><u>Fiscal Years</u></b>	<b><u>General Funds</u></b>	<b><u>Special Funds</u></b>
2000	\$19,800,000	\$24,375,000
2001	5,500,000	16,600,000
2002	11,625,000	4,250,000
2003	0	13,275,000
2004	0	0
2005	0	2,000,000
2006	0	5,690,000
2007	0	12,769,500
2008	0	5,500,000
2009	0	0
2010	0	0
2011	0	0
2012	0	2,000,000
2013	0	1,071,429
2014	0	1,071,429
2015	0	0
2016 Working <sup>1</sup>	20,000,000	0
2017 Allowance	0	5,000,000

<sup>1</sup> 2016 deficiency included in the fiscal 2017 allowance.

Source: Department of Business and Economic Development

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**The department should comment on the proposed incentive, how it fulfills the program's definition of an extraordinary economic opportunity, and what clawback measures would be tied to the performance benchmarks.**

## **Cost Containment**

In fiscal 2016, the Administration implemented an across-the-board cost containment initiative that included a general 2% reduction. Commerce relinquished a total of \$1,084,000 in general funds for the initiative. Specifically, the department reduced grants to early stage biotechnology companies by \$584,000 and reduced available tax credits to cybersecurity companies by \$500,000.

## **Proposed Budget**

After adjusting for fiscal 2016 deficiencies and a back of the bill reduction for health insurance, the fiscal 2017 allowance increases by \$9.2 million, or 6.4% as shown in **Exhibit 5**. This increase is understated, however, due the significant one-time general fund deficiency (\$20.0 million) in fiscal 2016 that obscures the growth in fiscal 2017.

**Exhibit 5**  
**Proposed Budget**  
**Department of Commerce**  
(\$ in Thousands)

<b>How Much It Grows:</b>	<b>General Fund</b>	<b>Special Fund</b>	<b>Federal Fund</b>	<b>Reimb. Fund</b>	<b>Total</b>
Fiscal 2015 Actual	\$71,859	\$84,570	\$9,958	\$298	\$166,684
Fiscal 2016 Working Appropriation	92,166	50,002	1,945	266	144,379
Fiscal 2017 Allowance	<u>92,831</u>	<u>51,058</u>	<u>9,487</u>	<u>206</u>	<u>153,581</u>
Fiscal 2016-2017 Amount Change	\$665	\$1,056	\$7,542	-\$61	\$9,201
Fiscal 2016-2017 Percent Change	0.7%	2.1%	387.7%	-22.8%	6.4%

### **Where It Goes:**

#### **Personnel Expenses**

Employee Retirement System.....	\$324
Employee and retiree health insurance .....	261
Reclassification.....	140
Turnover adjustments .....	88
Other fringe benefit adjustments.....	-102
Abolished positions (2 full-time equivalents).....	-218
Increments and other compensation.....	-526

**Where It Goes:**

**Other Changes**

Film Production Activity Tax Credit program (to retain House of Cards production).....	11,510
State Small Business Credit Initiative – federal fund pass-through to TEDCO .....	7,829
Second installment of Sunny Day incentive .....	5,000
Small Minority and Women-Owned Business Account.....	3,076
Cyber Maryland tax credit – restore mandated funding .....	1,000
Maryland Marketing Partnership.....	1,000
Maryland State Arts Council grants.....	776
Military and Veteran loan program.....	100
Contractual payroll – largely due to Welcome Centers .....	99
Net increase in grants, largely to benefit tri-county councils .....	98
Not-for-profit Development Fund program.....	-50
Rent.....	-71
Maryland Economic Adjustment Fund.....	-100
One-time Office of Tourism Grant .....	-104
Departmentwide communications and travel.....	-110
Departmentwide decline in advertising .....	-238
Fewer international trade shows and grants.....	-469
Removal of one-time Sunny Day deficiency .....	-20,000
Other .....	-112
<b>Total</b>	<b>\$9,201</b>

TEDCO: Maryland Technology Development Corporation

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

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**Across-the-board Reductions**

The fiscal 2017 budget bill includes an across-the-board reduction for employee health insurance, based on a revised estimate of the amount of funding needed. This agency's share of these reductions is \$48,934 in general funds, \$14,670 in special funds, and \$2,162 in federal funds. There is an additional across-the-board reduction to abolish positions statewide, but the amounts have not been allocated by agency.

## **Personnel**

The fiscal 2017 allowance reflects the abolition of 2 vacant positions in order to achieve budgetary savings: 1 administration position under the Office of Policy and Research and 1 industrial development supervisor within the Office of Strategic Industries and Entrepreneurship. These eliminated positions are in addition to the across-the-board reduction to abolish positions statewide; which have not yet been allocated. The 2 abolished positions result in savings of approximately \$218,000.

Partially mitigating the savings in personnel are increases to contractual staff. Overall, contractual staff increases by 2.45 full-time equivalents for an increase in costs of approximately \$99,000 in general and special funds. The majority of the increase in contractual staff will be dedicated to staffing the Welcome Centers that are housed in rest stops across the State. Prior to fiscal 2011, the department provided operating funds and staff for the welcome centers as a means to promote tourism. The cost containment initiative of fiscal 2010 resulted in the closure of 6 of the 12 welcome centers in the State. The fiscal 2011 budget, as introduced, assumed the closure of an additional 4 centers. Since then, the department's Office of Tourism Development has taken steps to ensure the operation of as many centers as possible. With the additional contractual staff in the fiscal 2017 allowance, the office plans to open the Youghiogheny Overlook center in Garrett County and the Bay Country center in Queen Anne's County in fiscal 2017. A total of 8 centers will then be operational.

## **Financial Assistance Programs**

### **Maryland Economic Development Assistance Authority and Fund**

The MEDAAF is the department's primary and most flexible tool for business financial assistance. The fiscal 2017 allowance includes \$13.7 million in general funds and \$6.2 million in special funds. This represents a \$6.4 million decline in special funds from fiscal 2016 but an increase of \$6.4 million in general funds. It is also the sixth year in which the program has received a general fund infusion. Prior to fiscal 2012, the program had not received any general funds since fiscal 2007. It had operated on its special fund revenue and balance.

**Exhibit 6** shows the fund balance summary for the MEDAAF for fiscal 2014 through an estimate for fiscal 2017.

The department is increasing the activity in the fund as the economy has improved. In fiscal 2012, the department committed \$11.8 million in program activity, an increase from \$8.9 million in activity in fiscal 2011. In fiscal 2013, the department expended \$15.0 million for business assistance from the fund, and in fiscal 2014, over \$18.3 million was encumbered. Fiscal 2015 marked a recent high level in MEDAAF activity. Several significant deals were closed in fiscal 2015 including conditional loans to MedImmune, McCormick and Co., and Amazon. Conditional loans may be forgiven in full or in part if the company meets certain performance benchmarks, usually related to employment of capital expenditures.

**Exhibit 6**  
**Department of Business and Economic Development**  
**Maryland Economic Development Assistance and Authority Fund**  
**Fund Balance Worksheet**  
**Fiscal 2014-2017**  
**(*\$* in Thousands)**

	<u>Actual 2014</u>	<u>Actual 2015</u>	<u>Est. 2016</u>	<u>Est. 2017</u>
<b>Beginning Balance</b>	<b>\$23,468</b>	<b>\$12,217</b>	<b>\$5,158</b>	<b>-\$1</b>
<b>Revenues</b>				
General Funds	\$273	\$7,423	\$7,273	\$13,673
Investment Income	498	393	737	534
Interest Income	465	357	286	219
Loan Repayments	2,226	5246	1,999	1,823
Loan Recoveries and Grant Repayments	796	17	2,829	2,633
Cancelled Prior Year Encumbrances	2,655	5449	3,000	3,000
Brownfield Local Property Tax Cont.	2,754	3186	2,191	1,411
Other Income	498	552	320	319
<b>Total Revenues</b>	<b>\$10,165</b>	<b>\$22,623</b>	<b>\$18,635</b>	<b>\$23,612</b>
<b>Total Funds Available</b>	<b>\$33,633</b>	<b>\$34,840</b>	<b>\$23,793</b>	<b>\$23,611</b>
<b>Expenditures</b>				
Encumbrances/Approval Activity – Other	\$18,349	\$26,500	\$19,850	\$19,850
Rescissions of New Approvals	0	0	0	0
Operating Expenses	514	539	649	727
Indirect Expenses	2,553	2,643	3,295	3,035
Transfers to Rural Broadband Fund	0	0	0	0
Transfer to Nano-biotechnology Fund	0	0	0	0
Restricted Appropriation	0	0	0	0
Prior Period Operating/Indirect Adjustment	0	0	0	0
<b>Total Expenditures</b>	<b>\$21,416</b>	<b>\$29,682</b>	<b>\$23,794</b>	<b>\$23,612</b>
<b>Ending Balance</b>	<b>\$12,217</b>	<b>\$5,158</b>	<b>-\$1</b>	<b>-\$1</b>

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

Source: Governor's Budget Books, Fiscal 2017

As has been the case in recent years, the summary, as provided by the department, shows that the balance in the program is estimated to be depleted. However, the infusions of general funds over the last several years has delayed the depletion.

