

**DE0202A**  
**Public School Construction**

***Public School Construction Program (Statewide)***

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**GO Bonds**                      **\$260,000,000**      **Recommendation: Approve with language**

**Bill Text:** Provide funds to construct public school buildings and public school capital improvements in accordance with §§ 5-301 through 5-303 of the Education Article.

**Program Description:** The State began providing incentive aid for school construction in 1947 and in 1971 established the Public School Construction Program (PSCP). The program was established to provide State contributions toward school construction costs in an attempt to give property tax relief to local governments and equalize educational facilities across the State.

The Board of Public Works (BPW) created the Interagency Committee on School Construction (IAC) to oversee the PSCP. In accordance with the fiscal 2006 capital budget bill (Chapter 445 of 2005), two members were added to IAC, one appointed by the President of the Senate and one appointed by the Speaker of the House. Other members are the State Superintendent of Schools, who serves as the chairperson; the Secretary of the Department of General Services; and the Secretary of the Maryland Department of Planning. Each October, the Governor announces the proposed amount of funding for public school construction for the upcoming fiscal year. IAC then transmits this information to the local jurisdictions and requests their annual and five-year *Capital Improvement Program* (CIP) by October 7.

Annually, in October and November, PSCP staff reviews the CIP and recommends to IAC which projects should be funded based on certain criteria. Each December, IAC develops a list of eligible projects and decides which of those projects should be recommended to BPW for approval. IAC must recommend an initial allocation of 75% of the Governor's preliminary allocation for school construction before December 31 of each year. In January, BPW hears appeals from the local jurisdictions and votes on IAC recommendations. The list of projects approved by BPW becomes part of the State's proposed capital budget. The proposed budget is then submitted to the General Assembly for approval. Beginning in 2008, IAC was required to submit recommendations by March 1 equal to 90% of the school construction allocation submitted by the Governor in the capital budget. In May, BPW allocates any remaining school construction funds to school construction projects recommended by IAC.

In fiscal 2006 and 2007, the capital budget bills required IAC to make the final allocations rather than BPW; however, in fiscal 2008, this provision was not included in the capital budget bill, and BPW made final approval. During this time, fiscal 2006 through 2008, the General Assembly set the total school construction allocations for each county, and then IAC allocated the funds to eligible projects within each county based on local priorities.

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State and local governments share in the cost of school construction projects. **Exhibit 1** shows the State’s share of construction funding for fiscal 2010, by county. This share is based on a formula which includes components to recognize the proportion of low-income students, enrollment growth, economically distressed counties, and the local funding effort by counties. The local effort component of the formula includes pay-as-you-go (PAYGO) funding provided by local governments for school construction.

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**Exhibit 1**  
**State Share of Eligible Costs for School Construction**  
**Fiscal 2010**

<u>50%</u>	<u>55-69%</u>	<u>70-74%</u>	<u>75-89%</u>	<u>90+%</u>
Anne Arundel	Howard (61)	Cecil (70)	Cecil (75)	Allegany (91)
Baltimore	Carroll (61)	Dorchester (71)	St. Mary’s (75)	Somerset (92)
Kent	Harford (60)	Frederick (72)	Charles (77)	Baltimore City (94)
Montgomery	Calvert (64)	Washington (73)	Caroline (86)	
Talbot	Garrett (65)	Prince George’s (73)	Wicomico (87)	
Worcester	Queen Anne’s (65)			

Source: Public School Construction Program; Department of Legislative Services

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The formula is updated every three years to reflect changes in the inputs on the local level. In October 2007, BPW approved updated State shares to be phased in beginning in fiscal 2010. **Appendix 1** shows the State’s share of school construction costs for each county from fiscal 2010 through 2012 and the change from fiscal 2009. Any jurisdiction in which the State share is reduced by more than 5% will have a phased-in implementation of the new allocation over two or three years beginning in fiscal 2010.

**Appendix 2** lists the total State allocation for public school construction between 1972 and the initial fiscal 2010 allocation. **Appendix 3** shows a summary of the proposed fiscal 2010 CIP by jurisdiction. This includes the amount of funding approved by BPW during the 75% round of allocation and the amount IAC is recommending for approval by BPW equal to 90% of the capital allocation for school construction. **Appendix 4** shows the amount of capital program funds that local school systems have requested and will request between fiscal 2010 and 2015 by jurisdiction.

