F10A02

Personnel

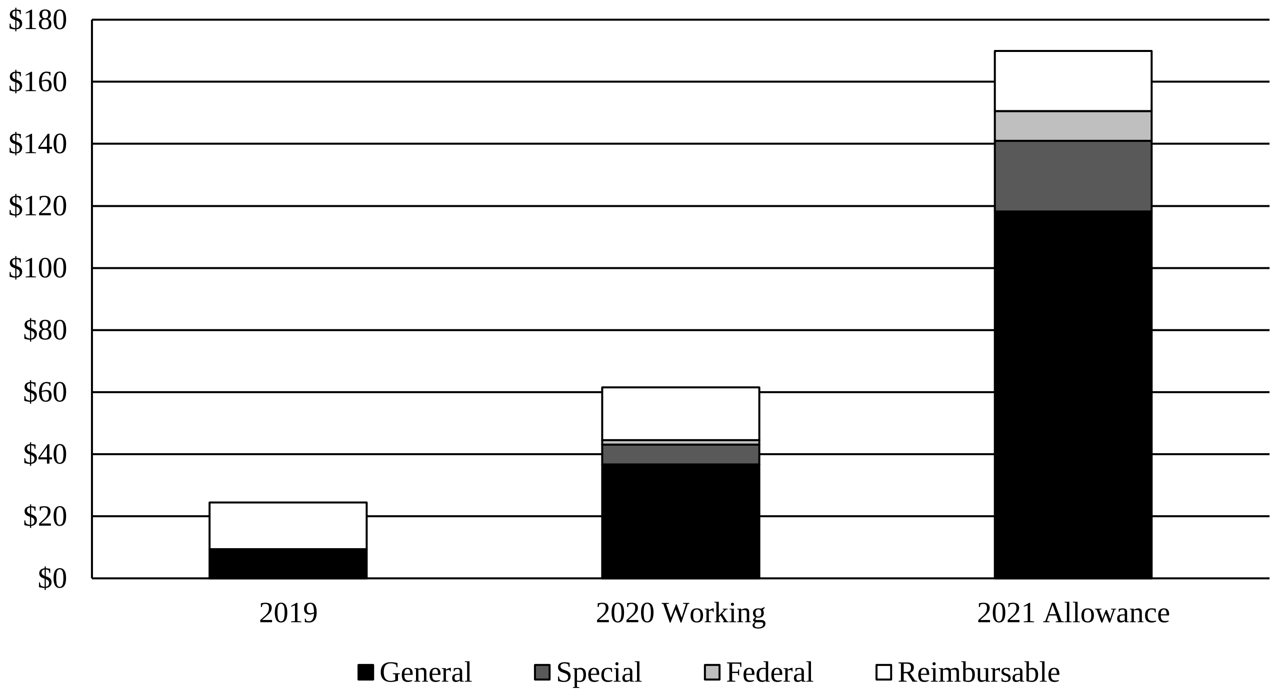
Department of Budget and Management

Executive Summary

The Department of Budget and Management (DBM) Office of Personnel Services and Benefits (OPSB) exercises oversight over Executive Branch employees within the State Personnel Management System. OPSB administers personnel policies as well as the health benefits program.

Operating Budget Summary

Budget Increases $108.4 Million or 176.3% to $169.9 Million in Fiscal 2021
($ in Millions)



Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies and planned reversions. The fiscal 2021 allowance includes contingent reductions.

- The fiscal 2021 allowance includes $139.7 million in funding for statewide general salary increases, recruitment and retention bonuses, and targeted salary adjustments.

- The budget includes fiscal 2020 deficiency appropriations for a general salary increase for most employees effective January 1, 2020, and for recruitment and retention bonuses.

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Key Observations

- ***Medicare Part D Transition Delayed:*** A pending lawsuit is delaying the State's implementation of a transition of Medicare-eligible retirees to the Medicare Part D prescription drug coverage plan. The delay, combined with Chapter 767 of 2019, has added $2.5 billion to the State's Other Post Employment Benefit liability. Further delays in the implementation of the transition could have significant fiscal impacts on the State.

- ***Employee and Retiree Health Insurance Account:*** The Employee and Retiree Health Insurance Account is expected to close fiscal 2021 with a small negative reserve fund balance. DBM expects to increase premiums by 6% in calendar 2021; further Part D transition delays could result in higher premium increases.

- ***SmartWork Program Sees Low Utilization:*** The Maryland SmartWork Program is a student loan reimbursement plan targeted at State positions that are difficult to recruit and retain. The fiscal 2020 allowance included $8 million in general funds for the program, which was subsequently reduced to $2 million by the legislature. To date, only 77 approved applicants for this program have provided necessary documentation, resulting in a $143,400 commitment from the State.

- ***Chronic Vacancies Continue to Plague State Agencies:*** As of January 1, 2020, the vacancy rate in the Executive Branch of State government was 11.1%, continuing the trend of high vacancy rates in the State. The Department of Public Safety and Correctional Services remains the department with the highest vacancy rate at 18.2%; this includes the abolishment in budget language of 521 positions at the department.

- ***Judge Recommends a Ruling That State Violated Labor Law:*** In late 2019, an administrative law judge recommended to the Maryland State Labor Relations Board that it finds that the Administration violated labor laws by attempting to place ground rules on a State employee union as a prerequisite to bargaining in fall 2018.

Operating Budget Recommended Actions

	Funds
1. Add language restricting funds until the department submits closeout information on the Employee and Retiree Health Insurance Account.	
2. Adopt committee narrative requesting the department to submit quarterly reports on prescription drug plan performance.	

3.	Adopt committee narrative requesting the department to submit quarterly medical and dental plan performance reports.	
4.	Delete unneeded Annual Salary Review general funds.	$ 228,833
5.	Delay the general salary increase scheduled for January 1, 2021, by three months.	26,687,676
6.	Delay salary increase for SLEOLA members scheduled for July 1, 2020, by three months.	2,778,352
7.	Reduce funding for SmartWork Program to better reflect actual program usage.	1,000,000
8.	Delete special funds from the Strategic Energy Investment Fund that are double-budgeted.	2,250,000
9.	Add a section requiring monthly reporting on the State's workers' compensation account held by the Chesapeake Employers Insurance Company.	
10.	Add a section for the annual "Rule of 100" limit on position creation.	
11.	Add a section for annual language requiring a report on State positions.	
12.	Add a section for annual language restricting the movement of employees into abolished positions.	
13.	Add a section for annual language requiring reporting of employee and retiree health insurance receipts and spending.	
14.	Add a section to enact a $10 million, across-the-board reduction to State agency health insurance contributions.	
	Total Reductions	**$ 33,175,550**

Budget Reconciliation and Financing Act Recommended Actions

1. Add a provision reverting $1.5 million in fiscal 2020 general funds from the SmartWork Program.

Operating Budget Analysis

Program Description

The Department of Budget and Management (DBM) Office of Personnel Services and Benefits (OPSB) provides policy direction for the human resources system established by the State Personnel and Pensions Article through its oversight of the State Personnel Management System (SPMS). All positions in the Executive Branch of State government are in SPMS, except for employees of higher education institutions and the Maryland Department of Transportation (MDOT). Positions in the Legislative and Judicial branches of State government are also outside of SPMS. OPSB administers State personnel policies and health benefits through the following programs:

- ***Executive Direction:*** The executive director acts as the State's chief negotiator in collective bargaining with State employee labor unions. The program includes the Employee and Labor Relations Division and Employee Assistance Program. Beginning in fiscal 2020, the cost of the Statewide Personnel System (SPS) is budgeted in this program.

- ***Division of Employee Benefits:*** The division administers the State's health insurance program. Costs for administration are included in this budget, while costs for health benefits are funded separately in the Employee and Retiree Health Insurance Account.

- ***Division of Personnel Services:*** The division provides guidance on personnel matters and processes payroll for all SPMS employees while also acting as the human resources office for DBM and 19 other State agencies.

- ***Division of Classification and Salary:*** The division maintains the State's position classification plan and develops the State's salary and wage program.

- ***Division of Recruitment and Examination:*** The division maintains the State's online recruitment tool (JobAps) and administers a ranking system to assist hiring managers.