It should be noted that special funds within MEDAAF are used to defray other departmental operating cost, shown as “indirect expense” in the fund balance summary. The department uses special funds from a variety of its financing programs to pay the centralized costs required to administer the programs. MEDAAF’s indirect costs are increasing in fiscal 2016 and 2017. This is because the program’s share of department overhead is higher due to the transfer of the Maryland Venture Fund (MVF) from Commerce to the Maryland Technology Development Corporation (TEDCO). The transfer was part of a larger reorganization effort that will be discussed under the Issues section of this analysis.

### **Economic Development Opportunity Fund**

The Sunny Day Fund provides conditional loans and investments to take advantage of extraordinary economic development opportunities, defined, in part, as those situations that create or retain substantial numbers of jobs and where considerable private investment is leveraged. Activity in the fund has fallen significantly in recent years.

The fiscal 2017 allowance includes \$5 million in special funds for the program. This reflects a portion of the special fund balance that was augmented by the fiscal 2016 deficiency appropriation of \$20 million in general funds. The purported use of the deficiency is to provide a retention incentive to Northrop Grumman.

### **Maryland Industrial Development Financing Authority**

The fiscal 2017 allowance includes \$7.8 million in federal funds for the Maryland Industrial Development Financing Authority. The funds are made available to the department due to the U.S. Department of the Treasury’s State Small Business Credit Initiative (SSBCI). The allowance represents the third and final phase of a \$23.0 million allocation to Maryland from the federal program. These funds will be transferred to TEDCO as a part of the reorganization as discussed under the Issues section of this analysis. Details on the SSBCI are included under an Update discussed further in this analysis and in the analysis for TEDCO.

### **Small, Minority, and Women-Owned Business Account**

Statute requires that 1.5% of the proceeds of VLTs at authorized locations across the State be deposited in the Small, Minority, and Women-Owned Business Account (SMWOBA). The account is designed to provide capital investments and loans for small, minority, and women-owned businesses that are primarily located in areas of the State with gaming facilities. The fiscal 2017 allowance includes \$13.7 million in special funds for the program, reflecting the latest estimates of VLT revenue. This represents an approximate \$3.1 million increase from the amount budgeted in fiscal 2016.

At the request of the Senate Budget and Taxation Committee, the department has prepared a report on its process for distributing the funds from the SMWOBA. The committee was concerned with delays in the deployment of funds and how the funds were distributed to fund managers and ultimately to small businesses. Additionally, OLA released a performance audit of this program in October 2015 raising some issues related, primarily to the oversight of the fund managers. This is discussed in further detail under the Issues section of this analysis.

### **E-Nnovation Initiative Program and the Regional Institution Strategic Enterprise Zone Program**

Chapter 533 of 2014 established the E-Nnovation Initiative Program under the department to provide matching funds to nonprofit institutions of higher education to create research endowments. Funds may be used to (1) finance research endowments at nonprofit institutions of higher education in scientific and technical fields of study; and (2) pay the related administrative, legal, and actuarial expenses of the department. Endowment proceeds must be expended to further basic and applied research in scientific and technical fields of study that offer promising and significant economic impacts and the opportunity to develop clusters of technological innovation in the State, including but not limited to engineering, health sciences, and cybersecurity. Funding is provided to the program through a portion of the admissions and amusement tax on electronic bingo and electronic tip jars and through general funds. The current fiscal year marks the first year of funding for the program – \$8.0 million in special funds and \$500,000 in general funds. The department had an ambitious first year and was able to convene the E-Nnovation Initiative Fund Authority, promulgate regulations, and make awards in the following manner:

- Johns Hopkins University – two awards for a total of \$2.1 million;
- University of Maryland, Baltimore – two awards for a total award of \$2.1 million;
- University of Maryland, College Park – two awards for a total award of \$2.1 million;
- Morgan State University – one award of \$1.0 million; and
- Washington College – one award of \$1.0 million.

According to the department, the program funded fields of study that included mathematics, cybersecurity, virtual reality, environment, water and public health, bioengineering, neurogenetics, and human virology. The fiscal 2017 allowance again provides \$8.0 million in special funds and \$500,000 in general funds.

Chapter 531 of 2014 established the Regional Institution Strategic Enterprise (RISE) Zone Program. The stated purpose of the RISE Zone Program is to access institutional assets that have a strong and demonstrated history of commitment to economic development and revitalization in the communities in which they are located. A qualified institution may apply with a county, municipal corporation, or the economic development agency of a county or municipal corporation to Commerce

for designation of an area as a RISE zone. A business entity that locates in a RISE zone is entitled to a property tax credit, an income tax credit, and priority consideration for assistance from the State's economic development and financial assistance programs.

To date, three institutions have applied to the department for a RISE Zone designation. According to the department, as of December 2015, it has approved one zone around the University of Maryland, Baltimore. No funds are provided in the budget as the benefits are primarily off-budget tax credits.

### **Other Financial Assistance Programs**

The fiscal 2017 allowance includes \$2.0 million in general funds for the CyberMaryland Investment Incentive Tax Credit program. This fulfills the mandate for the program. It does, however, represent an increase of \$1.0 million. Chapter 489 reduced the mandate to \$1.5 million for fiscal 2016. Due to less than expected demand for the program, the department was able to forgo an additional \$500,000 for the 2% across-the-board cost containment initiative. To date, the department has committed \$900,000 of the remaining fiscal 2016 working appropriation.

The fiscal 2017 allowance includes a small increase (\$100,000) in special funds for the Military Personnel and Service Disabled Veteran Loan program. Conversely, there is an offsetting decrease (\$100,000) in special funds under the Maryland Economic Adjustment Fund program. There are less special funds available under this program. The department uses this program to provide working capital loans at favorable terms to small and early stage cybersecurity companies that are located in areas affected by defense adjustments.

## **Tourism, Film, and the Arts**

### **Maryland Tourism Development Board**

The Maryland Tourism Development Board is charged with implementing State tourism marketing and development programs, in part, through grants to local and nonprofit tourism organizations. The fiscal 2017 allowance for the board is approximately \$8.8 million, a marginal increase from the fiscal 2016 working appropriation. It should be noted that the allowance includes \$8.25 million in general funds, well over the general fund mandate of \$6 million.

### **Maryland State Arts Council**

By statutory mandate, general funds allocated to the Maryland State Arts Council are required each year to increase by the expected percentage of growth in general fund revenues. Accordingly, the fiscal 2017 allowance increases by approximately \$701,000.

The fiscal 2017 budget bill includes contingent language attached to the funds for the Preservation of Cultural Arts program that would transfer the funds (\$2 million in special funds) from that program to the Maryland State Arts Council. The transfer is contingent on SB 377 and HB 451. The Special Fund for Preservation of Cultural Arts in Maryland is a special, nonlapsing fund in

Commerce that consists of State admissions and amusement tax revenue from electronic bingo and tip jar machine proceeds and any other money accepted for the benefit of the fund. The fund is intended to be used to provide supplemental grants to cultural arts organizations in the State that qualify for general operating support grants from the Maryland State Arts Council. These grants may not supplant other funding that the organization qualifies to receive. Due to the diversion of funds for cost containment and other budgetary purposes, the special fund has never been used for its intended purpose.