## Proposed Allocation and Distribution for Fiscal 2010

The fiscal 2010 budget as introduced for public school construction contains \$265.2 million, as shown in **Exhibit 2**. The budget includes \$260.0 million in general obligation bonds, and \$5.2 million from the PSCP’s Statewide Contingency Fund. As discussed in the PAYGO analysis, \$2.4 million was scheduled to be transferred from the Maryland Stadium Authority (MSA) in accordance with Section 12-715.2 of the Financial Institutions Article. The Governor has included a contingent reduction of the statutorily required special fund payments of \$2.4 million from MSA and a companion provision in the Budget Reconciliation and Financing Act of 2009. The Department of Legislative Services (DLS) has recommended striking the contingent reduction and deleting the funds.

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### Exhibit 2 Public School Construction Funds Fiscal 2010

#### Sources of Funding

General Obligation Bonds	\$260,000
Contingency Fund	5,234
<b>Total</b>	<b>\$265,234</b>
Approved by BPW/IAC	\$195,000
Additional Recommended by IAC	39,270
<b>Total Allocated</b>	<b>\$234,270</b>
<b>Balance to Be Allocated</b>	<b>\$30,964</b>

BPW: Board of Public Works

IAC: Interagency Committee on School Construction

Source: Public School Construction Program

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Seventy-five percent of the preliminary \$260.0 million announced by the Governor in October, or \$195.0 million, was recommended for specific projects by IAC and approved by BPW in January 2009. Another \$39.3 million was recommended by IAC in late February 2009. These actions satisfy the requirement that IAC submit recommendations by March 1 equal to 90% of the \$260.0 million total funding provided in the Governor’s proposed capital budget. The remaining balance of \$31.0 million is available for allocation to specific projects.

## Contingency Fund

**Exhibit 3** shows the components of the contingency fund that are available for projects in fiscal 2010. Section 5-301 of the Budget Reconciliation and Financing Act of 2005 requires IAC to report quarterly to the General Assembly and DLS on the contents of the contingency fund. Five local education agencies (LEAs) have earmarked a total of \$1.9 million of their reserved contingency funds for fiscal 2010. Combined with unreserved contingency funds of \$3.3 million, contingency funding available for fiscal 2010 projects is \$5.2 million. There is an additional \$7.0 million in the LEA contingency accounts, \$0.71 million for the Aging Schools Program, and \$6.3 million for fiscal 2009 amendments.

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**Exhibit 3**  
**Statewide Contingency Fund Account Available for Fiscal 2010**  
**As of February 2009**

Bond Funds	\$5,128,781	Funds reserved for Specific LEAs	\$1,899,302
Pay-as-you-go Funds	105,437	Unreserved Balance	3,334,916
		<b>Funds Available for Allocation Fiscal 2010</b>	<b>5,234,218</b>
<b>Total Statewide Contingency</b>	<b>\$5,234,218</b>	<b>Total Available Contingency Fund Balance</b>	<b>\$5,234,218</b>

ASP: Aging Schools Program  
LEA: local education agencies

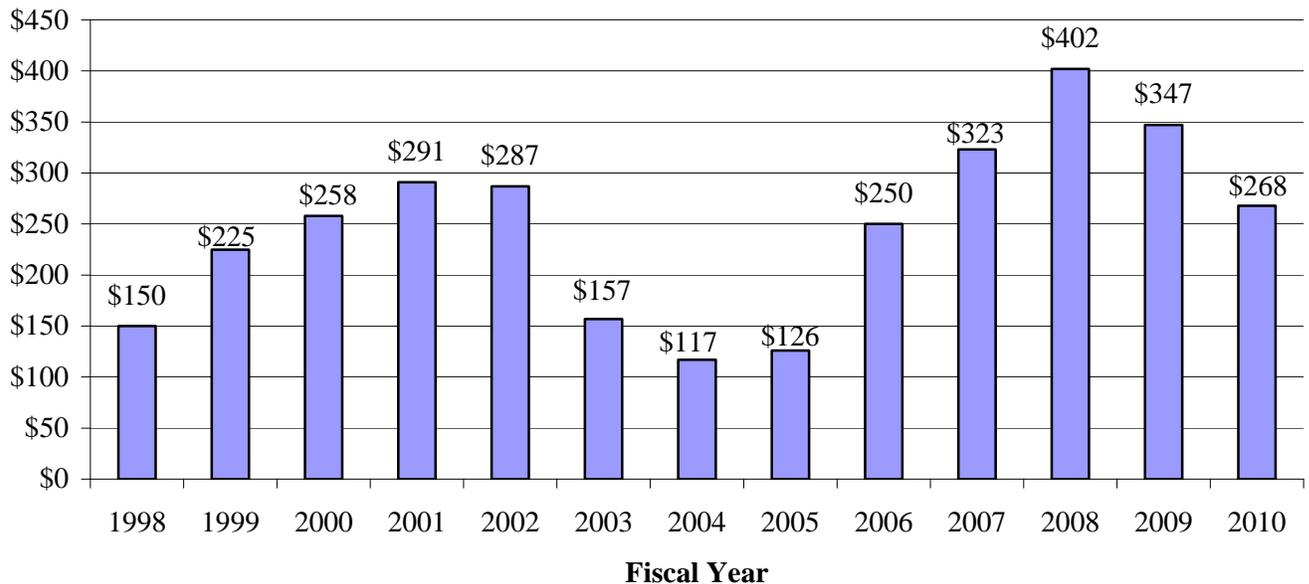
Source: Public School Construction Program

