P00C
Business Regulation
Department of Labor, Licensing, and Regulation

Operating Budget Data

($ in Thousands)

	FY 17 Actual	FY 18 Working	FY 19 Allowance	FY 18-19 Change	% Change Prior Year
General Fund	$8,845	$8,588	$6,586	-$2,002	-23.3%
Adjustments	0	-102	-1,218	-1,116	
Adjusted General Fund	**$8,845**	**$8,486**	**$5,368**	**-$3,118**	**-36.7%**
Special Fund	125,849	202,150	192,684	-9,466	-4.7%
Adjustments	0	-289	1,095	1,384	
Adjusted Special Fund	**$125,849**	**$201,861**	**$193,779**	**-$8,083**	**-4.0%**
Federal Fund	4,987	5,300	5,289	-11	-0.2%
Adjustments	0	-64	33	97	
Adjusted Federal Fund	**$4,987**	**$5,236**	**$5,321**	**$86**	**1.6%**
Reimbursable Fund	1,210	1,259	1,296	37	3.0%
Adjustments	0	0	8	8	
Adjusted Reimbursable Fund	**$1,210**	**$1,259**	**$1,305**	**$46**	**3.6%**
Adjusted Grand Total	**$140,891**	**$216,843**	**$205,773**	**-$11,069**	**-5.1%**

Note: FY 18 Working includes targeted reversions, deficiencies, and across-the-board reductions. FY 19 Allowance includes contingent reductions and cost-of-living adjustments.

- The adjusted fiscal 2019 allowance includes a $3.1 million decrease in general funds, or 36.7%, mainly for personnel costs and various contracts. Special funds decrease by $8.1 million largely due to a reduction in available gaming revenues based on revised estimates.

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

For further information contact: Sierra S. Boney Phone: (410) 946-5530

- SB 6 of 2018 proposes to allow $1.04 million in revenues from examinations and other fees paid to the Office of Financial Regulation that currently goes to the General Fund to go to the Nondepository Special Fund. That fund will then support expenses that are currently funded with general funds. The budget plan recognizes $1.26 million in general fund savings but not the loss of general fund revenue.

Personnel Data

	FY 17 Actual	FY 18 Working	FY 19 Allowance	FY 18-19 Change
Regular Positions	349.10	350.10	347.10	-3.00
Contractual FTEs	36.68	51.05	58.84	7.79
Total Personnel	**385.78**	**401.15**	**405.94**	**4.79**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	10.34	2.98%
Positions and Percentage Vacant as of 12/31/17	37.50	10.71%

- There are 3 positions abolished in the Business Regulation section.

- There is a 7.79 increase in contractual full-time equivalents.

Analysis in Brief

Major Trends

Prevailing Wage: There has been an increase in the number of prevailing wage investigations and wage determinations.

Financial Regulation: The Office of the Commissioner of Financial Regulation has worked to improve timeliness of mortgage examinations. As a result, in fiscal 2017, 100% of mortgage lender examinations were conducted within the first 18 months of doing business and every 36 months thereafter.

Occupational and Professional Licensing: There has been improvement in both the percentage of complaints closed within 180 days and the average number of days to close complaints within the Division of Occupational Professional Licensing.

Issues

Maryland Occupational Safety and Health: Fiscal 2018 budget bill language withheld funds pending receipt of a report on the Maryland Occupational Safety and Health program. While the report provided the information requested, the responses raise more questions regarding enforcement and complaint practices in the Department of Labor, Licensing, and Regulation (DLLR). **The Department of Legislative Services (DLS) recommends releasing the $250,000 held pending the receipt of the report.**

Employment Standards: Fiscal 2018 budget bill language withheld funds pending receipt of a report on the Employment Standards Service Unit of DLLR. That report was received and will be reviewed. **DLS recommends releasing the $250,000 held pending the receipt of the report.**

Operating Budget Recommended Actions

1. Concur with Governor's allowance.

Business Regulation

Department of Labor, Licensing, and Regulation

Operating Budget Analysis

Program Description

The Department of Labor, Licensing, and Regulation (DLLR) includes many of the State's agencies and boards responsible for licensing and regulating various businesses, professions, and trades. DLLR also administers a variety of federally funded employment service programs. This analysis focuses on the following DLLR business regulation divisions:

- ***The Division of Labor and Industry (DLI)*** is responsible for safety inspections of boilers, elevators, amusement rides, and railroads. The division also enforces certain protective labor laws and administers the Maryland Occupational Safety and Health (MOSH) Act. The division's mission is to protect Maryland citizens' health, safety, and employment rights.

- ***The Division of Occupational and Professional Licensing*** (DOPL) includes boards and commissions that license, regulate, and monitor 26 different professions and trades. The division's mission is to ensure that regulated occupations and professions have practitioners that are competent and compliant with State laws, regulations, and standards. This oversight seeks to ensure that commercial services are conducive to the health, safety, and welfare of Maryland consumers.

- ***The Division of Racing***, which houses the Maryland Racing Commission, regulates thoroughbred and harness racing tracks across the State. The division's responsibilities include assigning racing days, regulating wagering on races, collecting the wagering tax, licensing all racetrack employees, and operating a testing laboratory. The division also pays the salaries and stipends of all racetrack employees that are appointed by the Maryland Racing Commission.

- ***The Division of Financial Regulation*** regulates commercial banks, trust companies, credit unions, mortgage lenders and originators, collection agencies, and consumer loan companies. The division's mission is to protect financial services consumers, ensure appropriate licensing, and maintain safety and soundness in Maryland's financial services industry.