### **Film Production Activity Tax Credit Program**

The fiscal 2017 allowance includes \$11.5 million in general funds for the Film Production Activity Tax Credit program. This represents an increase because in fiscal 2016, the incentive was structured as an off-budget tax credit. However, in 2015, the General Assembly enacted Chapter 486, which established a mechanism for including the credits in the annual budget. The bill established a Maryland Film Production Activity Tax Credit Reserve Fund. The total amount of initial credit certificates issued by Commerce in each fiscal year cannot exceed the amount appropriated to this fund in the State budget. Although the legislation did not establish a mandate, it stated the intent of the General Assembly that the appropriation to the fund is equal to the amount that Commerce reports as necessary to (1) maintain the current level of film production activity in the State; and (2) attract new film production activity to the State. Commerce is required to report these amounts to the Governor and General Assembly by July 1 of each year.

The department did submit its report in July 2015. It concluded that it would need \$14.4 million in its film incentive program to maintain the current level of film production and \$46.75 million in order to attract new productions to the State. However, as mentioned above, the fiscal 2017 allowance includes \$11.5 million for the program. This level of funding would be dedicated to one production: Netflix's House of Cards.

**Given the level of budgeted funding, the department should comment on how its film office will market the State and what activities it will pursue in fiscal 2017.**

## ***Issues***

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### **1. Maryland Economic Development and Business Climate Commission and the Newly Reorganized Department of Commerce**

In fiscal 2014, the President of the Senate and the Speaker of the House appointed a private-sector commission to examine the structure, funding, and efficacy of the State's current economic development activities. The Augustine Commission had the charge to make policy and funding recommendations to improve the State's business climate and competitiveness. In Phase I, the commission recommended structural changes to the Department of Business and Economic Development to streamline its operations and to make it more customer focused. Legislation was enacted to effectuate these recommendations in fiscal 2015. This includes renaming and the reorganizing of the Department of Commerce. The commission issued a report on the second phase of its work in January 2016, which included a thorough review of the State's tax structure and how it affects the perception of the State's business climate.

#### **Newly Realigned Department**

In Phase I, the commission found that Maryland businesses have multiple financial and technical assistance programs available to enable growth and success. However, too often, businesses are unaware of these programs or are confused as to how to apply for or utilize them. A primary finding of the commission was that State economic development agencies are not organized in a manner that (1) reflects the importance of their mission; (2) facilitates accountability; or (3) encourages ease of navigation.

To address this finding, Chapter 141 of 2015 was enacted and made several significant structural changes to the State's economic development agency. Further, the department made several administrative changes to be responsive to the commission's organizational findings and also on the commission's findings related to customer service needs.

Notably, Chapter 141 established a structure that allows the Secretary of the newly named Department of Commerce a place in the Governor's Office in order to provide a centralized focus on the State's economic development efforts and, specifically, to coordinate a Commerce Subcabinet. The subcabinet is designed to provide a forum for multiple State agencies to coordinate its response to business-related issues. The subcabinet consists of the heads of the agencies that most often interact with the business community, such as the Maryland Department of Transportation, the Department of Labor, Licensing, and Regulation; the Department of Housing and Community Development; and the Maryland Department of Planning, as well as the Governor's Office of Minority Affairs. The subcabinet had its inaugural meeting in December 2015 to discuss statewide customer service issues. The subcabinet plans to meet on a regular basis each year.

Additionally, Chapter 141 realigned programs for emerging business within TEDCO, leaving the newly named Department of Commerce to focus on its efforts to recruit new businesses and to retain and grow existing businesses. As such, the Maryland Enterprise Fund and its operating funds,

as well as the programmatic grants under the BioMaryland Center, transferred to TEDCO. The department retained the nongrant functions of the center and renamed it the Office of Biohealth. It cites its new responsibilities as coordination and outreach related to the State's life sciences assets. It retained the license and access to four market research databases for Maryland biotech entrepreneurs developing business plans and funding applications. The databases include information regarding licensing opportunities, target markets, completion, federal approval statuses, and clinical trials. However, the department does not intend to either transfer these databases to TEDCO or to renew their licenses. The department intends to reallocate the funding associated with those databases (approximately \$120,000) to a different biotechnology-related initiative. Anecdotal evidence before the Augustine Commission suggested that, while the information contained in the databases is helpful, physical access to it was prohibitive and time-consuming. The intent of the Augustine Commission was to transfer the BioMaryland Center to TEDCO, including the grant funding and support resources.

Chapter 141 also established a public-private marketing entity to create a branding strategy for the State; market the State's assets to out-of-state businesses; recruit out-of-state businesses to locate and grow in the State; and foster public-private partnerships that encourage the location and development of new businesses in the State. A board of directors is established, consisting of various members from the State government and private industry. The fiscal 2017 allowance includes \$1 million to provide the start-up funding for this initiative. It is expected that the initiative will begin its work after the final appointment of the board members. The board will then be able to set benchmarks for appropriate fundraising levels from the private sector. Further, the department expects that a plan will be in place that will allow it to contract with a creative services and branding agency at the start of the fiscal year. It should be noted that the marketing entity must submit a report to the General Assembly on October 1 of each year to detail the marketing operations and activities.

Administratively, the department has reorganized some of its programs into a Division of Business and Industry Sector Development. This division addresses a recommendation of the Augustine Commission to strengthen regional outreach efforts by increasing the number of regional representatives. It also targets specific industries for growth. For example, the department now has an Office of Strategic Industries and Entrepreneurship and an Office of Cybersecurity and Aerospace. It is understood that it is important for economic development agencies to be nimble and adaptable to changes in the marketplace. However, it is also important to note that frequent reorganizations may make it difficult for the business community to navigate the new structure and to utilize services. It is also difficult for any meaningful long-term performance analysis as goals, objectives, and performance measures change.

## **Phase II of the Augustine Commission**

The commission issued its Phase II report in January 2016. The work of the commission in this phase focused on Maryland tax structure and the components of that structure that contribute or detract from the State's business climate. The findings and recommendations contained in the report primarily relate to tax rates, tax administration and tracking, and other issues that were seen as having an impact on the State's business climate. Among the findings were several that related, at least tangentially, to the department and its programs. Chiefly, the report finds that there are "too many, too small, and often uncoordinated and ineffectual tax credit and incentive programs targeting economic development in

the State.” The report recommends that tax credits be rigorously evaluated and that changes be made to existing tax credits to assure that the programs are effective. Suggested improvements include simplifying statutes, adequately funding effective programs; assuring program transparency; and developing rational and coherent outcomes. To that end, SB 843 of 2016 has been introduced to expand the evaluations under the current Tax Credit Evaluation Act and to sunset several tax credits in calendar 2021 that are not currently subject to sunset provisions, including the enterprise zone, One Maryland, biotechnology, businesses that create new jobs, and RISE Zone tax credits. The bill aims to improve the evaluation of tax credits and seeks to combat the Augustine Commission’s report finding that “evidence that tax credits help businesses create or maintain jobs is mixed.”

**DLS recommends that the department brief the budget committees on its new structure and how that structure contributes to a more business-friendly culture. Additionally, DLS recommends that budget language be added that would transfer funds to TEDCO to fund the support services related to the BioMaryland Center as intended by the Augustine Commission and by the General Assembly.**

## **2. Department’s Efforts to Improve Program Evaluation**

Measuring the effectiveness of economic development programs is a difficult task, and the department has often struggled with finding appropriate measures. However, several efforts are underway to improve program effectiveness and accountability.

First, the department is participating in a multistate initiative conducted by The Pew Charitable Trusts and the Center for Regional Economic Competitiveness to review the effectiveness of state business incentive programs. While a final report has yet to be released, the organizations have issued a preliminary assessment of Maryland’s programs. In general, that assessment noted that Maryland has a strong system of performance measurement and evaluation in place, but there is room for improvement. Also, the study noted that, based on its count, Maryland has 72 business incentives in place, the second highest state in their database. However, it should be noted that this study counted several programs that are not economic development programs, but in fact have other policy goals. For example, the study includes the Clean Energy Incentive Tax Credit as a business incentive program. Suggested improvements from the early assessment include enhancing data collection and data sharing practices and improving business reporting requirements.

The General Assembly has also sought to improve the department’s program evaluation. Chapter 569 of 2012 established a process for evaluating State tax credits through a legislative evaluation committee. To date, the committee has evaluated the One Maryland program and the Enterprise Zone program. The Biotechnology Incentive Tax Credit will be reviewed in fiscal 2016. Chapter 150 of 2013 established the Maryland Jobs Development Act that requires the department to compile data and report annually on specified economic development programs administered by the department. The department has complied with this requirement beginning in fiscal 2013. These reports track the performance of 15 departmental programs and include data on the number of jobs created, the number of jobs retained, and the estimated amount of State revenue generated based on economic models.