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The IAC 90% recommendation presented in February 2009 does not include allocations for funds available in the statewide contingency account. The total balance, unreserved by the LEAs, is \$3.3 million and will eventually be allocated by the IAC. **The agency should comment on why these contingency funds were not included in the most recent recommendations and when it expects to allocate these funds.**

The Public School Facilities Act of 2004 established a State goal to provide \$2 billion in State funding over the following eight years to address deficiencies, or \$250 million per year through fiscal 2013. Fiscal 2010 will be the fifth consecutive year that the goal has been met or exceeded. **Exhibit 4** shows the up and down cycles of school construction funding since fiscal 1998.

**Exhibit 4**  
**State Funding for Public School Construction**  
(**\$ in Millions**)



Source: Public School Construction Program; Department of Legislative Services

The recommendations made by IAC for the \$195.0 million that have been approved by BPW include the following:

- 40 major construction projects at \$143.1 million, or 73.4%, of the total IAC distribution;
- 53 systemic renovation projects at \$36.1 million, or 18.5%, of the distribution;
- 8 kindergarten/pre-kindergarten projects at \$11.2 million, or 5.7%, of the distribution; and
- 2 “Look of the Future” science projects at \$4.6 million, or 2.3%, of the distribution.

A total of 103 projects have been approved for funding at a total cost of \$195.0 million. The approved distribution represents 75% of the preliminary \$260.0 million in public school construction funding announced by the Governor. LEAs have requested a total of approximately \$766.0 million for fiscal 2009, of which \$493.6 million is eligible for funding.

## Prior Authorization and Capital Improvement Program

### Authorization Request (\$ in Millions)

<i>Fund Source</i>	<i>2008 Approp.</i>	<i>2009 Approp.</i>	<i>2010 Allowance</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>	<i>2013 Estimate</i>	<i>2014 Estimate</i>
GO Bonds	\$385.800	\$327.400	\$260.000	\$250.000	\$250.000	\$250.000	\$250.000
PAYGO SF	2.400	0.00	0.00	0.00	0.00	0.00	0.00
PAYGO FF	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>\$388.200</b>	<b>\$327.400</b>	<b>\$260.000</b>	<b>\$250.000</b>	<b>\$250.000</b>	<b>\$250.000</b>	<b>\$250.000</b>

The Budget Reconciliation and Financing Act of 2009 contains a contingent reduction of the \$2.4 million special fund appropriation from the Maryland Stadium Authority. The Department of Legislative Services concurs with this reduction and recommends deleting these funds.

## Authorization Encumbrance and Expenditure Data

### Authorization Summary (\$ in Millions)

<i>Fiscal Year</i>	<i>Authorization</i>	<i>Funds</i>		<i>Balances</i>	
		<i>Encumbered</i>	<i>Expended</i>	<i>To Be Encumbered</i>	<i>To Be Expended</i>
Prior Years	\$374.071	\$373.908	\$373.541	\$0.163	\$0.530
2005	115.026	114.061	113.825	0.965	1.201
2006	235.000	230.352	228.306	4.648	6.694
2007	303.069	287.582	256.444	15.487	46.625
2008	388.200	349.978	295.817	38.222	92.383
2009	327.400	204.376	62.359	123.024	265.041
<b>Total</b>	<b>\$1,742.766</b>	<b>\$1,560.257</b>	<b>\$1,330.292</b>	<b>\$182.509</b>	<b>\$412.474</b>