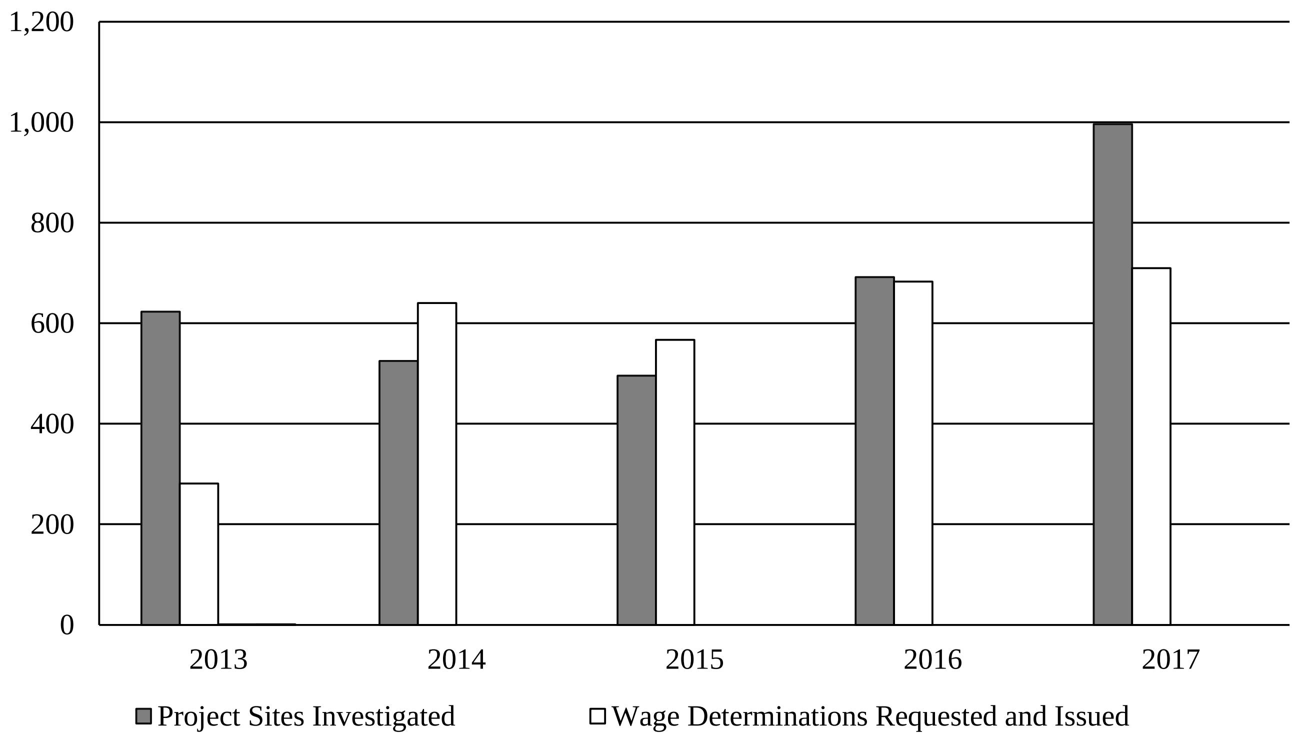
A separate analysis discusses the department's Division of Workforce Development and Adult Learning, Division of Unemployment Insurance, and Division of Administration.

Performance Analysis: Managing for Results

1. Prevailing Wage

The prevailing wage is the hourly wage normally paid to the majority of workers within a particular occupational area. Prevailing wage law in Maryland applies to a construction project valued at $500,000 or more if the project is funded, in part or completely, by the State. The prevailing wage is determined annually for each classification of worker in each locality for each type of project. In the case that workers are underpaid, the hiring business is subject to a fine of $20 per day for each worker paid less than the current prevailing wage. **Exhibit 1** shows the number of prevailing wage sites investigated and the number of wage determination requests from fiscal 2013 to 2017. In fiscal 2017, there has been a notable increase in the number of project sites investigated and the number of wage determinations. This is the result of both being fully staffed and an increase in prevailing wages projects.

Exhibit 1
Wage Complaints and Determinations
Fiscal 2013-2017

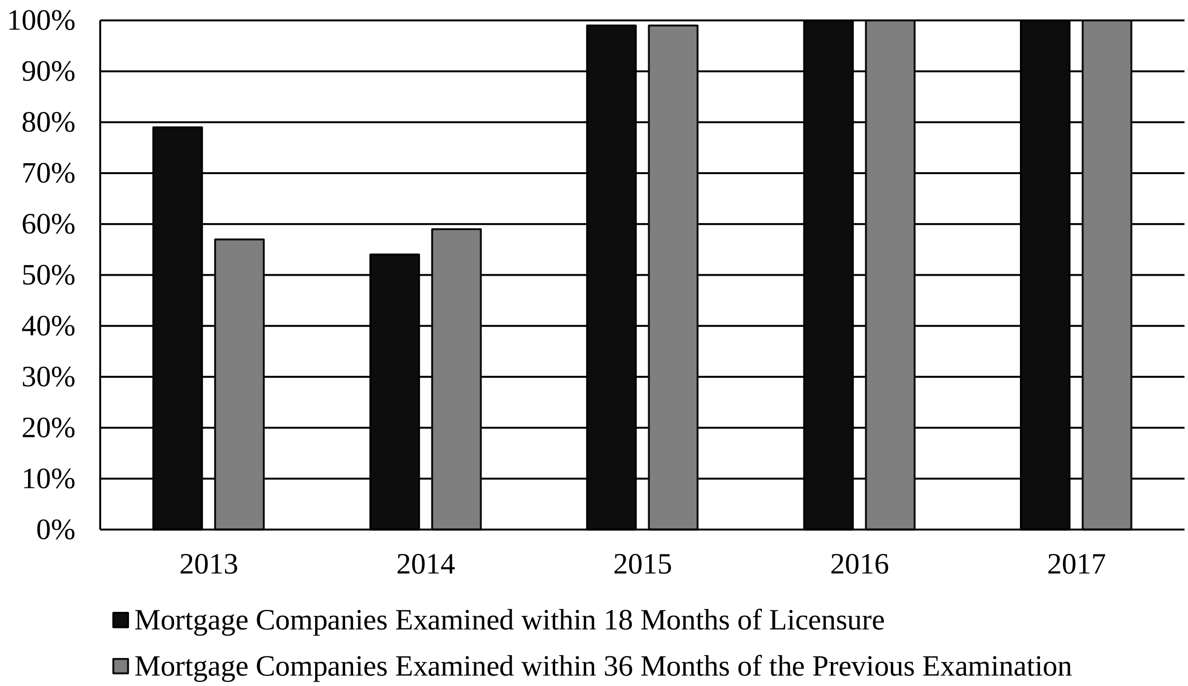


Source: Department of Labor, Licensing, and Regulation

2. Financial Regulation

The Office of the Commissioner of Financial Regulation (OFR) regulates the financial services industry. The office is responsible for supervising mortgage lenders, brokers, servicers, and loan originators and assessing the integrity of their business practices through regular examinations. **Exhibit 2** shows the number of mortgage companies examined within 18 months of licensure and within 36 months of the previous examination. In each of the past three fiscal years, 100% of companies have been examined within the first 18 months of being licensed and within 36 months of the last examination.