There are two programs provided in the DBM OPSB budget for funding to be applied statewide:

- ***Statewide Program:*** Funding provided for actions that impact all or multiple State agencies is provided in this program and is usually distributed to applicable State agencies by budget amendment, such as salary increases.

- ***SmartWork:*** This program, first funded in fiscal 2020, provides funding to offer State employees who work in specified shortage areas the opportunity to receive repayment of student loans for themselves or a child. This program was announced through Executive Order 01.01.2018.17.

Performance Analysis: Managing for Results

1. Wellness Program Performance Measures

In an effort to address escalating medical and prescription drug costs, the State implemented a wellness program in calendar 2015. In calendar 2020, members can earn waived copays for primary care physician (PCP) visits if members complete a Health Risk Assessment and designate a PCP and can receive $5 off specialist copays by completing age or gender-specific preventive screenings.[1] In calendar 2018, 35,157 individuals met the PCP copay waiver requirements, which is an increase from calendar 2017, but still far below the calendar 2016 performance with 59,727 individuals. Wellness incentives cost the State $1.4 million in calendar 2018. **Exhibit 1** shows wellness measures provided with the fiscal 2021 budget.

Exhibit 1
Wellness Program Measures
Calendar 2014-2019 Est.

Screening	2014	2015	2016	2017	2018	2019 Est.	National Average	Percentage Point Change 2014-2019
Mammogram	48.9%	53.2%	50.5%	51.8%	51.3%	51.1%	70.7%	2.3
Colonoscopy	31.5%	34.6%	35.8%	40.4%	40.8%	41.0%	60.3%	9.5
Physical Exam	37.5%	50.9%	39.5%	42.0%	42.9%	43.4%	42.9%	5.9
Nephropathy	65.5%	71.8%	68.9%	68.2%	67.0%	68.3%	88.6%	2.9
2+A1C Tests*	44.4%	60.8%	61.1%	60.8%	59.4%	60.8%	90.2%	16.5
Blood Glucose	45.7%	88.4%	88.9%	81.6%	81.2%	82.4%	89.3%	36.6

* An 2+A1C test measures the percentage of hemoglobin coated with sugar. It is a test for members with diabetes.

Source: Fiscal 2021 Managing for Results; Department of Budget and Management

Implementation of the program in calendar 2015 corresponds with an increase in participation for all wellness screenings. However, calendar 2016 shows a decrease in participation (excluding colonoscopies and 2+A1C diabetes tests) in comparison to 2015, likely due to requirements being waived for members who completed 2015 wellness activities. Wellness screenings increase in calendar 2017, when members were once again required to complete activities in order to receive incentives. In comparison to calendar 2014 (the year prior to initiation of the wellness program),

[1] Kaiser Integrated Health Model, Medicare-eligible retirees, and State Law Enforcement Officers Labor Alliance members do not participate in the wellness program.

compliance with wellness screenings has increased in every category. However, in comparison to the first year of the program (calendar 2015), compliance with wellness screenings has generally decreased (excluding colonoscopies and 2+A1C tests). Despite some improvement, the plan's performance falls far short of the national average on every measure except for physical exams. In calendar 2019, the program added several new offerings, including onsite blood pressure seminars and screenings and a diabetes prevention program. Several new programs have been added for calendar 2020, including a healthy lifestyle course and an initiative on musculoskeletal health. Calendar 2020 is a rollover year for the program, meaning 2019 requirements carry forward.

One of the goals of the wellness program is to mitigate the cost of chronic conditions of State employees and retirees. **Exhibit 2** provides these costs from calendar 2013 to 2018 and how they compare to total plan costs. The total cost of chronic conditions increased faster than the rate of total plan costs in calendar 2018 for the first time since at least 2012.

Exhibit 2
State Cost of Chronic Conditions
Calendar 2013-2018
($ in Millions)

Condition	2013	2014	2015	2016	2017	2018
Diabetes	$96.0	$104.5	$118.4	$127.9	$135.2	$149.9
Hypertension	138.1	141.5	157.4	153.7	154.3	161.6
Hyperlipidemia	73.3	69.3	66.2	62.1	60.9	62.0
Heart Disease	130.5	140.3	136.4	133.7	142.1	153.2
Asthma/COPD	42.5	43.2	43.7	46.8	53.4	55.8
Total Cost of Chronic Conditions	**$480.4**	**$498.8**	**$522.1**	**$524.2**	**$545.9**	**$582.5**
% of Total Plan Costs	**50.1%**	**48.5%**	**48.1%**	**46.6%**	**46.5%**	**48.0%**
Plan Costs	**$958.5**	**$1,027.9**	**$1,085.9**	**$1,124.6**	**$1,175.1**	**$1,214.9**
Growth of Chronic Conditions		*3.8%*	*4.7%*	*0.4%*	*4.1%*	*7.5%*
Growth of Plan Costs		*7.2%*	*5.6%*	*3.6%*	*4.5%*	*3.8%*

COPD: chronic obstructive pulmonary disease

Note: Numbers include both medical and prescription claims associated with these conditions. State Law Enforcement Officers Labor Alliance and Medicare participants are excluded.

Source: Segal Advisors

2. Sexual Harassment Complaints in State Agencies

The statewide Equal Employment Opportunity (EEO) office is housed within DBM. EEO is responsible for handling sexual harassment complaints in State agencies. **Exhibit 3** shows the number of sexual harassment complaints from fiscal 2009 to 2019. There were 59 sexual harassment complaints reported in State agencies for fiscal 2019, an increase of 7 complaints from fiscal 2018. The Department of Public Safety and Correctional Services (DPSCS) had the highest number of complaints (20) in fiscal 2019.

Exhibit 3
Sexual Harassment Complaints in State Agencies
Fiscal 2009-2019

Agency/Function	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Public Safety and Correctional Services	19	20	15	13	24	18	24	24	24	19	20
Health	8	5	0	10	7	3	2	6	7	11	0
Human Services	0	0	0	0	0	0	0	1	7	8	7
Morgan State University	0	2	0	0	5	0	6	0	1	4	10
State Police	2	2	2	1	2	3	2	1	2	2	1
Transportation	6	8	6	11	6	12	6	8	15	1	4
Juvenile Services	2	2	0	4	3	1	1	1	1	1	3
Other	5	11	6	8	9	6	5	8	4	6	14
Total	**42**	**50**	**29**	**47**	**56**	**43**	**46**	**49**	**61**	**52**	**59**

Source: Equal Employment Opportunity Office

Fiscal 2020

Proposed Deficiencies

The budget includes two fiscal 2020 deficiency appropriations in statewide expenses for personnel actions. The first is for $25.1 million in total funds for a 1% general salary increase that was effective January 1, 2020, for most State employees, with the exception of those represented by the American Federation of State, County, and Municipal Employees (AFSCME). The second is for $5.9 million in general funds for recruitment and retention incentive bonuses for correctional officers (CO). Both of these appropriations are discussed later in this analysis.

The budget also includes a $1.1 million general fund deficiency appropriation for contractual services related to operations and maintenance of SPS. The funds will be used to extend the contracts of SPS contractors in order to deal with several issues. The lawsuit that is delaying the implementation of the transition of retirees to Medicare Part D prescription drug coverage has impacted OPSB as well as the loss of the top tier of OPSB's benefits staff. DBM believes that the contract extension is necessary to prevent incomplete knowledge transfer.