Currently, the Public School Construction Program is carrying \$21.3 million in unencumbered funds from years prior to fiscal 2008. **The IAC should comment on why these funds have not been encumbered and when the agency expects they will be encumbered and spent.**

## ***Issues***

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### **1. Impact of the Federal Stimulus**

The American Recovery and Reinvestment Act of 2009 includes \$22.0 billion in a new tax credit bond program and \$1.4 billion to extend the Qualified Zone Academy Bond program. While the amount is unclear, a portion of these funds will be available to Maryland schools. **IAC should update the committees on any information regarding the regulations regarding the new tax credit bond program and on any information regarding Maryland’s potential allocation from these programs.**

### **2. High Performance Buildings**

The High Performance Buildings Act of 2008 (Chapter 124 of 2008) requires new or renovated State buildings and new school buildings to achieve a rating of Leadership in Energy and Environmental Design (LEED) silver or the equivalent from a nationally recognized accreditation entity if the project’s architectural/engineering proposal is issued after July 1, 2009. The State will fund 50% of the local share of increased school construction costs associated with high performance buildings in fiscal 2010 through 2014.

In Maryland, one school has already achieved a LEED gold certification, and more than 10 other schools with a LEED silver or gold rating are currently in design or construction. In the fiscal 2010 CIP, 3 school systems submitted 15 projects that are designed to achieve a high performance rating and are eligible for the additional State cost share. According to the PSCP, several school systems have incorporated sustainable features into recent school designs. The PSCP participates in the Maryland Green Building Council and encourages sustainable design initiatives. **The Public School Construction Program should comment on the status of the LEAs incorporating LEED standards into school construction requests and the status of the waiver process for the High Performance Buildings Act for those school systems that cannot incorporate energy efficiency into their designs.**

### **3. End Requirement that Capital Debt Affordability Committee Recommend Public School Construction Limits**

In addition to recommending the total level of GO bond debt, the CDAC is required to recommend the level of debt authorized for public school construction. DLS has the following concerns about requiring the committee to recommend a level of public school construction authorizations:

- **The Distribution of Bond Authorizations within the Capital Program Has Historically Been Decided by the Governor and General Assembly:** The allocation of GO bond authorizations has been made by the Governor in the capital budget. This budget is amended

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and passed by the General Assembly. The CDAC has limited total spending but has not set minimum spending limits for specific programs prior to the introduction of this requirement in 2004.

- **The Committee Does Not Set Spending Limits for Other Programs or Projects:** The capital program supports such diverse programs as public safety, higher education, housing, economic development, environment and natural resources, and health, in addition to public school construction. The law does not require the committee to provide spending limits for those programs.
- **Concerns About Rising Construction Costs Affect All Programs, Not Just the Public School Construction Program:** The committee has cited increasing construction costs as justification for additional resources for public school construction. The indices most commonly used to show increasing costs relate to costs that affect all projects and programs, not just the public school construction program.
- **The State Is Facing a General Fund Revenue Shortfall:** As previously noted, a \$1 billion deficit is projected in the general fund. The economy is almost certainly in recession. It has been recommended that the additional authorizations support the general fund deficit and stimulate the economy. Increasing school construction does not reduce the deficit and does not provide a large economic stimulant.

Section 11 of the Public School Facilities Act of 2004 requires CDAC to review school construction funding needs and make specific recommendations regarding additional funding for school construction when recommending the state's annual debt limit and GO bond authorization level. **It is recommended that the General Assembly modify the Act and delete this requirement.**

## ***Recommended Actions***

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Add the following language:

### **Chapter 306 of the Acts of 2004**

[SECTION 11. AND BE IT FURTHER ENACTED, That in 2005, and each year thereafter, the Capital Debt Affordability Committee shall review the additional school construction funding needs as identified in the 2004 Task Force to Study Public School Facilities report and shall make a specific recommendation regarding additional funding for school construction when recommending the State's annual debt limit. The recommendation by the Capital Debt Affordability Committee shall include a multiyear funding recommendation that will provide stability in the annual funding for school construction.]