Exhibit 2
Mortgage Companies Examinations
Fiscal 2013-2017

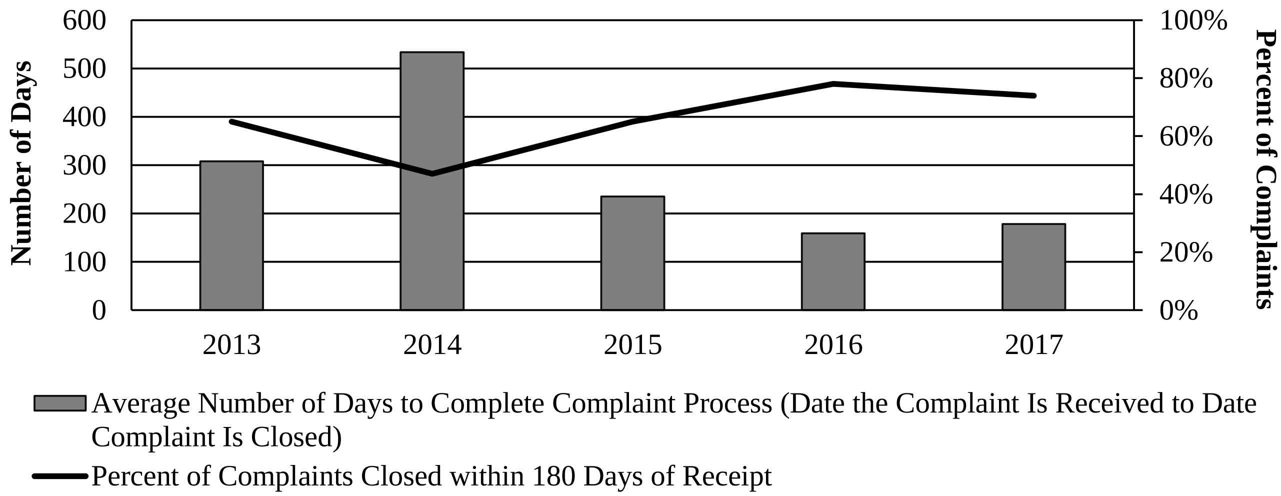


Source: Department of Labor, Licensing, and Regulation

3. Occupational and Professional Licensing

DOPL is responsible for overseeing 21 licensing boards. **Exhibit 3** shows that the percent of complaints closed within 180 days has improved significantly from 47% in fiscal 2014 to 74% in fiscal 2017. The average number of days to complete the complaint process has decreased over 50% from 534 days in fiscal 2014 to 235 days in fiscal 2017.

Exhibit 3
Occupational Complaints and Resolutions
Fiscal 2013-2017



Source: Department of Labor, Licensing, and Regulation

Fiscal 2018 Actions

Cost Containment

On September 6, 2017, the Board of Public Works reduced the fiscal 2018 budget of DLLR Business Regulation by $567,000 through savings achieved through a shift of salaries to special funds and a decrease in postage costs.

Across-the-board Employee and Retiree Health Insurance Reduction

The budget bill includes an across-the-board reduction for employee and retiree health insurance in fiscal 2018 to reflect a surplus balance in the fund. This agency's share of this reduction is $101,969 in general funds, $288,550 in special funds, and $63,805 in federal funds.

Proposed Budget

As shown in **Exhibit 4**, the adjusted fiscal 2019 allowance for DLLR Business Regulation decreases by $11.1 million, or 5.1%, compared to the adjusted fiscal 2018 working appropriation.

Exhibit 4
Proposed Budget
DLLR – Business Regulation
($ in Thousands)

How Much It Grows:	**General Fund**	**Special Fund**	**Federal Fund**	**Reimb. Fund**	**Total**
Fiscal 2017 Actual	$8,845	$125,849	$4,987	$1,210	$140,891
Fiscal 2018 Working Appropriation	8,486	201,861	5,236	1,259	216,843
Fiscal 2019 Allowance	5,368	193,779	5,321	1,305	205,773
Fiscal 2018-19 Amount Change	-$3,118	-$8,083	$86	$46	-$11,069
Fiscal 2018-19 Percent Change	-36.7%	-4.0%	1.6%	3.6%	-5.1%

Where It Goes:	
Personnel Expenses	
Health insurance primarily the impact of the fiscal 2018 payroll deduction holidays	$498
General salary increase	268
Turnover adjustments	184
Reclassifications	81
Other fringe benefit adjustments	25
Abolished positions (3.0 full-time equivalents (FTE))	-235
Other Changes	
Contractual assistance (7.79 FTEs)	243
Financial Regulation	
Travel	320
Temporary staff to process licensing applications	220
Foreclosure registry website	112
Employment Standards and Safety Inspection	
Wage reporting software	27
Computer replacement	14
One-time costs associated with vehicle purchases	-55
Occupational and Professional Licensing	
Information technology-related projects	43

Where It Goes:	
Professional engineers and Certified Public Accountant exam costs	395
Electronic Licensing Modernization Effort (See Appendix 3 for additional details)	2,080
Gaming Revenue	
Racetrack facility renewal (align to revenue estimates)	-1,270
Community impact grants (align to revenue estimates)	-6,712
Purse dedication account (align to revenue estimates)	-7,087
Miscellaneous Changes	
Supplies	-14
Administrative hearings	-52
Other	-154
Total	**-$11,069**

DLLR: Department of Labor, Licensing, and Regulation

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

Personnel

There is an $821,000 increase in personnel costs for Business Regulation. The fiscal 2019 allowance includes funds for a 2% general salary increase for all State employees, effective January 1, 2019. These funds are budgeted in the Department of Budget and Management's statewide program and will be distributed to agencies during the fiscal year. This agency's share of the general salary increase is $268,000.

There is also an $81,000 increase for the reclassification of positions that are currently budgeted at the base salary after adjusting for savings in regular salaries from vacant positions being budgeted at base salaries. The largest decrease is $235,000 for 3 vacant abolished positions. Contractual support increases by $243,000, 7.79 contractual full-time equivalents (FTE). These additional contractual staff will support the racetracks during racing days, and support licensing investigations for DOPL.

Financial Regulation

In OFR, there is a $320,000 increase in travel for site visits to debt management institutions, and to conduct onsite examinations for regulated organizations. There is also a $220,000 increase for temporary employees to assist with processing license applications and a $112,000 increase to enhance the foreclosure registry website.

Within financial regulation, the fiscal 2019 budget proposes an increased reliance on special funds with a similar reduction of general funds contingent on legislation. Specifically, SB 6 of 2018 proposes that licensing, investigation, and examination fees for certain nondepository financial institutions be deposited into the Nondepository Special Fund rather than the General Fund. At the same time, general fund revenues would decrease by the amount of the fees (approximately $1.04 million) with general fund expenditures decreasing by approximately $1.26 million. It should be noted that the fiscal 2019 budget plan assumes the contingent reduction of $1.26 million but not the offsetting $1.04 million revenue loss.

The starting fiscal 2019 balance in the Nondepository Special Fund is expected to be $8.46 million which will be used to offset the $214,000 difference between revenues gained in the fund and expenses the fund has to support.