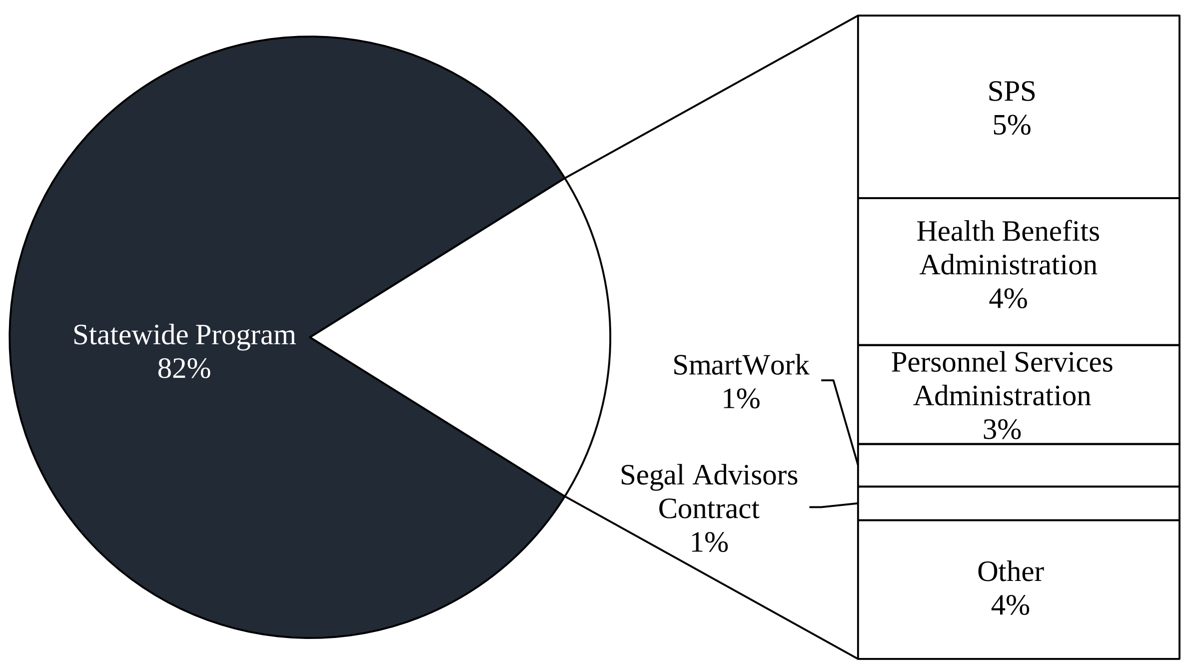
Assumed Reversion

The Governor's budget plan also includes a planned reversion of $12.5 million in fiscal 2020 general funds that were overbudgeted in the Statewide Expenses program for the annualization of the general salary increases of 2% on January 1, 2019, and 0.5% on April 1, 2019.

Fiscal 2021 Overview of Agency Spending

Exhibit 4 provides an overview of the fiscal 2021 allowance for OPSB. Statewide expenses make up 82% of the budget with the SPS support contract accounting for the next biggest share of the allowance.

Exhibit 4
Overview of Agency Spending
Fiscal 2021 Allowance



SPS: State Personnel System

Source: Governor's Fiscal 2021 Budget Books

Statewide Program

The Statewide Expenses program's fiscal 2021 allowance of $139.7 million is comprised of several components for personnel costs across State agencies.

1% General Salary Increase Effective January 1, 2020

In addition to the deficiency appropriation discussed previously, the fiscal 2021 allowance includes $50 million ($38.3 million in general funds) for the annualization of the 1% salary increase that took effect January 1, 2020. As noted earlier, the salary increase is not provided to employees represented by AFSCME. DBM estimates a cost savings of $5.7 million ($4.5 general funds) in fiscal 2020, and $11.3 million ($9.1 million general funds) in fiscal 2021 by not providing the increase to the affected bargaining units.

While AFSCME did not come to a collective bargaining agreement with the State for a 1% cost-of-living adjustment as other bargaining units did, it is highly atypical for a State employee bargaining unit to be left out of a general salary increase that other employees in the State received. Due to this decision, DBM has created a separate salary schedule for AFSCME-represented bargaining units and non-AFSCME represented bargaining units.

2% General Salary Increase Effective January 1, 2021

The fiscal 2021 allowance includes $53.4 million ($40.6 million in general funds) for a 2% general salary increase for most State employees to be effective January 1, 2021. **For the purposes of fiscal restraint, the Department of Legislative Services (DLS) recommends delaying the 2% general salary increase by three months, which results in savings of $26.7 million ($20.3 million in general funds) in fiscal 2021.**

General Salary Increase and Increments for the State Law Enforcement Officers Labor Alliance Members Effective July 1, 2020

The fiscal 2021 allowance includes $16.7 million ($13.8 million general funds) for a general salary increase and increments for the State Law Enforcement Officers Labor Alliance (SLEOLA) members. The funds allocated for the salary increase would provide a 4% increase for these employees; however, SLEOLA's agreement with the State calls for a 5% increase, meaning there is a need for an additional $2.8 million ($2.3 million general funds) to fully fund the increase. **For the purposes of fiscal restraint, DLS recommends delaying the SLEOLA salary increase by three months, which results in savings of $2.8 million ($2.3 million in general funds) in fiscal 2021.**

Recruitment and Retention Bonuses

In addition to the deficiency appropriation noted earlier, the allowance also includes $2.8 million (all general funds except for $35,360 in special funds) for bonuses for several employee classes.

- For COs who are retirement eligible in DPSCS beginning December 18, 2019, a $7,500 bonus upon agreeing to stay on the job for at least four years, a $7,500 bonus two years after the agreement, and $22,500 after completing the four-year agreement.

- For specialized CO positions in DPSCS, a one-time $500 or $1,000 bonus in December 2020.

- For cemetery caretakers and other positions in the Maryland Department of Veterans Affairs, a $500 bonus after six months, $500 after one year, and $1,000 after two years of service.

- For aviation maintenance inspectors with Federal Aviation Administration Inspector authorization, $1,300 in July 2020 and $1,300 in January 2021.

Annual Salary Review

The allowance also includes funding for an Annual Salary Review (ASR) (salary enhancements targeting specific classifications of employees), as shown in **Exhibit 5**.

Exhibit 5
Annual Salary Review
Fiscal 2021

Agency	General Funds	Special Funds	Federal Funds	Reimb. Funds	Total Funds
Department of Agriculture	$493,307	$152,698	$21,754	$0	$667,759
Department of Human Services	2,789,658	41,458	1,622,792	0	4,453,908
Department of Juvenile Services	257,030	0	0	0	257,030
Department of Natural Resources	10,984	133,533	0	0	144,517
Department of Public Safety and Correctional Services	1,071,080	0	0	0	1,071,080
Department of State Police	38,252	136,457	0	0	174,709
Department of Veterans Affairs	94,516	0	0	0	94,516
Executive Department – Boards, Commissions and Offices	3,884	0	0	0	3,884
Maryland Department of Health	4,938,638	185,554	278,933	25,012	5,428,137
Maryland Department of Health, Clifton T. Perkins Hospital Center	141,862	0	0	0	141,862
Maryland Department of Labor	840,059	0	0	29,131	869,190
Office of the Public Defender	123,338	0	0	0	123,338
State Department of Education	881,406	0	114,476	108,626	1,104,508
Total	**$11,684,014**	**$649,700**	**$2,037,955**	**$162,769**	**$14,534,438**

Source: Department of Budget and Management

This is the second consecutive budget to include a large ASR; the fiscal 2020 budget included $20.6 million in funds ($18.7 million general funds) for this purpose. In fiscal 2021, approximately 200 classes of employees with more than 3,500 positions will receive one-grade salary increases (up to 6%) with Clifton T. Perkins Hospital Center employees also moving up one grade on the salary schedule (up to 6%). Targeted classes include social workers, direct care workers, licensed practical nurses, teachers, pretrial release investigators, lab scientists, veterans' benefits specialists, and other employees in positions that are challenging to recruit and retain, most of which have high vacancy rates. After review, DBM found that it inadvertently double-budgeted $228,833 in general funds intended for social workers in DPSCS. **DLS recommends deleting the $228,833 in general funds that are not needed for ASR.**

Proposed Budget Reconciliation and Financing Act Action Would Prevent Potential 2% Cost-of-living Adjustment for Some Union Members

A provision of the Budget Reconciliation and Financing Act (BRFA) of 2019 added a requirement that fiscal 2020 nonwithhholding income tax revenues that exceed the capped estimate and are not needed to close a shortfall in general fund revenues be used to provide a cost-of-living adjustment (COLA) of up to 2.0% for certain employees in fiscal 2021. The COLA would be effective July 1, 2020, and the funds must be appropriated in the 2021 session for fiscal 2021. The provision applies to State employees with membership in the following collective bargaining units: (1) AFSCME and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), excluding a unit represented by AFSCME and AFL-CIO Local 1859; (2) AFT Healthcare-Maryland, AFL-CIO Local 5197; and (3) the Maryland Professional Employees Council (MPEC)/AFT-AFL-CIO Local 6197.

The BRFA of 2020 would repeal this requirement; funds exceeding the capped estimate would instead be distributed to the Rainy Day Fund and the Fiscal Responsibility Fund for pay-as-you-go capital projects at public schools, community colleges, and higher education institutions.