Finally, the department is undertaking an internal review, with the assistance of the Maryland Economic Development Corporation, of all their incentive programs and how they can be improved. At the writing of this analysis, the report is yet to be released. However, early reports indicate that it will suggest several significant changes to the department's current programs.

**DLS recommends that the department comment on its recent efforts to improve its program performance and how it has incorporated any changes into its programs.**

### **3. Reports on the Small, Minority, and Women-Owned Business Account**

At the request of the Senate Budget and Taxation Committee, the department prepared a report on its process for distributing the funds from the SMWOBA. The committee was concerned with delays in the deployment of funds and how the funds were distributed to fund managers and ultimately to small businesses. Additionally, OLA released a performance audit of this program in October 2015 raising some issues, primarily related to the oversight of the fund managers.

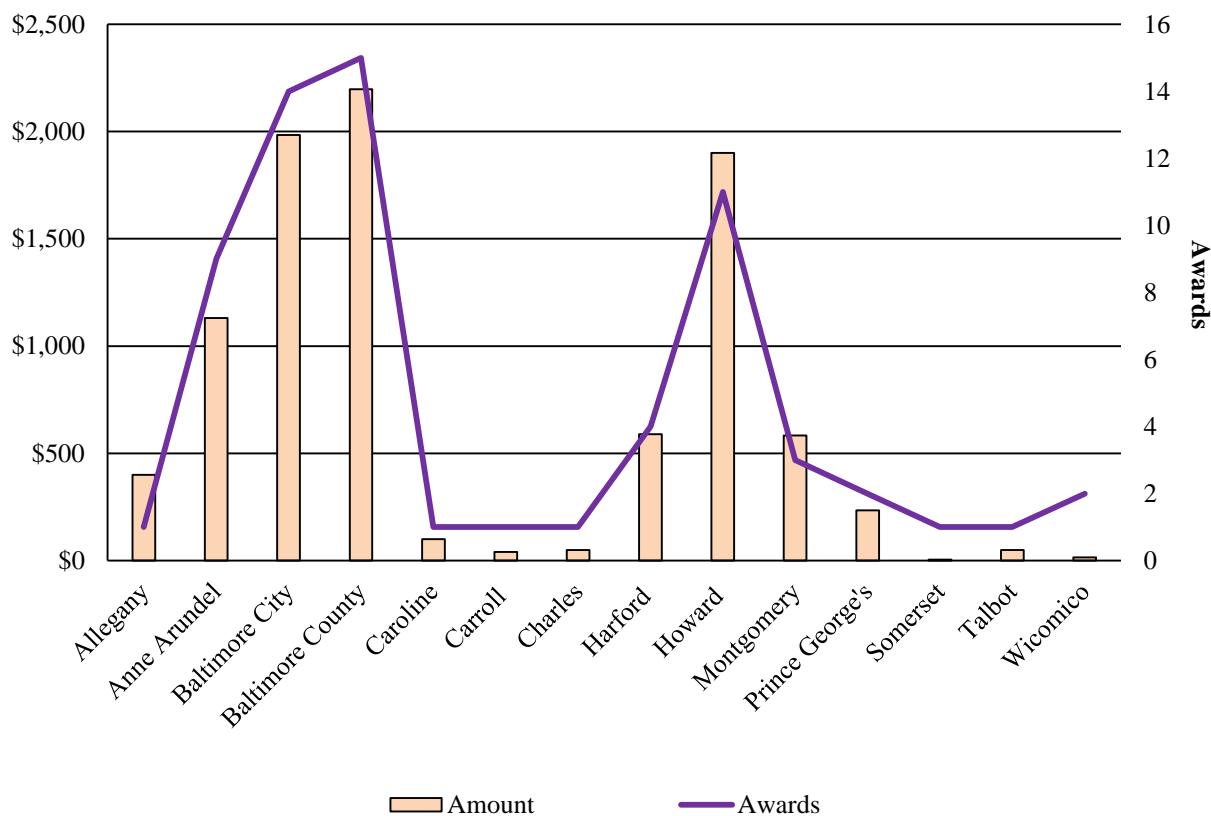
#### **Report on Distribution of Funds**

In August 2015, at the request of the Senate Budget and Taxation Committee, the department prepared a report on its process for distributing the funds from the program; primarily related to the geographic distribution of funds. The statute requires that 50% of the funds in the program be allocated to businesses located in the jurisdictions and communities that surround the State's gaming facilities. The statute did not define the parameters of that requirement. The department and the Board of Public Works (BPW) convened a workgroup to determine the legislative intent. The workgroup settled on target areas that are within a 10-mile radius of each of the facilities.

It is important to note that up to 50% of the available funds are not limited to the geographical restrictions outlined by the workgroup. However, it may be limited to the marketing reach of the program's fund managers. **Exhibit 7** shows fiscal 2015 disbursements by the fund by jurisdiction. This exhibit includes only those jurisdictions where an award was made. All other counties received no funding in fiscal 2015.

The report that was submitted to the Senate Budget and Taxation Committee acknowledges concerns about the 10-mile radius limitation. Specifically, it notes that this restriction may not make sense, especially in rural areas of the State. Additionally, the department engaged its fund managers to make a "good faith" effort to contact businesses in rural areas.

**Exhibit 7**  
**Small, Minority, and Women-Owned Business Account**  
**Distribution by Jurisdiction**  
**Fiscal 2015**  
**(*\$* in Thousands)**



Source: Department of Commerce

## Legislative Audit

In October 2015, OLA released its performance audit of the SMWOBA program. The audit contained seven findings. In general, the audit revealed that the program lacked both clear established goals, and adequate oversight protocols.

The report notes that there are no goals or expectations of the program beyond the general purpose that is outlined in statute. It is suggested that there should be objectives related to desired economic impact, targeted industries, or types of businesses. It is difficult to assess the success of a

program, much less the success of the contracted fund managers, without establishing measurable objectives.

Additionally, the audit raised concerns about the level of financial reporting, contract compliance monitoring, and fund manager performance. The audit notes that fund managers are not required to submit interim financial reports of grant activity. Further, the department did not establish any process to verify that fund managers were complying with their contract requirements. Additionally, contract modifications for an increased payment to a fund manager were made without BPW approval (statute tasks BPW with overall administration of the program).

In general, BPW and the department agreed with the findings in the audit. In fact, some changes have been made. Specifically, the department now requires interim reporting from the fund managers including annual audited financial statements, monthly bank statements and reconciliations, and monthly activity reports through the department's portfolio management services. It should be noted, however, that in testimony before the Joint Committee on Gaming, some fund managers expressed frustration over the amount of reporting requirements.

## **Other Observations**

Components of the administration of the program appear to be overly cumbersome. The department, in a laudable attempt to reach as many small businesses as possible, has issued several Request for Proposals (RFP) for fund managers over several years of program funding. Additionally, the use of multiple fund managers requires the maintenance of several bank accounts and multiple levels of financial reporting. Unfortunately, the use of multiple fund managers does not appear to be resulting in the desired geographic distribution of awards. Finally, fund managers are provided 8% of their award amounts for start-up expenses and are allowed to apply for reimbursement of excess expenses at the end of each calendar year. There appears to be a wide range of reimbursement requests among the contracted managers.

These issues will only be magnified if not resolved soon. The program is expected to grow significantly with the opening of an additional gaming facility and as loan repayments are paid back into the fund. **Exhibit 8** shows the first three years of program funding and the awards made to fund managers.