DOPL

In addition to the additional contractual assistance, there is a $395,000 increase for costs associated with the engineering and Certified Public Accountant exams. There is also a $2.1 million increase for a new Major Information Technology Project, the Electronic Licensing Modernization Effort (ELMo). This project is intended to result in a modernized licensing system with more features and increased flexibility. The project has an expected completion date of fiscal 2020. The Office of Legislative Audits recently found that DOPL did not have sufficient procedures to ensure that real estate broker and salesperson licenses and home improvement contractor licenses were issued only to individuals who had met all required qualifications (See Appendix 2). More specifically, auditors were unable to verify that applicants for real estate and home improvement contractor licenses met all of the required qualifications for licensure. While DLLR has already begun putting an auditing system into place, the ELMo system will support efforts toward efficient and effective licensing processes.

Gaming Revenue

A percentage of the funding from gaming revenues is distributed to DLLR to support the horseracing industry and the localities in which horseracing takes place. The Bureau of Revenue Estimates has significantly adjusted its fiscal 2018 and 2019 gaming revenue estimates. The fiscal 2019 allowance aligns spending to these recent estimates. **Exhibit 5** shows that there is a notable decrease from the fiscal 2018 working appropriation to the fiscal 2019 allowance; this is due to the fiscal 2018 working appropriation being significantly overstated. In fact, when comparing the current estimates for fiscal 2018 to the fiscal 2019 allowance, there is a slight increase for fiscal 2019.

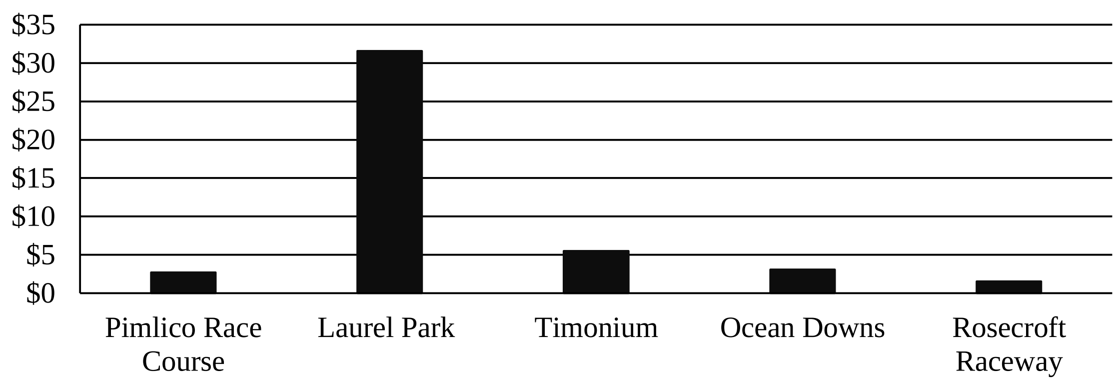
Exhibit 5
Gaming Revenues
Fiscal 2017-2019

	2017 Actual	2018 Working	Revised 2018 Est. (Dec. 2017)	2019 Allowance	Change from 2018 Revised Est. 2019 Allowance
Local Impact Grants	$65,034,833	$93,956,051	$85,900,000	$87,234,800	$1,334,800
Purse Dedication	27,338,498	69,233,000	59,045,065	61,795,813	2,750,748
Racetrack Facility Renewal Account	7,888,992	11,066,000	9,648,370	9,795,608	147,238

Source: Bureau of Revenue Estimates

The funding from the Racetrack Facility Renewal Account (RFRA) Account is matched at 50% and is distributed by the Maryland Racing Commission to the racetrack after the work has been completed. As seen in **Exhibit 6**, since 2012, there has been $31.5 million in distributions requested for the Laurel Park racetrack, $2.7 million in distributions requested for Pimlico Race Course, $5.5 million for Timonium, $3.1 million for Ocean Downs, and $1.5 million for Rosecroft Raceway. The fund balance for the RFRA as of July 31, 2017, was approximately $9.6 million.

Exhibit 6
Distributions by Racetrack
Fiscal 2012-2017
($ in Millions)



Source: Department of Labor, Licensing, and Regulation

The Maryland Stadium Authority (MSA) has presented preliminary findings in a feasibility study concerning the ability of Pimlico Race Course to continue hosting the Preakness, the third leg of the Triple Crown. While the situational study provided shows that there are no insurmountable barriers to the continued success of the Preakness, significant renovations of the Pimlico Race Course are necessary. The suggested investment necessary for Pimlico Race Course renovations far exceeds the capacity of the RFRA. The maximum revenue to the RFRA is $20 million annually. A Pimlico Race Course renovation project would require a major financial investment ranging from approximately $248 million to $322 million.

Building Codes to DLLR

The fiscal 2019 budget bill includes a section in the back of the bill authorizing the Governor to transfer positions and funding by approved budget amendment from the Department of Housing and Community Development (DHCD) to DLLR contingent on the passage of legislation (HB 694) transferring the Maryland Building Codes Administration (MBCA) from DHCD to DLLR. The administration helps ensure that buildings in Maryland meet applicable standards for health and safety. In DHCD, there are 4.0 positions and $627,490 in special funds for this purpose. Of the $627,490 in the fiscal 2019 allowance, $240,000 are from revenues received by MBCA for work performed. The remaining $387,490 is special funds received from the General Bond Reserve fund. The General Bond Reserve fund is used to provide funds for payments on bonds and notes in the Revenue Obligation Funds as well as operating expenses in DHCD. In transferring MBCA to DLLR, it is unclear if the General Bond Reserve funds can be used to support operating costs in DLLR. **DLLR should comment on the payment of operation expenses for MBCA if HB 694 is enacted.**

Budget Reconciliation and Financing Act

In the Budget Reconciliation and Financing Act of 2018, there is a $350,000 revenue loss for the Office of Sports Marketing housed in MSA. These funds are allocated through the horseracing special fund as an annual grant.

Issues

1. Maryland Occupational Safety and Health

The Williams-Steiger Occupational Safety and Health Act of 1970 required the U.S. Department of Labor to establish a program "to assure so far as possible every working man and woman in the nation with safe and healthful working conditions." The federal legislation added that states may assume the responsibility for development and management of a state occupational safety and health program as long as standards under the state program meet the minimum federal requirements. In 1971, DLI assumed responsibility for MOSH Administration.

In response to concerns regarding MOSH, the fiscal 2018 budget included language requesting DLLR to submit a report on its current levels of staffing and operations at MOSH. The report requested information on:

(1) a current organizational chart outlining the staff, vacant positions, the hierarchy of the department, and the Spanish-speaking employees;

(2) the actions that have been or will be taken to attract new employees and improve retention;

(3) the metric used to determine the optimum number of health and safety inspectors;

(4) the total number of FTEs dedicated to the Voluntary Protection Program (VPP) and the number of VPP site visits conducted;

(5) a detailed explanation for the decrease in the number of inspections opened and investigated;

(6) a detailed explanation for failing to meet the annual enforcement goals as described in the Federal Annual Monitoring and Evaluation Reports and what actions the agency is taking or plans to take to improve performance in order to meet these goals;

(7) a detailed explanation for the decline in annual inspections and what actions have been or will be taken to address known or foreseeable challenges to performing inspection and enforcement responsibilities;

(8) the procedures used to gather, review, and utilize enforcement data, including geographic location and demographic data, and the planned enforcement activities for scheduling and prioritizing programmed inspections, including written documentation of the site-specific targeting program; and

(9) the procedures for reviewing and adopting federal Occupational Safety and Health Act directives and standard notices and a list of all directives and standard notices received, noting the date received, the action taken, and if rejected, a reason for the rejection.