Electric Vehicles

The allowance also includes $2.25 million in special funds in the Statewide Expenses program from the Strategic Energy Investment Fund for the purposes of electric vehicle purchases. However, these funds are double-budgeted in the Maryland Energy Administration. **DLS recommends deleting the $2.25 million in special funds for electric vehicles.**

An agreement with AFSCME also calls for a $500 bonus on January 1, 2021, contingent on fiscal 2020 general fund revenues exceeding the December 2019 estimates by the Board of Revenue Estimates by $75 million or more. Funding for this bonus is not included in the allowance but would be provided with a deficiency appropriation in 2021 session budget bill.

Proposed Budget Change

As shown in **Exhibit 6**, the fiscal 2021 allowance totals $169.9 million, an increase of $108.4 million over the fiscal 2020 working appropriation. The vast majority of funding in fiscal 2020 and 2021 will be distributed among State agencies for general salary increases and other compensation, distorting the comparison across fiscal years.

Exhibit 6
Proposed Budget
Department of Budget and Management – Personnel
($ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2019 Actual	$9,380	$0	$0	$15,026	$24,405
Fiscal 2020 Working Appropriation	36,710	6,339	1,489	16,963	61,502
Fiscal 2021 Allowance	118,165	22,839	9,542	19,353	169,898
Fiscal 2020-2021 Amount Change	$81,456	$16,499	$8,052	$2,389	$108,397
Fiscal 2020-2021 Percent Change	221.9%	260.3%	540.6%	14.1%	176.3%

Where It Goes:	Change
Personnel Expenses	
Regular compensation and reclassifications	$320
Retirement contributions	161
OPSB personnel share of 2% general salary increase effective January 1, 2021	70
OPSB personnel share of 1% general salary increase effective January 1, 2020	35
Social Security contributions	23
Turnover adjustments	-20
Employee and retiree health insurance	-186
Other fringe benefit adjustments	-52
Statewide Expenses	
2% general salary increase effective January 1, 2021	53,305
Annualized cost of 1% general salary increase effective January 1, 2020, excluding AFSCME employees	24,881
SLEOLA general salary increase and increments effective July 1, 2020	16,737
Annual salary review	14,609
Electric vehicle purchase	2,250
Fiscal 2019-2020 salary increase special funds that were overbudgeted	-1,851
Bonuses for correctional officers, cemetery workers, aviation techs, and other classes	-3,144
Other Changes	
Contractual services primarily for the operation of State Personnel System	1,259
Other	0
Total	**$108,397**

AFSCME: American Federation of State, County, and Municipal Employees
OPSB: Office of Personnel Services and Benefits
SLEOLA: State Law Enforcement Officers Labor Alliance

Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

Statewide Expenses

Statewide personnel expenses in the DBM allowance increase by $106.8 million in fiscal 2021 compared to the fiscal 2020 working appropriation.

OPSB Personnel

Regular salary costs increase by more than $320,000 in fiscal 2021 compared to the fiscal 2020 working appropriation as positions that were vacant and budgeted at base in fiscal 2020 were filled in fiscal 2021 above base. Other positions were shifted to areas of need in the department, which also increased salaries. In addition, fiscal 2020 and 2021 general salary increases result in a fiscal 2021 increase of more than $105,000.

Other Program Changes

Outside of the statewide program and OPSB personnel costs, the only significant change in the OPSB fiscal 2021 allowance compared to the fiscal 2020 working appropriation is a $1.3 million increase for contractual services primarily related to the operation of SPS. As noted in the discussion of the deficiency appropriation previously, the funds will be used to extend the contracts of SPS contractors.

Personnel Data

	FY 19 Actual	FY 20 Working	FY 21 Allowance	FY 20-21 Change
Regular Positions	138.20	135.40	135.40	0.00
Contractual FTEs	4.00	2.00	2.00	0.00
Total Personnel	**142.20**	**137.40**	**137.40**	**0.00**
Vacancy Data: Regular Positions				
Turnover and Necessary Vacancies, Excluding New Positions		2.15	1.59%	
Positions and Percentage Vacant as of 12/31/19		8.80	6.50%	
Vacancies Above Turnover		6.65		

Issues

1. Medicare Part D Transition Delayed

The State currently offers retiree prescription drug coverage, which acts as wraparound coverage for retirees with Medicare Part D. In 2011, legislation was enacted that eliminated State prescription drug coverage for Medicare-eligible retirees in fiscal 2020 (July 1, 2019), in order to address the State's high unfunded Other Post Employment Benefits (OPEB) liability. The July 1, 2019 date was chosen to coincide with the scheduled elimination of the Medicare Part D coverage gap with the intention of mitigating the financial impact of the transition on retirees. In February 2018, federal legislative action accelerated the elimination of the Medicare Part D coverage gap to January 1, 2019. In response, the State accelerated the transition of Medicare-eligible retirees fully onto Medicare Part D coverage to coincide with the revised date. In September 2018, a lawsuit was filed against the planned transition. In October 2018, a restraining order and temporary injunction was granted, delaying the transition of Medicare-eligible retirees until the lawsuit is resolved.

During the 2019 session, legislation (Chapter 767 of 2019, or SB 946) was enacted to create prescription drug out-of-pocket (OOP) reimbursement or catastrophic coverage programs for certain State retirees, dependents, or surviving dependents who are enrolled in a Medicare prescription drug benefit plan. Due to this change, the judge in the case (*Fitch v State of Maryland*) directed the plaintiffs to submit a new complaint, delaying any ruling until at least early calendar 2020. A provision of Chapter 767 prevents the law from going into effect until the start of the plan year following a resolution to the lawsuit if the resolution occurs at least nine months prior to the start of the open enrollment period. If the resolution occurs less than nine months prior to the start of the open enrollment period, then the law would not be implemented until the start of the second plan year following the decision. Based on the typical open enrollment start date of mid-October to mid-November, it is highly likely that the earliest the law could go into effect would be January 1, 2022.

Impact on State

The combined effect of Chapter 767 and the lawsuit and its resulting delays increased the State's estimated OPEB liability by more than $2.5 billion, according to Segal Consulting. However, it is likely that amount is an underestimate, as it is based on the transition to Medicare Part D occurring January 1, 2021. The net OPEB liability was estimated at the close of fiscal 2019 to be $14.3 billion.

Exhibit 7 shows the potential cost savings to the State in fiscal 2022 and 2023, assuming the transition occurs with the 2022 plan year. The elimination of prescription drug costs for Medicare-eligible retirees is offset by the loss of revenue-like prescription drug rebates, Employee Group Waiver Plan (EGWP) revenue, premium payments from affected retirees, a payment to the General Fund from Centers for Medicare and Medicaid Services, and increased prescription drug costs due to Chapter 767. Overall, the cost savings are estimated to be approximately $60 million in fiscal 2022 and $129 million in fiscal 2023 with savings to the State in fiscal 2024 and beyond increasing as prescription drug costs increase.

Exhibit 7
Cost Savings to the State
Fiscal 2022-2023
($ in Millions)

	2022 Savings	2023 Savings
Medicare-eligible Rx Claims	$156.55	$332.75
Loss of Medicare-eligible Rx Rebates	-28.46	-60.50
Loss of EGWP revenue	-37.25	-79.17
Loss of Medicare-eligible Retiree Premiums	-9.98	-19.95
Increased Rx costs due to Chapter 767	-18.55	-39.40
Loss of CMS Direct Payment to General Fund	-2.60	-5.20
State Cost Savings	**$59.71**	**$128.53**

CMS: Centers for Medicare and Medicaid Services
EGWP: Employer Group Waiver Plan
Rx: prescription drug