**DLS recommends that the department comment on the current status of the program. Further DLS also recommends restricting funds from the program until the department submits a report on legislative or administrative solutions to better manage the program. The report should consider how to better measure performance of fund managers and of the program itself. Other changes to consider include the appropriate number of fund managers, use of existing regional development staff to administer the financial assistance from the program instead of fund managers, the development of a different geographic designation, ways to streamline the RFP process each year, and a different structure for expense reimbursement.**

**Exhibit 8**  
**Small, Minority, and Women-Owned Business Account**  
**Awards to Fund Managers**  
**Fiscal 2013-2015**  
**(\$ in Thousands)**

	<u>Amount Awarded</u>
<b>Fiscal 2013</b>	
Anne Arundel Economic Development	\$3,360
Maryland Capital Enterprises	1,000
Meridian Management Group	3,500
<b>Total</b>	<b>\$7,860</b>
<b>Fiscal 2014</b>	
Anne Arundel Economic Development	\$2,000
Baltimore County	1,500
Baltimore Development Corporation	1,000
Howard County	1,500
Maryland Capital Enterprises	0
Meridian Management Group	2,000
Tri-county Council of Western Maryland	1,100
<b>Total</b>	<b>\$9,100</b>
<b>Fiscal 2015</b>	
Anne Arundel Economic Development	\$2,000
Baltimore County	1,750
Baltimore Development Corporation	1,600
Howard County	1,750
Maryland Capital Enterprises	1,000
Meridian Management Group	2,000
Tri-county Council of Western Maryland	1,000
<b>Total</b>	<b>\$11,100</b>

Source: Department of Commerce

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## ***Recommended Actions***

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1. Add the following language to the general fund appropriation:

, provided that \$400,000 of this appropriation made for the purpose of biotechnology business support may not be expended for that purpose and instead may only be transferred by budget amendment to the Maryland Technology Development Corporation (program T50T01) to fulfil the intent of the General Assembly as established in Chapter 141 of 2015. Funds not used for this restricted purpose may not be expended or otherwise transferred and shall revert to the General Fund.

**Explanation:** Chapter 141 was legislation that resulted from the report of the Maryland Economic Development and Business Climate Commission (known as the Augustine Commission). It expressed the intent of the General Assembly that the BioMaryland Center, the office within the Department of Commerce that supports the growth of early stage biotechnology companies in Maryland, be transferred to the Maryland Technology Development Corporation on or before January 1, 2016. To date, only the grant funding was transferred to the corporation. This language would transfer sufficient funds to allow the corporation to provide support services to grantees and would allow funding for the licenses of biotechnology market research databases.

	<b><u>Amount Reduction</u></b>	<b><u>Position Reduction</u></b>
2. Delete a long-term vacant senior position under the Office of BioHealth (formerly the BioMaryland Center). The duties associated with this long-term vacant position have been fulfilled by existing staff and by the transfer of programmatic funding and functions to the Maryland Technology Development Corporation.	\$ 195,527 GF	1.0
3. Add the following language to the special fund appropriation:		

, provided that \$100,000 of this appropriation made for the purpose of fund manager expense reimbursement may not be expended until the Department of Commerce submits a report to the budget committees on ways to improve the administration of the Small, Minority, and Women-Owned Business Account. The report should consider legislative and administrative changes related to the procurement, oversight, and reimbursement of fund managers; geographic distribution of program assistance; and program performance evaluation. The report shall be submitted by December 1, 2016, and the budget committees shall have 45 days

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to review and comment. Funds restricted pending the receipt of the report may not be transferred by budget amendment or otherwise to any other purpose and shall be canceled if the report is not submitted to the committees.

**Explanation:** Based on issues raised in a legislative performance audit and on concerns about geographical distribution of program assistance, the Small, Minority, and Women-Owned Business Account is underperforming. This language requires the Department of Commerce to find solutions to the issues raised on the effectiveness of the program.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Report on improvements to the Small, Minority, and Women-Owned Business Account	Department of Commerce	December 1, 2016
<b>Total General Fund Reductions</b>	<b>\$ 195,527</b>	<b>1.0</b>

## ***Updates***

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### **1. Report on the State Small Business Credit Initiative**

Fiscal 2015 budget bill language restricted funds within the Department of Commerce (previously the Department of Business and Economic Development) until a report was submitted detailing the delayed implementation of the SSBCI. The budget language read as follows:

, provided that \$100,000 of this appropriation made for the purpose of funding the Office of Finance Programs may not be expended until the Department of Business and Economic Development submits a report on its activities under the State Small Business Credit Initiative. The report shall include a discussion on the delayed implementation of the program and a detailed accounting of the administrative cost of the initiative by departmental program.

Further provided that the budget committees shall have 45 days to review and comment from the date of the receipt of the report. Funds restricted pending receipt of the report may not be transferred by budget amendment or otherwise to any other purpose and shall be canceled.

### **Background**

In fiscal 2011, the department was awarded a total of \$23.0 million from the U.S. Department of the Treasury in support of the SSBCI Act of 2010. This federal program was designed to utilize existing state economic development programs to increase the capital available to small business. The federal funds were originally made available in three tranches to be utilized in the following programs: the Maryland Industrial Development Financing Authority (MIDFA), MSBDFA, and the MVF. In fiscal 2012, the first tranche, approximately \$4.7 million of this award, was included in the department's budget. However, a significant portion of the funds was canceled due to the department's inability to disburse the funds. Similarly, in fiscal 2013, a budget amendment appropriated \$19.6 million, the remainder of the tranches, in funds under the program. The department had initially anticipated a speedy disbursement of the funds. However, the department continued to have difficulty in deploying the funds; primarily related to MSBDFA and MIDFA programs. Both programs specialize in loans and loan guarantees. However, the business appetite for this type of assistance has proved limited in the current banking environment. Approximately \$18.0 million was subsequently canceled. A similar pattern occurred again in fiscal 2014. As of fiscal 2014, of the total award of \$23.0 million, only \$6.3 million had been spent.

The U.S. Department of the Treasury expressed dissatisfaction with the slow deployment of the funds. In fact, the department was at risk of forgoing the third tranche of the funds if it did not commit the remainder of the first tranche and the full second tranche by June 2015. An additional complication arose when it was determined that the MVF might not meet the technical definition of "accredited investor," a requirement to deploy venture investments under the SSBCI program.

Additionally, DLS raised concerns regarding how the program allocated the funds used for administrative expenses. It should be noted that administrative expenses under the MSBDA program are disproportionately high. The expenses account for 197.0% of what was deployed through the program in fiscal 2012 through 2014. This is compared to 7.0% and 0.8% for MIDFA and the MVF, respectively.

## **Progress Report**

To address the issues raised by DLS and the U.S. Department of Treasury, Commerce took several steps. First, it undertook the necessary technical changes that enabled it to meet the federal standard of accredited investor. Second, the department developed an alternative deployment plan that reallocated the bulk of funds to the MVF, the program most likely to commit the funds. The demand for venture funding has far outpaced the demand for loans and loan guarantees. This required the approval of the U.S. Department of Treasury. Third, the department worked to actually commit the funds from the first two tranches and developed a pipeline for the third. By the end of January 2015, the department met the investment threshold (80% of first tranche) to be eligible for the full second tranche. To date, over \$12.3 million has been committed. Further, the report detailed a pipeline with a value of \$14.4 million in potential future investments.

Related to DLS concerns on the administrative expenses charged by program, the department reports that there were no administrative expenses charged against the SSBCI funds. While there was an initial attempt to allocate expenses by program, the department found the federal reporting requirements too onerous and instead opted to absorb the expenses to manage the program, thereby using all the federal funds for programmatic uses.

Chapter 141 transfers early stage business investment programs, including the MVF, from Commerce to TEDCO. This legislation was based on recommendations from the Maryland Economic Development and Business Climate Commission. As such, the oversight of the remaining funds under the SSBCI will be transferred to TEDCO. The department and TEDCO has entered into an inter-agency agreement to ensure the proper administration and oversight of the program.

## **2. Major Grants**

The department awarded \$33.6 million in fiscal 2015 as shown in **Exhibit 9**. The exhibit also shows that another \$23.8 million is being disbursed in the current fiscal year. A decrease in grants is budgeted in fiscal 2017.