Staffing (Items 1-4)

As of August 2017, there were a total of 98 staff positions in MOSH with 88 positions filled. There were 6 Spanish-speaking staff members, including 2 members of the outreach team, 1 industrial hygienist, 1 compliance officer, and 2 office secretaries.

DLLR asserts that it has worked to hire a training class for MOSH in an effort to attract new employees and has offered professional certification and training with the help of matching federal grant funds. It is important to note that higher paying positions at the federal level and the private sector play a role in the retention of staff. The optimum number of safety inspectors is 36, and the optimum number of health inspectors is 18, as outlined in the Maryland plan approved by the federal Occupational Safety and Health Administration (OSHA). MOSH currently has 42.75 total inspectors, including some that are split between inspection job functions.

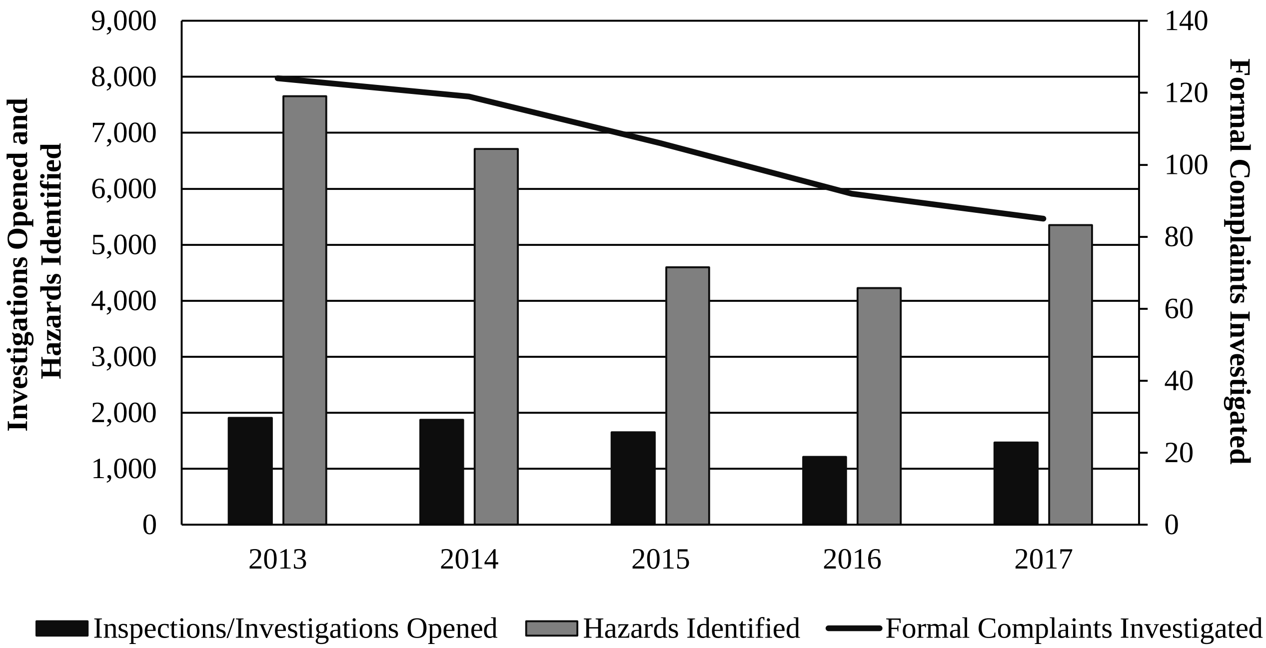
The VPP encourages participating employers to have exemplary worker safety and health programs. Under the program, the Commissioner of Labor and Industry must recognize employers that have voluntarily implemented exemplary worker safety and health management systems that exceed basic compliance with occupational safety and health laws and regulations. The program currently has 1 supervisor with additional compliance officers supporting site visits. The VPP also uses the Special Government Employees program, which is a lending program managed by OSHA. There are currently 19 VPP employer sites.

Inspections and Enforcement (Items 5-7)

Inspections conducted by MOSH are usually focused on high-hazard industries such as manufacturing or construction, but inspections can also be prompted by fatalities, serious accidents, employee complaints, and professional referrals. Employers may be exempt from traditional compliance inspections by participating in a voluntary compliance program. These programs include the Cooperative Compliance Partnership, the Safety and Health Achievement Recognition Program, and the VPP.

Exhibit 7 shows the number of inspections and investigations opened, hazards identified, and formal complaints investigated by MOSH from fiscal 2013 to 2017. Until fiscal 2017, there had been a steady decline in the number of investigations opened and number of hazards identified. There has also been a notable decrease in the number of formal complaints investigated, a trend that has continued in fiscal 2017. DLLR asserts that the decline in the number of inspections was because several inspectors retired. There has been a new training class of 17 inspectors and 2 hygienists hired to replace the retired staff.

Exhibit 7
MOSH Inspections, Hazards Identified, and Formal Complaints Investigated
Fiscal 2013-2017



Source: Department of Labor, Licensing, and Regulation

The federal OSHA program issues a *Federal Annual Monitoring Evaluation* (FAME) report to assess the work of MOSH in relation to its State plan and provide an update on the status and progress of any issues identified in previous evaluations. In the 2016 FAME follow-up report, OSHA cited a decline in some MOSH programs. There were 10 findings (3 of which were repeat findings) and 5 observations (1 of which was a repeat observation) in the report. Of the 7 new findings outlined, 6 of them were related to the processing of complaints. Problems with the handling of complaints largely stemmed from the timing of complaint responses and the integrity of the data. Specifically, 39% of inspections were initiated on a date prior to the recorded receipt date of the associated unprogrammed activity cases, which are cases found outside of routine inspections, due to MOSH recording an inaccurate receipt date, *i.e.*, complaint dates have been consistently recorded as being received later than when they have actually been received. This effects subsequent actions and deadlines. The 2016 FAME report notes that the instances of misreporting are so prevalent that it has skewed reporting and complaint documentation accuracy.