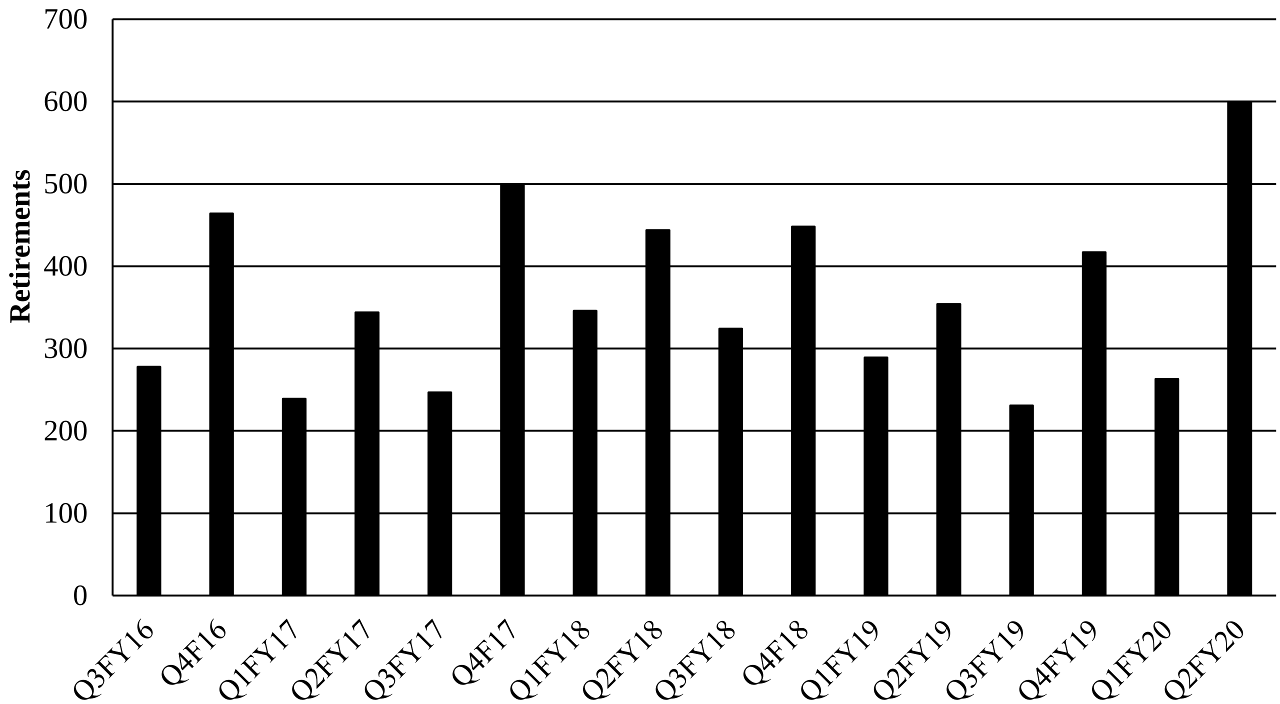
Source: Department of Budget and Management; Department of Legislative Services

Impact on Retirees

More than 70,000 certified notices were sent out to all State employees on September 1, 2019, notifying them of changes in the State's prescription drug coverage. The letter stated that to be eligible for the plans being created under Chapter 767, "the retiree must have retired on or before December 31, 2019 (last day worked is on or before 12/31/19)." That created some confusion among employees. In addition, at one point the DBM website said the effective date of retirement had to be November 30, 2019. Subsequently, DBM clarified to employees that those whose last day was December 31, 2019 or earlier, and whose retirement application package was received by the State Retirement Agency, would be eligible for the Chapter 767 plans. Recently introduced legislation – HB 1042/SB 884 – would alter the date for retiring employees to be eligible for the new plans. While the transition of Medicare-eligible retirees to Part D prescription drug coverage is likely nearly two years away or more, it is potentially more disruptive to a larger number of people. **DBM should comment on its plans to communicate with Medicare-eligible retirees about the transition of coverage from the State plan to Medicare Part D.**

It appears that the December 31, 2019 deadline to retire in order to qualify for the prescription drug plans under Chapter 767 impacted the number of retirements in the second quarter of fiscal 2020, as shown in **Exhibit 8**. Calendar 2019 retirements increased by only 6.8% compared to calendar 2018. However, between October and December of last year, 600 employees in the State personnel management system retired, which is 40% higher than the average number of retirements per quarter since the start of calendar 2017. It is not clear if the law spurred more retirements or shifted the timing of retirements previously planned for early calendar 2020.

Exhibit 8
State Employee Retirements
Fiscal 2016 Third Quarter to Fiscal 2020 Second Quarter



Source: Department of Budget and Management

Chapter 767 directs DBM to create three new programs for current and future retirees who are enrolled in a Medicare prescription drug benefit plan:

- ***The Maryland State Retiree Prescription Drug Coverage Program:*** This program will be available only to employees who retired from the State on or before December 31, 2019; are enrolled in a prescription drug benefit plan under Medicare; and are eligible to enroll and participate in the State health plan. It reimburses a participant for OOP prescription drug costs that exceed limits established in the State plan, which are currently $1,500 for an individual and $2,000 for a family.

- ***The Maryland State Retiree Catastrophic Prescription Drug Assistance Program:*** This program will be available to employees who began State service on or before June 30, 2011;

retired on or after January 1, 2020; and are eligible to enroll and participate in the State plan. It reimburses a participant for OOP costs after the participant enters catastrophic coverage under the Medicare drug benefit plan.

- ***The Maryland State Retiree Life-sustaining Prescription Drug Assistance Program:*** This program will be provided automatically to an individual who is eligible to enroll and participate in the State plan and is enrolled in either of the two prescription drug cost reimbursement plans described above. It reimburses a participant for OOP costs for a life-sustaining drug that is covered under the State plan but is not covered under the individual's Medicare prescription drug plan. **DBM should comment on its progress toward implementation of these programs and discuss how it plans to provide reimbursement to participants.**

2. Employee and Retiree Health Insurance Account

The Employee and Retiree Health Insurance Account is shown in **Exhibit 9**. The account closed with a year-end fund balance of $174.3 million in fiscal 2019, a decrease of $24 million. After accounting for incurred but not received expenses, the account closed with a balance of $98 million. Expenditures exceeded revenues into the account as a large fund balance is being spent down. Premiums for most plans have not increased since calendar 2017 as health and prescription drug costs have grown at a slower pace than previously expected. Premium increases are expected for calendar 2021, as discussed below. There is a projected negative reserve fund balance reflected at the end of fiscal 2021, however the fund is balanced on a cash basis.

Payments to providers are projected to grow by 1.2% in fiscal 2020 and 4.4% in fiscal 2021. Medical costs make up the largest amount of claims costs with 4.5% growth projected in fiscal 2021. This projected growth in medical costs is higher than fiscal 2017 and 2018 but less than previous growth rates of between 5% and 6%. **DLS recommends annual committee narrative requesting DBM to submit data on medical costs and utilization.**

The second largest health benefit cost is for prescription drug coverage, representing 28% of claims costs in fiscal 2021. Prescription drug claims are projected to increase by 5.2% in fiscal 2020 and 6.7% in fiscal 2021 in the health insurance forecast. However, those increases are offset by large increases in pharmacy rebates, which are negotiated by CVS Pharmacy, the State's pharmacy benefit manager. The State switched to CVS Pharmacy from ExpressScripts in calendar 2019, and in both calendar 2019 and 2020, the State has realized favorable pricing and rebate results due to the transition.

Exhibit 9
Employee and Retiree Health Insurance Account
Fiscal 2019-2021 Allowance
($ in Millions)

	2019 Actual	2020 Working	2021 Allowance
Beginning Balance	**$198.8**	**$174.3**	**$135.6**
Expenditures			
DBM – Personnel Administrative Cost	**$7.8**	**$9.3**	**$9.3**
Payments of Claims			
Medical	$1,047.3	$1,078.7	$1,127.3
Prescription*	576.6	606.6	647.2
Pharmacy Rebates	-117.3	-163.8	-184.5
Dental	53.9	57.2	58.7
Contractual Employee Claims	9.7	9.7	9.7
Payments to Providers	**$1,570.2**	**$1,588.4**	**$1,658.4**
% Growth in Payments	*3.5%*	*1.2%*	*4.4%*
Receipts			
State Agencies**	$1,151.4	$1,192.5	$1,216.1
Employee Contributions**	188.1	195.4	201.1
Retiree Contributions	93.6	93.6	96.4
EGWP Subsidies and Other Revenue	68.5	77.5	88.0
Agency Reversions	51.9		
Total Receipts	**$1,553.5**	**$1,559.0**	**$1,601.6**
% Growth in Receipts	*7.3%*	*0.4%*	*2.7%*
Ending Balance	**$174.3**	**$135.6**	**$69.5**
Estimated Incurred but Not Received	**-$76.3**	**-$71.6**	**-$71.6**
Reserve for Future Provider Payments	**$98.0**	**$64.0**	**-$2.1**