**Exhibit 9**  
**Department of Commerce**  
**Summary of Major Grants**  
**Fiscal 2015-2017**

	Actual <u>2015</u>	Appropriation <u>2016</u>	Allowance <u>2017</u>
<b>Office of the Secretary</b>			
<b>Office of International Trade and Development</b>			
Maryland Israel Development Corp.	\$275,000	\$275,000	\$275,000
World Trade Center Institute	275,000	225,000	225,000
Export Maryland – Small Business Foreign Trade Grants	320,574	482,712	244,973
<b>Military/Federal and BRAC Assistance</b>			
Southern Maryland Navy Alliance	26,334	26,334	26,334
Army Alliance	26,334	26,333	26,334
Montgomery County – White Oak	15,333	15,333	15,333
Fort Meade Alliance	26,334	26,334	26,334
Fort Dietrick Alliance	24,583	21,583	24,583
Maryland Maritime Alliance	28,833	28,833	28,833
Indian Head Alliance	21,583	21,583	21,583
Andrews Air Force Base, Business Roundtable of Prince George's County	26,333	26,333	26,333
BRAC Support	0	41,334	23,984
<i>Subtotal</i>	<i>\$1,066,241</i>	<i>\$1,216,712</i>	<i>\$964,624</i>
<b>Division of Business and Industry Sector Development</b>			
<b>Office of Biohealth</b>			
Biotech Translational Research and Commercialization Grants	\$1,364,954	\$0	\$0
Biotech Institute of Maryland	133,836	21,142	13,978
Other Biotech Grant Support	133,836	21,142	13,978
<b>Workforce Development and Coordination</b>			
Governor's Workforce Investment Board	26,635	26,635	26,635
<b>Small Business</b>			
Small Business Development Center/University of Maryland – Procurement Technical Assistance Program	140,000	140,000	140,000
University of Maryland – Small Business Development Center	85,400	85,400	85,400
National Veterans Institute for Procurement	150,000	150,000	0
Not-for-profit Development Fund Grants	0	87,800	73,900
Department of General Services Not-for-profit Procurement Study	77,200	72,000	36,100

*T00 – Department of Commerce*

	<u>Actual 2015</u>	<u>Appropriation 2016</u>	<u>Allowance 2017</u>
<b>Community Development</b>			
Appalachian Regional Commission	13,844	15,748	13,844
Tri-County Council of Western Maryland	150,000	150,000	200,000
Tri-County Council of Southern Maryland	150,000	150,000	200,000
Mid-Shore Regional Council	150,000	150,000	200,000
Tri-County Council Lower Shore	150,000	150,000	200,000
Upper Shore Regional Council	150,000	150,000	200,000
Economic Alliance of Greater Baltimore	62,333	75,000	62,000
<b>Technology Development</b>			
Technology Council of Maryland	100,000	60,000	60,000
Greater Baltimore Technology Council	62,500	60,000	55,000
Chesapeake Regional Technology Council	60,000	60,000	55,000
Manufacturing Extension Partnership	250,000	250,000	250,000
Other/TBD	15,500	15,000	15,000
Cybersecurity Industry Support/TBD	30,000	302,500	330,000
Mid-Atlantic Aviation Partnership	50,000	0	0
Cybersecurity Roundtable	250,000	0	0
Advance Maryland	60,000	0	0
Dream-It	50,000	0	0
<i>Subtotal</i>	<i>\$3,732,202</i>	<i>\$2,171,225</i>	<i>\$2,216,857</i>
<b>Division of Tourism, Film, and the Arts</b>			
<b>Tourism</b>			
Capital Region USA, Inc.	\$239,500	\$400,000	\$400,000
Star Spangled 200, Inc.	2,000,000	0	0
Maryland Tourism Education Foundation	0	0	0
Maryland Sportsmen's Foundation	0	0	0
Maryland Tourism Council	35,000	40,000	40000
Maryland Academy of Sciences	450,000	0	0
Living Classrooms Foundation and Friends of Fort McHenry	35,000	0	0
Reginald F. Lewis Museum of Maryland African American History	18,939	0	0
Star Spangled 200, Incorporated	210,764	0	0
Pride of Baltimore	125,000	0	0
National Park Service, Chesapeake Bay	70,321	0	0
Fort McHenry	80,000	0	0
Dundalk Patapsco Neck Historical Society	26,250	0	0
War of 1812 Grants (Various Recipients)	119,259	0	0
County Cooperative Grants (Various Recipients)	2,500,001	2,500,000	2500000
Various Other Tourism Grants	32,000	250,000	250000
<i>Subtotal</i>	<i>\$5,942,033</i>	<i>\$3,190,000</i>	<i>\$3,190,000</i>

**T00 – Department of Commerce**

	<b>Actual 2015</b>	<b>Appropriation 2016</b>	<b>Allowance 2017</b>
<b>Maryland State Arts Council – Grants for Organization (GFO)</b>			
Academy Art Museum	\$102,427	\$89,770	\$0
Adventure Theatre – Musical Theatre Center	100,000	105,000	0
AFI Silver Theatre and Cultural Center	110,000	115,500	0
American Dance Institute	60,000	85,000	0
American Visionary Art Museum	175,650	201,450	0
Annapolis Chorale	0	25,877	0
Annapolis Symphony Orchestra	81,979	75,556	0
ArtStream, Inc.	0	29,450	0
Avalon Foundation, Inc.	111,646	112,830	0
Ballet Theatre of Maryland, Inc.	54,670	52,218	0
Baltimore Choral Arts Society	41,900	41,044	0
Baltimore Clayworks, Inc.	71,452	71,533	0
Baltimore Symphony Orchestra, Inc.	1,824,061	1,808,590	0
Baltimore's Festival of The Arts, Inc.	62,912	64,643	0
BlackRock Center for the Arts	54,021	73,000	0
Center Stage Associates, Inc.	483,895	535,523	0
Chesapeake Shakespeare Company	0	35,000	0
City of Gaithersburg	33,411	37,557	0
Class Acts Arts, Inc.	66,471	61,999	0
Columbia Center for Theatrical Arts, Inc.	28,000	30,728	0
Columbia Festival, Inc.	32,787	30,000	0
Common Ground on the Hill	33,174	37,573	0
Concert Artists of Baltimore	28,283	27,032	0
Creative Alliance, Inc.	119,584	130,398	0
Dance Exchange, Inc.	45,069	38,439	0
Frostburg State University	40,000	36,608	0
Glen Echo Park Partnership for Arts and Culture, Inc.	90,000	100,000	0
Hippodrome Foundation, Inc.	0	26,010	0
Imagination Stage, Inc.	323,677	325,015	0
Jewish Community Center of Greater Washington	33,560	40,000	0
Jewish Museum of Maryland	54,208	50,350	0
Lumina Studio Theatre	25,663	0	0
Maryland Art Place, Inc.	30,494	27,345	0
Maryland Classic Youth Orchestras, Inc.	37,279	38,036	0
Maryland Hall for the Creative Arts	106,143	135,000	0
Maryland Institute College of Art	30,000	0	0
Maryland-National Capital Park and Planning Commission, Arts and Cultural Heritage	276,202	250,672	0
Metropolitan Center for the Visual Arts (VisArts)	40,000	50,000	0
National Council for the Traditional Arts	45,739	42,218	0

*T00 – Department of Commerce*

	<b>Actual 2015</b>	<b>Appropriation 2016</b>	<b>Allowance 2017</b>
National Philharmonic	176,355	159,887	0
Olney Theatre Center	230,000	260,000	0
Producer's Club of Maryland – Maryland Film Festival	30,000	0	0
Pyramid Atlantic Art Center	36,423	35,806	0
Round House Theatre	198,963	219,911	0
Shriver Hall Concert Series	32,930	34,222	0
Strathmore Hall Foundation, Inc.	555,607	540,111	0
The Baltimore Museum of Art	875,203	835,013	0
The Delaplaine Visual Arts Education Center	45,000	43,239	0
The Everyman Theatre, Inc.	161,829	205,703	0
The Lyric Foundation, Inc.	200,000	275,000	0
The Maryland-National Capital Park and Planning Commission, Area Operations	45,346	46,000	0
The Maryland Symphony Orchestra, Inc.	89,760	89,023	0
The Puppet Company	38,752	34,586	0
The Walters Art Museum	975,922	892,461	0
The Ward Museum of Wildfowl Art	66,073	66,160	0
The Writer's Center	58,917	68,718	0
University of Maryland Baltimore County – Center for Art, Design, and Visual Culture	26,199	26,062	0
University of Maryland, College Park-David C. Driskell Center	40,000	33,371	0
University of Maryland – Clarice Smith Performing Arts Center	365,000	335,000	0
Washington County Museum of Fine Arts	72,802	76,726	0
Washington Revels, Inc.	27,000	32,000	0
Waterfowl Festival, Inc.	60,000	55,000	0
WBJC-FM	39,267	50,000	0
Weinberg Center for the Arts/City of Frederick	105,919	100,796	0
World Arts Focus dba Joe's Movement Emporium	71,092	63,007	0
Young Audiences of Maryland, Inc.	128,286	138,000	0
Various Other GFO grants	1,092,237	1,941,170	11,940,379
<i><b>Subtotal</b></i>	<i><b>\$10,699,239</b></i>	<i><b>\$11,693,936</b></i>	<i><b>\$11,940,379</b></i>