DLLR has also struggled to adequately verify when abatement for hazardous conditions has been completed. Of the 265 cases which have been open for more than 60 days, 154 of those cases have been open for over one year and 42 of those cases over two years. DLLR has not verified that the hazardous conditions have in fact been corrected, which means that workers could still be exposed to hazardous work conditions over two years after initial contact. There have also been 2 cases in which there was a delay or absence of response for issues reported as presenting "imminent danger" to workers on the Eastern Shore. **DLLR should comment on its current complaint intake, investigation, and reporting processes and address the complaint processing concerns raised by OSHA via the 2016 FAME follow-up report.**

While there have been several serious concerns raised regarding MOSH and its complaint process, it has had more success implementing its five-year strategic plan that encompasses three strategic goals, each of which has performance goals to determine success. DLLR has met or exceeded all of its performance goals with the exception of completing 90% of discrimination investigations within 90 days. There was a decline in the percent of discrimination investigations completed from 50% in fiscal 2015 to 46% fiscal 2016.

In the FAME report, there were also concerns raised regarding the current penalty per serious allegation. The enforcement measures for state plans should be at least as effective as OSHA's. As of fiscal 2016, the penalty per serious violation is $656.58, which is significantly lower than both the OSHA standard and the national average at $1,709.27 and $2,279.03, respectively. **DLLR should comment on the current enforcement penalties and its plans to increase enforcement penalties for safety violations.**

Review of Procedures (Items 8-9)

MOSH uses the Bureau of Labor Statistics Survey of Occupational Injuries and Illnesses program as well as a collection of data gathered from the U.S. Census Bureau, and its own internal Office of Workforce Information and Performance to determine site locations for which inspections and other enforcement activities may be warranted. This is in addition to the Local Emphasis Program in which the MOSH compliance officers conduct inspections. DLLR also reviews and decides to adopt OSHA directives and standards based on its current State Plan and regulatory manuals. DLLR has indicated that the reasons for not adopting directives have ranged from already being addressed in current state law, or being a duplicative or less stringent effort than already adopted by the department. At the same time, it is the obligation of MOSH to adopt Federal Program Changes (FPC) in its State plan to be "at least as effective" as the OSHA plan, and MOSH has been delinquent in its adoption of FPCs, which has resulted in the three new findings in the FAME report mentioned in the previous section. **DLLR should comment on why it has been delinquent in adopting FPCs and what corrective actions will be taken. The Department of Legislative Services (DLS) recommends releasing the $250,000 held pending the receipt of the report.**

2. Employment Standards

Fiscal 2018 budget bill language requested the Employment Standards Service Unit within DLI to submit a report on current staffing and operations. The report was to include:

(1) a current organizational chart outlining the current staff, vacant positions, the hierarchy of the department, and the Spanish-speaking employees;

(2) the number of complaints received by the unit, broken down by complaint type, and including minimum wage, overtime violations, wage misclassification, the county they were filed in, and the language they were filed in;

(3) the time it takes to process a complaint from intake to closure;

(4) the number of complaints that result in investigations and enforcement actions against the company;

(5) the number and percent of written complaints that, after filing, are resolved without investigation and any explanation for each decision not to investigate;

(6) the criteria for initiating an investigation;

(7) an explanation of requirement for complainants to provide a written letter to their employer for unpaid wages; and

(8) the outreach activities of the unit including the number and location of outreach events for fiscal 2012 to 2017.

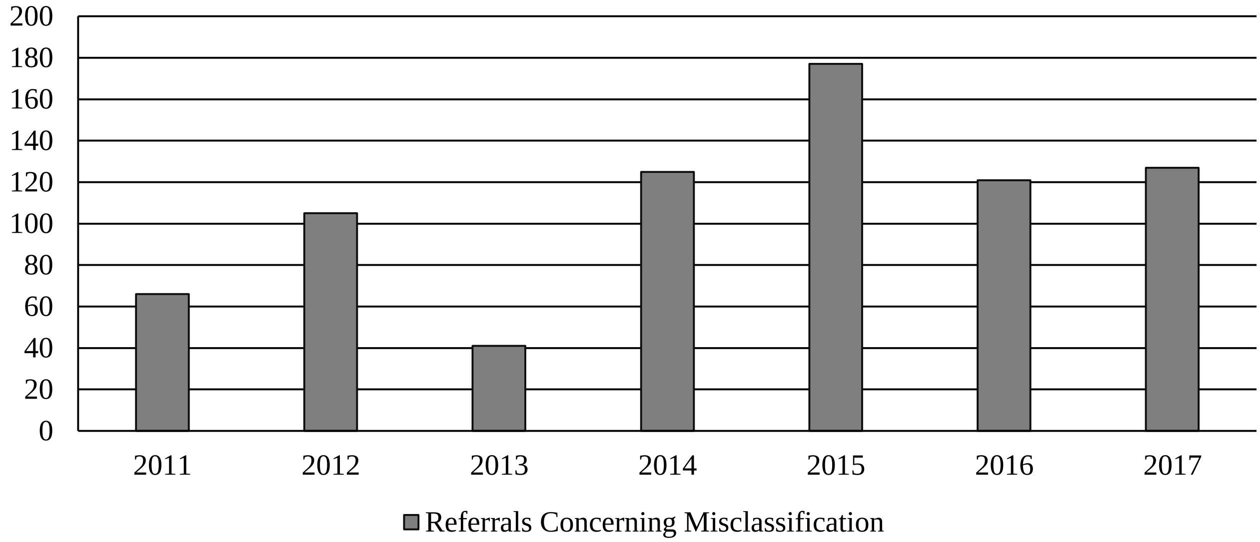
The Employment Standards unit has 18 regular positions and as of fiscal 2019, 3 contractual FTEs. Of this staff, there are 3 Spanish-speaking employees. Complaints are broken down into four different categories:

- Misclassification complaints related to the classification of workers as either an employee or an independent contractor;
- Wage and Hour complaints regarding minimum wage or overtime rates of pay;
- Wage Payment complaints regarding unpaid earned wages; and
- Combined Complaints, which are complaints containing elements of both wage and hour and wage payment issues.

Wage Misclassification

Exhibit 8 shows the number of reported wage misclassifications from fiscal 2011 to 2017. None of the complaints received have resulted in a citation for the business, and all of the misclassification complaints filed were investigated. Investigations have taken approximately five months.