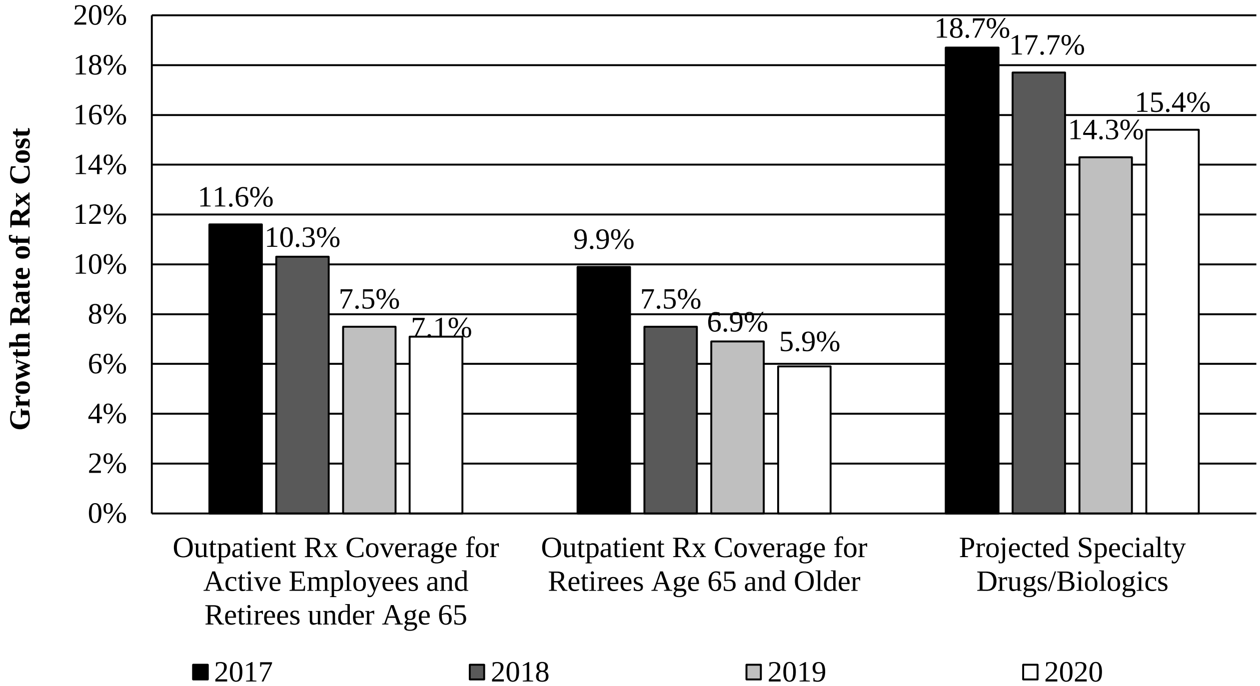
DBM: Department of Budget and Management
EGWP: Employer Group Waiver Plan

* Prescription drug costs adjusted to reflect net rebates. Costs and revenue associated with Medicare-eligible retirees are assumed through December 31, 2021.
** State agency and employee contributions include contributions for eligible contractual full-time equivalents.

Source: Department of Budget and Management

The forecast's growth expectations for prescription drug cost growth inclusive of rebates are slightly below national projections, which are shown in **Exhibit 10**. A national trend to monitor is the rapid increase in the cost of specialty drugs/biologics. While specialty drugs/biologics make up a small share of prescription drug claims, they make up approximately one-third of the State's prescription drug plan costs.

Exhibit 10
U.S. Projected Drug Trends
Calendar 2017-2020



Rx: prescription drug

Source: 2018, 2019, and 2020 Segal Health Plan Cost Trend Surveys

Also blunting prescription drug cost increases are EGWP revenues. The Coverage Gap Discount, which provides a 50% discount on brand-name drugs for Part D coverage gap retiree members, is projected to increase by 21% to $35.8 million in fiscal 2020; Catastrophic Reinsurance, which provides an 80% reinsurance payment for the plan's highest utilizers, is expected to increase by 14% to $40 million in fiscal 2020. EGWP revenue is based on drug usage and pricing; it is also impacted by the closure of the Medicare coverage gap, or donut hole, being closed in calendar 2019. The closure of the gap results in the increase in manufacturer discounts as well as increasing the catastrophic reinsurance payment as members reach the catastrophic expenditure threshold earlier. **DLS**

recommends annual committee narrative to request that DBM submit prescription drug utilization and cost data.

Dental costs, relatively flat in most years, increase by 5.8% to $57.2 million in fiscal 2020, a second year of relatively high growth. This is primarily due to an increase in the cost for the Delta Dental plan, which increased its rates to the State based on past utilization.

Overall contributions increase by 3.4% in fiscal 2020 in comparison to fiscal 2019. In fiscal 2021, contributions increase by 2.2%. Premium rates are frozen in calendar 2019 and 2020, so projected increases reflect increasing enrollment. DBM notes that it is currently projecting premium growth of 6% for calendar 2021. However, if the implementation of the Part D transition is further delayed, DLS estimates that premiums would need to be increased by as much as 10% to 11% in order to continue to fund prescription drug costs for Medicare-eligible retirees.

Higher Education Contributions Underestimated

In fiscal 2019 and 2020, health insurance contributions for higher education were underbudgeted due to incorrectly estimating costs related to retiree health insurance agency contributions. This has led to an approximately $27.5 million ($17.7 million general funds) increase in contributions from higher education institutions in the fiscal 2021 allowance compared to fiscal 2020. However, an amendment to higher education contributions has not been made to accurately reflect actual contributions expected to the account in fiscal 2020, which DLS estimates will be at least $12 million higher than the fiscal 2020 working appropriation. This would result in an approximately $10 million reserve fund balance in the account at the close of fiscal 2021. **DLS recommends a $10 million across-the-board reduction for health insurance agency contributions (subobjects 0152, 0154, and 0217).**

3. SmartWork Program Enters Second Year, Sees Low Utilization

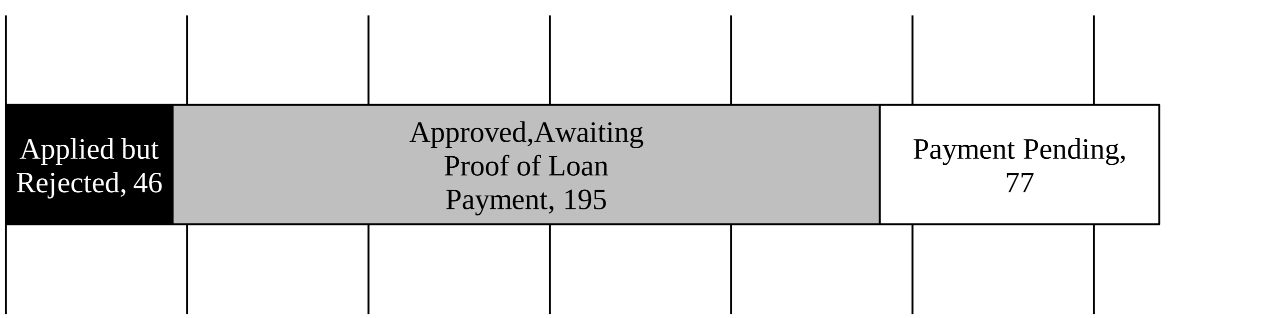
The Governor established via Executive Order 01.01.2018.17 the Maryland SmartWork Program in an attempt to improve recruitment and retention in high-vacancy jobs in State government. The fiscal 2020 allowance included $8 million in general funds for the program, which was reduced to $2 million by the General Assembly. The program offers State employees in certain targeted areas – such as public safety, nursing, and information technology – up to $20,000 in student loan repayment for the employee or their child. State employees must agree to work for the State for 10 years and will receive payouts after service years 1, 3, 5, 7, and 10. The benefit only applies to service after January 1, 2019, for new and existing employees.

The payment intervals are determined by the time of DBM’s receipt of the employee’s application to the program, or January 1, 2019, for employees who were on the job at that time. The employee could receive a maximum payment of the amount of student loan payments made during the time period or the following amounts:

- $2,000 after one year,
- $2,000 after the third year,
- $4,000 after the fifth year,
- $6,000 after the seventh year, and
- $6,000 after the tenth year.