### **Chapter 307 of the Acts of 2004**

[SECTION 11. AND BE IT FURTHER ENACTED, That in 2005, and each year thereafter, the Capital Debt Affordability Committee shall review the additional school construction funding needs as identified in the 2004 Task Force to Study Public School Facilities report and shall make a specific recommendation regarding additional funding for school construction when recommending the State's annual debt limit. The recommendation by the Capital Debt Affordability Committee shall include a multiyear funding recommendation that will provide stability in the annual funding for school construction.]

**Explanation:** Chapter 306 and 307 of the Acts of 2004 requires the Capital Debt Affordability Committee to review annually, the additional school construction funding needs as identified in the 2004 Task Force to Study Public School Facilities report and make a specific recommendation regarding additional funding for school construction when recommending the State’s annual debt limit. The recommendation must include a multiyear funding recommendation that will provide stability in the annual funding for school construction. The added language repeals the requirement that the Capital Debt Affordability Committee review the additional funding needs and make recommendations regarding additional funding for school construction.

**State Share of Eligible School Construction Costs  
Fiscal 2009-2012**

<u>Counties</u>	<b>Implementation</b>				
	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	
Allegany	90%	91%	91%	91%	
Anne Arundel	50%	50%	50%	50%	
Baltimore City	97%	94%	94%	94%	
Baltimore	50%	50%	50%	50%	
Calvert	69%	64%	61%	61%	(1)
Caroline	89%	86%	86%	86%	
Carroll	65%	61%	61%	61%	
Cecil	70%	75%	75%	75%	
Charles	70%	77%	77%	77%	
Dorchester	77%	72%	71%	71%	(1)
Frederick	72%	72%	72%	72%	
Garrett	70%	65%	60%	59%	(2)
Harford	65%	60%	59%	59%	(1)
Howard	58%	61%	61%	61%	
Kent	50%	50%	50%	50%	
Montgomery	50%	50%	50%	50%	
Prince George's	69%	73%	73%	73%	
Queen Anne's	70%	65%	60%	55%	(2)
St. Mary's	72%	75%	75%	75%	
Somerset	97%	92%	88%	88%	(1)
Talbot	50%	50%	50%	50%	
Washington	65%	73%	73%	73%	
Wicomico	81%	87%	87%	87%	
Worcester	50%	50%	50%	50%	

(1) Percentage change is phased in over two fiscal years.

(2) Percentage change is phased in over three fiscal years.

Note: The Board of Public Works approved a three-year implementation of the new State shares beginning in fiscal 2010 on October 17, 2007.

Source: Public School Construction Program

**Total State Allocation for Public School Construction  
Fiscal 1972 through Initial 2010 Allocation**

<u>LEA</u>	<u>Allocation</u>	<u>% of Subtotal</u>
Allegany	\$93,318,871	1.78%
Anne Arundel	421,484,745	8.02%
Baltimore City	610,399,894	11.61%
Baltimore County	479,824,586	9.13%
Calvert	134,785,296	2.56%
Caroline	65,047,878	1.24%
Carroll	195,168,119	3.71%
Cecil	123,214,198	2.34%
Charles	194,653,159	3.70%
Dorchester	73,952,756	1.41%
Frederick	289,880,464	5.51%
Garrett	50,609,276	0.96%
Harford	252,595,974	4.81%
Howard	327,510,331	6.23%
Kent	23,109,861	0.44%
Montgomery	738,863,265	14.06%
Prince George's	569,196,996	10.83%
Queen Anne's	63,179,300	1.20%
St. Mary's	147,094,316	2.80%
Somerset	64,546,159	1.23%
Talbot	31,444,268	0.60%
Washington	123,913,989	2.36%
Wicomico	119,065,069	2.26%
Worcester	63,931,406	1.22%
<b>Subtotal</b>	<b>\$5,256,790,176</b>	<b>100.00%</b>