Exhibit 8
Wage Misclassification Referrals
Fiscal 2011-2017

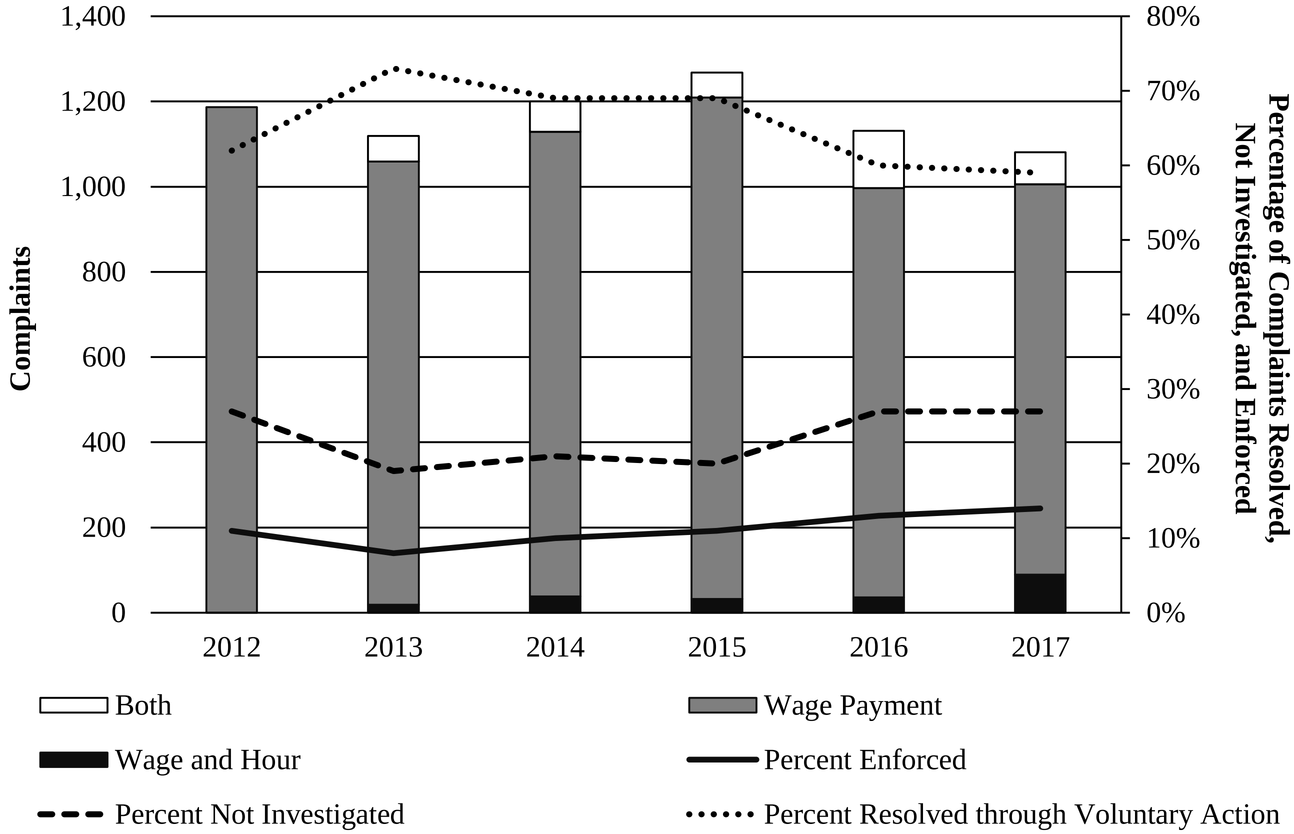


Source: Department of Labor, Licensing, and Regulation

Wage and Hour and Wage Payment Complaints

DLLR asserts that it does not collect information on the language in which complaints are filed, but it is working to obtain a software system that will enable it to collect this and other important data metrics. **Exhibit 9** shows the number of complaints filed from fiscal 2012 to 2017 by complaint type for Wage and Hour and Wage Payment complaints. An investigation should be initiated whenever complaint forms are filed in their entirety and the complaint falls within the enforcement area. While the percentage of these complaints that have resulted in actions has seen an increase from 8% in fiscal 2013 to 14% in fiscal 2017, this is still low when compared to the total number of complaints. DLLR asserts that the number of actions is low because most employers in violation voluntarily comply once alerted to the discrepancy. While many complaints are resolved voluntarily, a significant percentage of complaints have not been investigated. In fiscal 2017, 27% of complaints were not investigated. DLLR asserts that the number of complaints not investigated is the result of insufficient information, or the issue was resolved without the assistance of the agency.

Exhibit 9
Wage Complaints and Enforcement
Fiscal 2012-2017



Source: Department of Labor, Licensing, and Regulation

Before filing a complaint, complainants must already have sent written correspondence to their employer requesting the unpaid wages. If the employer does not respond within two weeks, the employee is then able to submit the complaint. While the report indicates that a written letter to the employer is not necessary to have a complaint investigated, the application itself stated otherwise until February 2018. **DLLR should comment on its wage complaint investigation process and why complaints have not been investigated. DLS recommends releasing the $250,000 held pending the receipt of the report.**

Operating Budget Recommended Actions

1. Concur with Governor's allowance.

Appendix 1
Current and Prior Year Budgets
DLLR – Business Regulation
($ in Thousands)

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2017					
Legislative Appropriation	$8,639	$158,554	$5,160	$1,305	$173,659
Deficiency Appropriation	-36	0	0	0	-36
Cost Containment	0	0	0	0	0
Budget Amendments	465	-242	71	0	294
Reversions and Cancellations	-223	-32,464	-245	-95	-33,027
Actual Expenditures	**$8,845**	**$125,849**	**$4,987**	**$1,210**	**$140,891**
Fiscal 2018					
Legislative Appropriation	$8,804	$202,500	$5,300	$1,259	$217,862
Cost Containment	-216	-350	0	0	-566
Budget Amendments	0	0	0	0	0
Working Appropriation	**$8,588**	**$202,150**	**$5,300**	**$1,259**	**$217,296**

DLLR: Department of Labor, Licensing, and Regulation

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. Numbers may not sum to total due to rounding.

Fiscal 2017

The fiscal 2017 legislative appropriation for the Department of Labor, Licensing, and Regulation for Business Regulation decreased by $32.7 million. Budget amendments added $465,000 in general funds: $366,000 as a result of the receipt of the federal Apprenticeship USA grant and $99,000 for centrally budgeted salary adjustments. This increase was offset by a $36,000 decrease as a result of cost containment and $258,000 in reverted general funds as a result of fluctuations in staffing.

The special fund appropriation was decreased $241,000 through budget amendments. A $295,000 increase for centrally budgeted salary adjustments was more than offset by a $537,000 decrease as a result of the receipt of the federal Apprenticeship USA grant. There was also $32.5 million in canceled special funds including $29.4 million in lower than projected video lottery terminal revenues, $2.7 million from vacant positions, and a $425,000 shortfall for fluctuating costs associated with licensing exams.

The federal fund appropriation increased through budget amendment by $71,000 for centrally budgeted salary adjustments. There was $245,000 in canceled federal funds as a result of vacant positions.

There was $95,000 in canceled reimbursable funds for lower than anticipated expenses.