While the program is a positive attempt to address State workforce issues and student debt issues, several factors are likely to mute any impact. First, many of the areas with the most chronic vacancies do not require postsecondary education, limiting potential participants. Second, there are many administrative hurdles for participants to clear before taking advantage of the program. The employee must be aware of SmartWork and fill out an application, which must be approved by DBM. Next, the employee must provide proof of their student loan payments. As shown in **Exhibit 11**, these administrative burdens have winnowed participation so far. To date, 318 employees applied for the reimbursement with 272 approved. Of the approved calendar 2019 applications, 77 requests for repayment have been received and approved by DBM. The first payments are scheduled to be sent in February. The average payment request for the approved applicants is $1,862.34, meaning only $143,400 is committed from this program's $2 million fiscal 2020 working appropriation. Even if all 195 outstanding applicants provide proof, and the current average payment is accurate, the maximum commitment would be approximately $500,000. **DLS recommends a BRFA provision to revert $1.5 million in fiscal 2020 general funds from this program.**

Exhibit 11
SmartWork Utilization
Calendar 2019



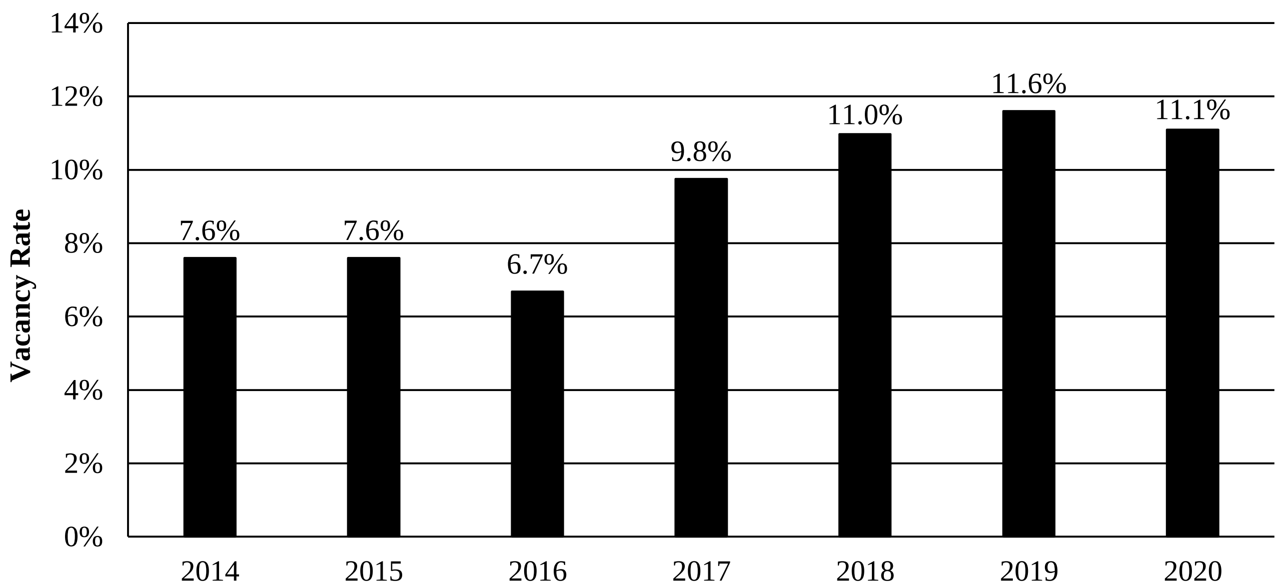
Source: Department of Budget and Management

The $2 million general fund allowance in fiscal 2021 is unchanged from the fiscal 2020 working appropriation. DBM believes that the addition of more class codes to the list of eligible recipients will increase usage. However, even with increased eligibility, estimated usage is unlikely to require the full allowance amount. **DLS recommends deleting $1 million in general funds for the SmartWork program.**

4. Chronic Vacancies Continue to Plague Many State Agencies

As noted earlier, the fiscal 2021 allowance includes significant funding amounts for both general salary increases as well as targeted bonuses and other programs attempting to boost recruitment and retention for difficult to fill positions. The fiscal 2020 allowance also included similar targeted and general compensation actions. As of January 1, 2020, the vacancy rate in the Executive Branch of State government was 11.1%, as shown in **Exhibit 12**, continuing the trend of high vacancy rates in the State.

Exhibit 12
Executive Branch Vacancy Rates
Calendar 2014-2020



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

Chronic staff shortages persist at several agencies, including DPSCS, the Maryland Department of Health (MDH), the Department of Information Technology (DoIT), and the Maryland Department of the Environment, as shown in **Exhibit 13**. DPSCS remains the department with the highest vacancy rate at 18.2%; this includes the abolishment in budget language of 521 positions at the department.

Exhibit 13
Vacancy Rates by Department
January 2020

Department/Service Area	Positions	January Vacancies	Actual Vacancy Rate
Public Safety, Health and Human Services			
Public Safety and Correctional Services*	9,097	1,657	18.2%
Health	6,347	753	11.9%
Human Services	6,119	606	9.9%
Police and Fire Marshal	2,458	208	8.5%
Juvenile Services	1,987	179	9.0%
Subtotal	***26,008***	***3,403***	***13.1%***
Transportation	**9,058**	**563**	**6.2%**
Other Executive			
Legal (Excluding Judiciary)	1,508	120	8.0%
Executive and Administrative Control	1,608	184	11.4%
Financial and Revenue Administration	2,095	213	10.1%
Budget and Management and DoIT	530	83	15.7%
Retirement	189	28	14.8%
General Services	645	70	10.8%
Natural Resources	1,344	140	10.4%
Agriculture	410	42	10.2%
Labor	1,378	186	13.5%
MSDE and Other Education	1,986	222	11.2%
Housing and Community Development	331	25	7.6%
Commerce	188	26	13.8%
Environment	893	120	13.4%
Subtotal	***13,105***	***1,458***	***11.1%***
Executive Branch	**48,172**	**5,424**	**11.3%**

DoIT: Department of Information Technology
MSDE: Maryland State Department of Education

*The fiscal 2021 budget bill includes language that abolishes 521 vacant positions in the Department of Public Safety and Correctional Services. Abolished positions have been removed from this chart.

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

While DPSCS is the agency impacted most by high vacancies, the impact is felt across much of the Executive Branch. At MDH, high vacancy rates in State hospital facilities lead to increased overtime expenditures. In the Military Department, facility maintenance and upkeep is impeded by the Military Department's difficulty in recruiting and retaining skilled tradesmen. At the Department of General Services, high vacancy rates persist across many classes of employees, likely due to low starting salaries. Further examples can be found in the individual analyses of other agency budgets. **DBM should comment on its continued efforts to address the chronic and persistent vacancies across much of State government.**

Report on Apprenticeship Programs in State Agencies

The budget committees in the 2019 *Joint Chairmen's Report* requested a report from DBM and the Maryland Department of Labor (MDL) identifying opportunities to create registered apprenticeship programs to address State agency workforce needs. As of calendar 2019, two State agencies were operating apprenticeship programs registered with MDL: the Maryland Environmental Service (MES); and the Department of Natural Resources (DNR). The MES offering has been registered since 1994 and was updated in 2018 and 2019. It is a three-year program for wastewater treatment technicians and is comprised of 16 active apprentices of which 12 are new apprentices. At DNR, Natural Resources Police (NRP) officer classes are part of a registered apprentice program. There are 37 people in the NRP academy, which is a six-month program; the full apprenticeship program lasts two years, after which cadets graduate into sworn officer positions. MDOT is exploring potential automotive and diesel technician, aviation, civil engineering, construction management, and other programs at the Maryland Port Administration, the Maryland Transportation Authority, and the State Highway Administration.

The report also notes that limitations to offering apprenticeship programs for State positions include the need to bargain with unions prior to establishment, the difficulty of obtaining multi-year funding commitments for multi-year apprenticeship programs; and the fact that some State entry-level positions require bachelor's degrees, making an apprenticeship program impractical.