**Community Arts Development**

Allegany Arts Council, Incorporated	\$97,187	\$99,846	\$0
Arts and Humanities Council of Montgomery County	137,095	141,158	0
Arts Council of Anne Arundel County, Inc.	117,591	120,866	0
Arts Council of Calvert County	97,904	100,608	0
Baltimore County Commission on Arts and Sciences	128,900	132,377	0
Baltimore Office of Promotion and The Arts	120,399	123,569	0
Caroline County Council of Arts, Inc.	95,459	98,102	0

*T00 – Department of Commerce*

	<b>Actual 2015</b>	<b>Appropriation 2016</b>	<b>Allowance 2017</b>
Carroll County Arts Council	101,166	103,939	0
Cecil County Arts Council, Inc.	98,388	101,116	0
Charles County Arts Alliance, Inc.	100,544	103,375	0
Dorchester Center for the Arts, Inc.	95,458	98,104	0
Frederick Arts Council, Inc.	104,291	107,212	0
Garrett County Arts Council, Inc.	95,340	97,979	0
Harford County Public Library	104,621	107,489	0
Howard County Arts Council	106,964	110,043	0
Kent County Arts Council	94,920	97,553	0
Prince George's Arts and Humanities Council	131,738	135,721	0
Queen Anne's County Arts Council, Inc.	96,129	98,804	0
Salisbury Wicomico Arts Council	98,345	101,079	0
Somerset County Arts Council	95,187	97,814	0
St. Mary's County Arts Council	98,715	101,461	0
Talbot County Arts Council, Inc.	95,681	98,322	0
Washington County Arts Council, Inc.	100,405	103,152	0
Worcester County Arts Council	96,260	98,928	0
Various Community Arts Development Grants	0	0	2,754,744
<b><i>Subtotal</i></b>	<b>\$2,508,687</b>	<b>\$2,599,730</b>	<b>\$2,599,730</b>
<b>Artists in Education</b>			
InterAct Story Theatre Education Association	\$133,365	\$200,000	\$0
Young Audiences of Maryland, Inc.	37,500	37,500	0
Various Artist In Education	449,991	487,500	775,000
<b><i>Subtotal</i></b>	<b>\$687,327</b>	<b>\$725,000</b>	<b>\$775,000</b>
<b>Maryland Traditions</b>			
Creative Alliance, Inc.	\$38,914	\$0	\$0
National Council for the Traditional Arts	54,437	70,000	0
University of Maryland Baltimore County (MTA)	34,000	0	0
University of Maryland Baltimore County (MTA)	42,000	0	0
Various Maryland Traditions	104,930	170,000	305,775
<b><i>Subtotal</i></b>	<b>\$169,351</b>	<b>\$240,000</b>	<b>\$305,775</b>
<b>Grants to All Other</b>			
Strathmore Hall Foundation	\$38,036	\$0	\$0
<b>Total – Maryland State Arts Council</b>	<b>\$14,102,640</b>	<b>\$15,258,666</b>	<b>\$15,315,109</b>

*T00 – Department of Commerce*

	<u>Actual 2015</u>	<u>Appropriation 2016</u>	<u>Allowance 2017</u>
<b>Film Production Program</b>			
Knight Takes King Productions LLC	\$7,500,000	\$0	\$0
<b>Preservation of Cultural Arts</b>			
Arena Players, Inc.	\$100,000	\$25,000	\$0
African American Museum and Cultural Center	200,000	25,000	0
Great Blacks in Wax Museum	150,000	0	0
The Maryland School for the Blind	800,000	0	0
Sotterly Plantation	0	50,000	0
Maryland Historical Society	0	125,000	0
Maryland Humanities Council	0	175,000	0
Maryland Science Center	0	467,000	0
Dolman Black Heritage Museum	0	25,000	0
Center Stage	0	200,000	0
Arts Every Day	0	68,080	0
Young Audiences of Maryland	0	50,000	0
Maryland State Arts Council – Grants	0	789,920	\$2,000,000
<i>Subtotal</i>	<i>\$1,250,000</i>	<i>\$2,000,000</i>	<i>\$2,000,000</i>
<b>Total Commerce Grants</b>	<b>\$33,593,116</b>	<b>\$23,836,603</b>	<b>\$21,686,590</b>

BRAC: Base Realignment and Closure

GFO: grants for organizations

MTA: Maryland Transit Administration

TBD: to be determined

\* The final distribution of Maryland State Arts Council grants to arts organizations for fiscal 2017 is not known at this time.

Source: Department of Commerce

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## ***Current and Prior Year Budgets***

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### **Current and Prior Year Budgets**

#### **Department of Commerce (\$ in Thousands)**

	<b>General Fund</b>	<b>Special Fund</b>	<b>Federal Fund</b>	<b>Reimb. Fund</b>	<b>Total</b>
<b>Fiscal 2015</b>					
Legislative Appropriation	\$79,337	\$80,738	\$800	\$0	\$160,875
Deficiency Appropriation	-790	0	0	0	-790
Cost Containment	-5,632	0	0	0	-5,632
Budget Amendments	-943	7,295	9,371	442	16,165
Reversions and Cancellations	-113	-3,464	-213	-144	-3,933
<b>Actual Expenditures</b>	<b>\$71,859</b>	<b>\$84,570</b>	<b>\$9,958</b>	<b>\$298</b>	<b>\$166,684</b>
<b>Fiscal 2016</b>					
Legislative Appropriation	\$73,015	\$65,928	\$1,519	\$266	\$140,728
Budget Amendments	-850	-15,925	426	0	-16,349
<b>Working Appropriation</b>	<b>\$72,166</b>	<b>\$50,002</b>	<b>\$1,945</b>	<b>\$266</b>	<b>\$124,379</b>

Note: The fiscal 2016 working appropriation does not include deficiencies or reversions. Numbers may not sum to total due to rounding.

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## Fiscal 2015

The fiscal 2015 final appropriation is significantly higher than the original appropriation due primarily to increases in special and federal funds. Conversely, total general funds declined.

The fiscal 2015 cost-of-living adjustment (COLA) increased general funds by \$151,378. However, the July and January cost containment actions taken by BPW decreased general funds by over \$5.6 million. Additionally, at the direction of budget bill language, \$1.0 million in general funds was transferred by budget amendment from Commerce’s MEDAAF program to TEDCO to provide the initial funding for the Cybersecurity Investment program. Additionally, the State Employee Voluntary Separation Program further reduced the general fund appropriation by \$100,000.

Special funds increased by close to \$7.3 million in fiscal 2015. The fiscal 2015 COLA increased special funds by \$56,529. Additionally, a budget amendment increased special funds under the Maryland Economic Adjustment Fund (MEAF) by \$400,000. Funds were used to provide working capital loans at favorable terms to small and early stage cybersecurity companies that are located in areas affected by defense adjustments. An additional budget amendment added \$88,495 in special funds as the final grants for the War of 1812 celebrations. Funds accrued through the sale of commemorative War of 1812 coins. The primary driver of the increase in special funds is a budget amendment that appropriates fund balance under the Sunny Day Fund program and the Preservation of Cultural Arts program to benefit the department’s film incentive program. Chapter 464 of 2014 authorized the use of these fund sources to provide grants to supplement tax credits awarded under the film production activity tax credit program.

Despite these increases, the department canceled over \$3.4 million in special funds. The main driver of the canceled funds relate to a Sunny Day Fund award that was rescinded in fiscal 2015 due to the recipient company’s failure to meet required benchmarks. Similarly, the department was unable to commit the majority of funds budgeted under the MEAF, as discussed above. The department expects to be able to fund the remaining funds in fiscal 2016. Finally, almost \$1.0 million under MSB DFA was canceled in fiscal 2015. According to the department, this was largely due to the timing of some line of credit repayments.

Federal funds increased significantly in fiscal 2015. This is primarily due to the reappropriation of funds under the U.S. Small Business Credit Initiative (\$7.7 million). This issue is discussed under the Issues section of this analysis. Federal funds also increased in fiscal 2015 for the Office of Military and Federal Affairs to develop strategies to diversify the State’s economy in light of federal defense budget reductions. Federal funds also increased by \$501,865 and by \$66,400 due to two budget amendments that provided funds to the Maryland Tourism Board. This funding is passed through to the nonprofit arm of the Maryland War of 1812 Bicentennial Commission created by an executive order of the Governor. According to the federal regulations, the funding must be matched by private fundraising. Funds were used by the commission to support activities related to the bicentennial celebration of the War of 1812 and in particular, the Battle of Baltimore.