LEA: local education agencies

Source: Department of Legislative Services

**Fiscal 2010 Public School Construction Funding**  
(\$ in Thousands)

<u>LEA</u>	<u>IAC/BPW Approved 75%</u>	<u>90% Additional IAC Recommendation</u>	<u>90% Total Recommendation</u>	<u>Total Request</u>	<u>A/B Request</u>	<u>% A/B Request Funded</u>
Allegany	\$0	\$0	\$0	\$0	\$0	-
Anne Arundel	19,014	3,006	22,020	53,465	41,088	54%
Baltimore City	18,032	4,968	23,000	121,437	42,961	54%
Baltimore County	21,521	3,928	25,449	84,304	49,079	52%
Calvert	6,207	1,100	7,307	11,095	7,412	99%
Caroline	4,900	550	5,450	9,919	9,919	55%
Carroll	7,520	2,000	9,520	17,533	17,458	55%
Cecil	1,538	0	1,538	1,550	1,550	99%
Charles	6,742	1,000	7,742	10,334	10,334	75%
Dorchester	4,969	950	5,919	6,469	6,469	91%
Frederick	13,002	1,900	14,902	72,246	72,246	21%
Garrett	666	0	666	666	666	100%
Harford	13,000	1,900	14,900	65,119	39,649	38%
Howard	14,000	2,250	16,250	41,880	23,494	69%
Kent	388	0	388	412	412	94%
Montgomery	21,365	4,656	26,021	113,888	58,748	44%
Prince George's	21,314	4,606	25,920	100,247	59,458	44%
Queen Anne's	1,047	400	1,447	8,318	8,318	17%
St. Mary's	2,263	365	2,628	5,792	3,028	87%
Somerset	4,121	1,100	5,221	6,000	6,000	87%
Talbot	436	0	436	436	436	100%
Washington	6,352	691	7,043	16,902	16,902	42%
Wicomico	6,200	3,900	10,100	17,607	17,607	57%
Worcester	403	0	403	403	403	100%
<b>Statewide</b>	<b>\$195,000</b>	<b>\$39,270</b>	<b>\$234,270</b>	<b>\$766,022</b>	<b>\$493,637</b>	<b>47%</b>

A/B: eligible projects

BPW: Board of Public Works

IAC: Interagency Committee on School Construction

LEA: local education agencies

Source: Public School Construction Program

**Summary of Capital Program Requests  
Maryland Public School Construction Program  
Fiscal 2010-2015**

<u>LEA</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>Total</u>
Allegany	\$0	\$572	\$14,147	\$6,222	\$15,000	\$6,754	\$42,695
Anne Arundel	53,465	75,191	71,435	71,954	69,990	75,766	417,801
Baltimore County	84,304	149,050	74,500	90,500	75,000	75,000	548,354
Calvert	11,095	13,116	10,734	16,487	12,460	10,247	74,139
Caroline	9,919	5,949	12,369	12,839	13,170	14,215	68,461
Carroll	17,533	18,736	19,802	24,187	8,880	11,166	100,304
Cecil	1,550	21,000	15,388	15,784	12,940	17,377	100,839
Charles	10,334	9,335	10,367	10,701	16,504	25,428	82,669
Dorchester	6,469	5,000	5,000	5,000	9,994	16,973	48,436
Frederick	72,246	23,530	11,253	26,190	74,669	28,944	236,832
Garrett	666	0	0	8,087	5,392	0	14,145
Harford	65,119	18,952	43,579	72,591	44,801	5,829	250,872
Howard	41,880	40,491	52,058	46,967	49,669	60,712	291,777
Kent	412	1,524	1,524	1,727	1,727	550	7,463
Montgomery	113,888	44,012	90,344	84,622	63,667	90,527	487,060
Prince George's	100,247	83,615	87,637	96,778	50,768	67,005	474,050
Queen Anne's	8,318	9,544	7,613	6,873	11,395	10,144	53,887
St. Mary's	5,792	12,124	8,930	486	12,759	22,327	62,418
Somerset	6,000	6,000	5,591	2,374	2,596	1,969	24,530
Talbot	436	446	0	0	0	0	882
Washington	16,902	14,773	18,922	33,644	33,435	23,665	141,341
Wicomico	17,607	24,425	17,695	21,691	20,855	19,805	122,078
Worcester	403	0	0	3,339	3,338	4,845	11,925
Baltimore City	121,437	164,750	225,000	222,250	232,850	248,000	1,214,287
<b>Total State</b>	<b>\$766,022</b>	<b>\$742,135</b>	<b>\$803,888</b>	<b>\$881,294</b>	<b>\$841,859</b>	<b>\$837,248</b>	<b>\$4,877,245</b>
<b>Total Adjusted State</b>	<b>\$766,022</b>	<b>\$771,820</b>	<b>\$869,485</b>	<b>\$991,336</b>	<b>\$984,856</b>	<b>\$1,018,640</b>	<b>\$5,406,959</b>

LEA: local education agencies

Total State: Estimated July 2009 with no adjustment for inflation.

Total Adjusted State: Adjusted for inflation from July 2009 at 4% per year (compounded).

Source: Public School Construction Program