Fiscal 2018

To date, the fiscal 2018 legislative appropriation decreased by $567,000 through cost containment. General funds decreased by $216,000 and special funds by $351,000.

Appendix 2
Audit Findings

Audit Period for Last Audit:	April 3, 2013 – January 29, 2017
Issue Date:	November 2017
Number of Findings:	3
Number of Repeat Findings:	1
% of Repeat Findings:	33%
Rating: (if applicable)	n/a

Finding 1: The Division of Occupational and Professional Licensing (DOPL) did not have sufficient procedures to ensure that real estate broker and salesperson licenses and home improvement contractor licenses were issued only to individuals who had met all required qualifications.

Finding 2: DOPL did not have adequate processes in place to ensure that certain collections were deposited.

Finding 3: **DOPL had not established cash control accounts for the Home Improvement and the Real Estate Guaranty Funds and did not reconcile cash transactions to the State's records.**

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

Appendix 3

Major Information Technology Projects

DLLR – Business Regulation

Electronic Licensing Modernization Effort (ELMo)

Project Status	Planning.	**New/Ongoing Project:**	New.
Project Description:	The new modernized system will streamline office procedures and enhance online services to applicants, licensees, and consumers. Select features will include the ability to store documents electronically; generate mail-merge letters/forms; store email communications; interface using tablet-smart devices; and ad hoc reporting.		
Project Business Goals:	The goal is to help foster economic growth by assisting customers in a timely, professional manner while protecting the health, safety, and welfare of the public by assuring licensees have met the standard of expertise.		
Estimated Total Project Cost:	$2,400,000	**Estimated Planning Project Cost:**	$80,000
Project Start Date:	June 2019	**Projected Completion Date:**	2020
Schedule Status:	This is a new project that will begin in fiscal 2019 with an estimated launch in fiscal 2020.		
Cost Status:	There is an initial cost of $2,000,000 for the system and $80,000 for the project oversight costs. There are also three years of estimated implementation and maintenance costs associated with the project.		
Scope Status:	This project will enhance both the front end and back end capabilities of the E-licensing system to make licensing processes more efficient.		
Project Management Oversight Status:	There is $80,000 in the budget for the project management necessary to accomplish the project.		
Identifiable Risks:	n/a		
Additional Comments:	n/a		

Fiscal Year Funding ($ in Thousands)	**Prior Years**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**	**Balance to Complete**	**Total**
Personnel Services	$0.0	$2,080.0	$110.0	$110.0	$100.0	$0.0	$0.0	$2,400.0
Professional and Outside Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Expenditures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Funding	**$0.0**	**$2,080.0**	**$110.0**	**$110.0**	**$100.0**	**$0.0**	**$0.0**	**$2,400.0**

DLLR: Department of Labor, Licensing, and Regulation

Appendix 4
Object/Fund Difference Report
DLLR – Business Regulation

Object/Fund	FY 17 Actual	FY 18 Working Appropriation	FY 19 Allowance	FY 18 - FY 19 Amount Change	Percent Change
Positions					
01 Regular	349.10	350.10	347.10	-3.00	-0.9%
02 Contractual	36.68	51.05	58.84	7.79	15.3%
Total Positions	**385.78**	**401.15**	**405.94**	**4.79**	**1.2%**
Objects					
01 Salaries and Wages	$ 29,396,457	$ 31,637,179	$ 31,735,882	$ 98,703	0.3%
02 Technical and Spec. Fees	1,988,655	2,511,416	2,754,469	243,053	9.7%
03 Communication	572,278	639,356	675,699	36,343	5.7%
04 Travel	846,981	970,479	1,292,244	321,765	33.2%
06 Fuel and Utilities	6,161	3,056	7,565	4,509	147.5%
07 Motor Vehicles	201,423	326,998	261,475	-65,523	-20.0%
08 Contractual Services	5,648,783	5,260,313	8,173,644	2,913,331	55.4%
09 Supplies and Materials	217,207	252,175	269,895	17,720	7.0%
10 Equipment – Replacement	175,449	180,173	235,708	55,535	30.8%
11 Equipment – Additional	53,224	47,770	31,417	-16,353	-34.2%
12 Grants, Subsidies, and Contributions	100,262,323	173,905,051	158,835,221	-15,069,830	-8.7%
13 Fixed Charges	1,521,883	1,562,895	1,581,764	18,869	1.2%
Total Objects	**$ 140,890,824**	**$ 217,296,861**	**$ 205,854,983**	**-$ 11,441,878**	**-5.3%**
Funds					
01 General Fund	$ 8,845,255	$ 8,588,212	$ 6,586,337	-$ 2,001,875	-23.3%
03 Special Fund	125,849,218	202,149,835	192,683,559	-9,466,276	-4.7%
05 Federal Fund	4,986,530	5,299,524	5,288,601	-10,923	-0.2%
09 Reimbursable Fund	1,209,821	1,259,290	1,296,486	37,196	3.0%
Total Funds	**$ 140,890,824**	**$ 217,296,861**	**$ 205,854,983**	**-$ 11,441,878**	**-5.3%**

DLLR: Department of Labor, Licensing, and Regulation

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2019 allowance does not include contingent reductions or cost-of-living adjustments.

Appendix 5
Fiscal Summary
DLLR – Business Regulation

Program/Unit	FY 17 Actual	FY 18 Wrk Approp	FY 19 Allowance	Change	FY 18 - FY 19 % Change
01 Division Of Financial Regulation	$ 9,555,912	$ 10,665,962	$ 11,224,210	$ 558,248	5.2%
01 Division Of Labor And Industry	17,199,316	18,885,865	18,784,332	-101,533	-0.5%
01 Division Of Racing	103,295,431	176,989,706	162,011,733	-14,977,973	-8.5%
01 Division Of Occupational And Professional	10,840,165	10,755,328	13,834,708	3,079,380	28.6%
Total Expenditures	**$ 140,890,824**	**$ 217,296,861**	**$ 205,854,983**	**-$ 11,441,878**	**-5.3%**
General Fund	$ 8,845,255	$ 8,588,212	$ 6,586,337	-$ 2,001,875	-23.3%
Special Fund	125,849,218	202,149,835	192,683,559	-9,466,276	-4.7%
Federal Fund	4,986,530	5,299,524	5,288,601	-10,923	-0.2%
Total Appropriations	**$ 139,681,003**	**$ 216,037,571**	**$ 204,558,497**	**-$ 11,479,074**	**-5.3%**
Reimbursable Fund	$ 1,209,821	$ 1,259,290	$ 1,296,486	$ 37,196	3.0%
Total Funds	**$ 140,890,824**	**$ 217,296,861**	**$ 205,854,983**	**-$ 11,441,878**	**-5.3%**

DLLR: Department of Labor, Licensing, and Regulation

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2019 allowance does not include contingent reductions or cost-of-living adjustments.