Finally, reimbursable funds increased by \$441,706 in fiscal 2015. Funds were provided by the Maryland Department of Transportation through the Scenic Byways programs. Funds were used to enhance marketing efforts related to the War of 1812 celebration. However, the department was unable to commit all of these additional funds, and a small amount was canceled at year's end.

## **Fiscal 2016**

To date, the fiscal 2016 working appropriation is considerably less than the original appropriation. This is due to the transfer of programs from Commerce to TEDCO pursuant to Chapter 141 that reorganized the State's economic development efforts. Specifically, general funds decline by over \$1.1 million due to the transfer of early biotechnology company grants. The decline is mitigating, in part, by the restoration of a general 2% salary reduction.

Similarly, special funds decline by approximately \$16.4 million to transfer funds associated with the Maryland Enterprise Fund to TEDCO. However, this decline was also partially mitigated by the restoration of the 2% salary reduction. An additional budget amendment increased special funds to the MEAF program. This program was originally established to provide loans to new or existing companies in communities suffering from dislocation due to defense adjustments. The program has expanded and is often used as a source of direct lending assistance to small businesses. Recipient companies do not have to show that they have suffered as a result of declining defense spending, only that they are located in an area suffering from defense adjustments. The department plans in using the funds to provide working capital loans at favorable terms to small and early stage cybersecurity companies that are located in areas affected by defense adjustments.

Additionally, special funds increased by \$50,000 due to an increase in available funds for the Maryland Not-for-Profit Development Fund that provides technical assistance to newly formed nonprofits.

Federal funds increase primarily due to a budget amendment for the Office of International Investment and Trade. The funds are made available through a grant from the U.S. Small Business Administration under its State Trade and Export Promotion Grant program. The federal program is designed to provide matching funds for states to assist small business and their export activities. Commerce is using the funds to supplement its existing ExportMD program. This program provides \$5,000 grants to Maryland companies to reimburse expenses associated with international marketing efforts. Such expenses include market research, trade show fees, translation of brochures, airfare, and website development. The funds allow the department to increase grant capacity by about 29% in fiscal 2016.

Finally, federal funds increase slightly due to the restoration of the general 2% salary reduction.

## Audit Findings

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Audit Period for Last Audit:	November 2, 2010 – June 30, 2014
Issue Date:	October 2015
Number of Findings:	11
Number of Repeat Findings:	1
% of Repeat Findings:	9%
Rating: (if applicable)	n/a

- Finding 1:** Comprehensive written procedures were not prepared to ensure consistency and compliance with the law in administering the Premium Tax credit auction for the Invest Maryland program, and tax credit certificates issued to winning bidders included incorrect identifying information.
- Finding 2:** The Department of Business and Economic Development (now Commerce) did not adequately document the selection process and allocation of capital to venture firms, and monitoring efforts over the firms' investment activity were not sufficient.
- Finding 3:** Commerce did not obtain required approval from the Office of the State Treasurer in advance of opening certain investment bank accounts.
- Finding 4:** Commerce's process for verifying that recipients met requirements for forgiveness of conditional loans and grant repayments was not effective.
- Finding 5:** Commerce had not established formal forbearance agreement procedures for its MSBDA program and did not have an effective mechanism to track and monitor forbearance agreement activity.
- Finding 6:** **The capabilities of system users on Commerce's automated financing programs monitoring system were not adequately restricted.**
- Finding 7:** Cash balances for financing programs were not adequately reconciled with the State's records.
- Finding 8:** Commerce did not sufficiently verify One Maryland applicants' compliance with job creation and associated cost requirements and did not administer the program in accordance with State regulations.

- Finding 9:** Program regulations were not established as required, and Commerce lacked documentation of supervisory reviews of credits issued under the Film Production Activity Tax Credit.
- Finding 10:** Procedures and controls over the award and disbursement of Maryland State Arts Council grants were not adequate.
- Finding 11:** Certain purchasing transactions and access to the State's Financial Management Information System were not sufficiently controlled.

\*Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report**  
**Department of Commerce**

<u>Object/Fund</u>	<b>FY 16</b>		<b>FY 17</b>	<b>FY 16 - FY 17</b>	<b>Percent Change</b>
	<b>FY 15</b>	<b>Working Appropriation</b>			
<b>Positions</b>					
01 Regular	217.00	208.00	206.00	-2.00	-1.0%
02 Contractual	17.60	17.95	20.40	2.45	13.6%
<b>Total Positions</b>	<b>234.60</b>	<b>225.95</b>	<b>226.40</b>	<b>0.45</b>	<b>0.2%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 22,562,727	\$ 23,050,667	\$ 23,082,538	\$ 31,871	0.1%
02 Technical and Spec. Fees	860,485	862,715	962,007	99,292	11.5%
03 Communication	570,589	618,504	536,061	-82,443	-13.3%
04 Travel	649,201	720,408	694,415	-25,993	-3.6%
06 Fuel and Utilities	24,826	24,140	25,298	1,158	4.8%
07 Motor Vehicles	293,531	283,531	289,644	6,113	2.2%
08 Contractual Services	11,733,060	12,922,891	13,054,444	131,553	1.0%
09 Supplies and Materials	165,408	177,193	207,982	30,789	17.4%
10 Equipment – Replacement	98,911	35,174	14,350	-20,824	-59.2%
11 Equipment – Additional	48,204	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	62,296,045	49,519,683	73,169,159	23,649,476	47.8%
13 Fixed Charges	2,504,901	2,459,534	2,405,743	-53,791	-2.2%
14 Land and Structures	64,876,420	33,705,000	39,205,000	5,500,000	16.3%
<b>Total Objects</b>	<b>\$ 166,684,308</b>	<b>\$ 124,379,440</b>	<b>\$ 153,646,641</b>	<b>\$ 29,267,201</b>	<b>23.5%</b>
<b>Funds</b>					
01 General Fund	\$ 71,859,280	\$ 72,165,763	\$ 92,879,462	\$ 20,713,699	28.7%
03 Special Fund	84,569,598	50,002,302	51,072,747	1,070,445	2.1%
05 Federal Fund	9,957,794	1,945,148	9,488,851	7,543,703	387.8%
09 Reimbursable Fund	297,636	266,227	205,581	-60,646	-22.8%
<b>Total Funds</b>	<b>\$ 166,684,308</b>	<b>\$ 124,379,440</b>	<b>\$ 153,646,641</b>	<b>\$ 29,267,201</b>	<b>23.5%</b>

Note: The fiscal 2016 working appropriation does not include deficiencies or reversions. The fiscal 2017 allowance does not include contingent reductions.

**Fiscal Summary**  
**Department of Commerce**

<u>Program/Unit</u>	<u>FY 15 Actual</u>	<u>FY 16 Wrk Approp</u>	<u>FY 17 Allowance</u>	<u>Change</u>	<u>FY 16 - FY 17 % Change</u>
0A Department of Business and Economic Development	\$ 17,995,026	\$ 17,661,061	\$ 17,597,218	-\$ 63,843	-0.4%
0F Division of Financial Assistance Programs	108,580,767	74,024,916	91,022,716	16,997,800	23.0%
0G Division of Tourism and Promotion	40,108,515	32,693,463	45,026,707	12,333,244	37.7%
<b>Total Expenditures</b>	<b>\$ 166,684,308</b>	<b>\$ 124,379,440</b>	<b>\$ 153,646,641</b>	<b>\$ 29,267,201</b>	<b>23.5%</b>
General Fund	\$ 71,859,280	\$ 72,165,763	\$ 92,879,462	\$ 20,713,699	28.7%
Special Fund	84,569,598	50,002,302	51,072,747	1,070,445	2.1%
Federal Fund	9,957,794	1,945,148	9,488,851	7,543,703	387.8%
<b>Total Appropriations</b>	<b>\$ 166,386,672</b>	<b>\$ 124,113,213</b>	<b>\$ 153,441,060</b>	<b>\$ 29,327,847</b>	<b>23.6%</b>
Reimbursable Fund	\$ 297,636	\$ 266,227	\$ 205,581	-\$ 60,646	-22.8%
<b>Total Funds</b>	<b>\$ 166,684,308</b>	<b>\$ 124,379,440</b>	<b>\$ 153,646,641</b>	<b>\$ 29,267,201</b>	<b>23.5%</b>

Note: The fiscal 2016 working appropriation does not include deficiencies or reversions. The fiscal 2017 allowance does not include contingent reductions.