5. Judge Recommends a Ruling That State Violated Labor Law

In late 2019, an administrative law judge recommended to the Maryland State Labor Relations Board (SLRB) that it finds the Administration violated labor laws by attempting to place ground rules on AFSCME as a prerequisite to bargaining in fall 2018. The judge found that the Administration's attempts to restrict the union from posting certain information on its website and social media and restricting the union from communicating with State legislators "would impair the rights of State employees to self-organize" in his recommendation. The judge also wrote that the ground rules are not a mandatory subject for bargaining, and therefore, conditioning bargaining on AFSCME adopting the rules was also a violation of labor laws. The ruling pertains to three consolidated complaints – two by AFSCME alleging unfair labor practices and alleging that the State violated its duty to bargain, and one by the State alleging an unfair labor practice by AFSCME in not agreeing to the ground rules.

The judge has provided the recommendation to SLRB, which could hold an additional hearing or issue a final decision. The State has submitted exceptions to SLRB and is asking the board to rule in its favor. Any ruling would be appealable to a circuit court.

As noted elsewhere, the parties have since come to an agreement over compensation for calendar 2021. However, AFSCME's current agreement with the State expires on December 31, 2020, as shown in **Appendix 5**.

Operating Budget Recommended Actions

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

   , provided that $50,000 of this appropriation may not be expended until the Department of Budget and Management submits a report on the fiscal 2020 closeout of the Employee and Retiree Health Insurance Account. This report shall include (1) closing fiscal 2020 fund balance; (2) actual provider payments due in the fiscal year broken out by medical payments for active employees, medical payments for non-Medicare-eligible retirees, medical payments for Medicare-eligible retirees, prescription drug payments for active employees, prescription drug payments for non-Medicare-eligible retirees, and prescription drug payments for Medicare-eligible retirees; (3) State employee and retiree contributions, broken out by active employees, non-Medicare-eligible retirees, and Medicare-eligible retirees; (4) an accounting of rebates, recoveries, and other costs, broken out into rebates, recoveries, and other costs associated with active employees, non-Medicare-eligible retirees, and Medicare-eligible retirees; (5) any closeout transactions processed after the fiscal year ended; and (6) actual incurred but not received costs. The report shall be submitted to the budget committees by October 1, 2020. The budget committees shall have 45 days to review and comment following the receipt of the report. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund.

   Explanation: This annual budget bill language requires the Department of Budget and Management (DBM) to submit a report with fiscal 2020 closeout data for the Employee and Retiree Health Insurance Account. This annual language is updated to request the information be provided in categories of active employees, non-Medicare-eligible retirees, and Medicare-eligible retirees.

Information Request	**Author**	**Due Date**
Report on fiscal 2020 closeout data for the Employee and Retiree Health Insurance Account	DBM	October 1, 2020

2. Adopt the following narrative:

   Quarterly Prescription Drug Plan Performance: The State entered into a pharmacy benefit manager contract with CVS Caremark effective January 1, 2018. The contract is expected to generate savings through better prices, enhanced rebates, and a new drug formulary. The budget committees request that the Department of Budget and Management (DBM) provide quarterly prescription drug plan performance data to the budget committees in order to monitor the trends of prescription drug utilization and costs. The report should provide information on the highest cost prescription drugs by category of treatment; the prescription drugs accounting for the largest increases in drug spending; the top 25 most costly individual prescription drugs in generic, brand, biologics, and specialty drug categories; recent drug patent expirations; and upcoming new drug patent approvals. Additionally, the reports should include data on the cost drivers and drug trends by actives, non-Medicare retirees, and Medicare retirees.

Information Request	**Author**	**Due Date**
Quarterly State prescription drug plan performance	DBM	September 15, 2020 December 15, 2021 March 15, 2021 June 15, 2021

3. Adopt the following narrative:

Quarterly Medical and Dental Plan Performance: In recent years, the State has implemented different strategies to contain medical costs. The budget committees request that the Department of Budget and Management (DBM) submit quarterly reports on plan performance of the State's medical and dental plans. Reports should provide utilization and cost data broken out by plans as well as actives, non-Medicare-eligible retirees, and Medicare-eligible retirees. The reports should include utilization per 1,000 plan participants, unit cost and per member costs for hospital inpatient services, hospital outpatient services, professional inpatient services, professional outpatient services, and ancillary services, provided by the State's health plans.

Information Request	**Author**	**Due Date**
Quarterly medical and dental plan performance reports	DBM	September 15, 2020 December 15, 2020 March 15, 2021 June 15, 2021

		Amount Reduction	
4.	Delete general funds in the Statewide Program that are unneeded for the Annual Salary Review.	$ 228,833	GF
5.	Reduce funds for a general salary increase. For the purposes of fiscal restraint, delay the 2% general salary increase scheduled for January 1, 2021, by three months.	20,303,874 4,137,437 2,246,365	GF SF FF
6.	Reduce funds for a salary increase. For the purposes of fiscal restraint, delay the salary increase for the	2,301,201 472,854	GF SF

	State Law Enforcement Officers Labor Alliance members scheduled for July 1, 2020, by three months.	4,297	FF
7.	Reduce funding for the SmartWork Program from $2 million to $1 million to better reflect actual program usage.	1,000,000	GF
8.	Delete special funds from the Strategic Energy Investment Fund for the purposes of electric vehicle purchases that are double-budgeted.	2,250,000	SF

9. Add the following section:

Section XX Chesapeake Employers' Insurance Company Fund Accounts

SECTION XX. AND BE IT FURTHER ENACTED, That the General Accounting Division of the Comptroller of Maryland shall establish a subsidiary ledger control account to debit all State agency funds budgeted under subobject 0175 (Workers' Compensation) and to credit all payments disbursed to the Chesapeake Employers Insurance Company (CEIC) via transmittal. The control account shall also record all funds withdrawn from CEIC and returned to the State and subsequently transferred to the General Fund. CEIC shall submit monthly reports to the Department of Legislative Services concerning the status of the account.

Explanation: This section provides continuation of a system to track workers' compensation payments to the CEIC Fund for payments of claims, current expenses, and funded liability for incurred losses by the State.

Information Request	**Author**	**Due Date**
Report on the status of ledger control account	CEIC	Monthly beginning on July 1, 2020

10. Add the following section:

Section XX The "Rule of 100"

SECTION XX. AND BE IT FURTHER ENACTED, That the Board of Public Works (BPW), in exercising its authority to create additional positions pursuant to Section 7-236 of the State Finance and Procurement Article, may authorize during the fiscal year no more than 100 positions in excess of the total number of authorized State positions on July 1, 2020, as determined by the Secretary of Budget and Management. Provided, however, that if the imposition of this ceiling causes undue hardship in any department, agency, board, or commission, additional positions may be created for that affected unit to the extent that an equal number of positions authorized by the General Assembly for the fiscal year are abolished in that unit or in other units of State government. It is further provided that the limit of 100 does not apply to any position that may be created in conformance with specific manpower statutes that may be enacted by the State or federal government nor to any positions created to implement block grant actions or to implement a program reflecting fundamental changes in federal/State relationships. Notwithstanding anything contained in this section, BPW may authorize additional positions to meet public emergencies resulting from an act of God and violent acts of man that are necessary to protect the health and safety of the people of Maryland.

BPW may authorize the creation of additional positions within the Executive Branch provided that 1.25 contractual full-time equivalents (FTE) are abolished for each regular position authorized and that there be no increase in agency funds in the current budget and the next two subsequent budgets as the result of this action. It is the intent of the General Assembly that priority is given to converting individuals that have been in contractual FTEs for at least two years. Any position created by this method may not be counted within the limitation of 100 under this section.

The numerical limitation on the creation of positions by BPW established in this section may not apply to positions entirely supported by funds from federal or other non-State sources so long as both the appointing authority for the position and the Secretary of Budget and Management certify for each position created under this exception that:

(1) funds are available from non-State sources for each position established under this exception; and

(2) any positions created will be abolished in the event that non-State funds are no longer available.

The Secretary of Budget and Management shall certify and report to the General Assembly by June 30, 2021, the status of positions created with non-State funding sources during fiscal 2018 through 2021 under this provision as remaining, authorized, or abolished due to the discontinuation of funds.

Explanation: This annual language, the Rule of 100, limits the number of positions that may be added after the beginning of the fiscal year to 100 and provides exceptions to the limit.

Information Request	**Author**	**Due Date**
Certification of the status of positions created with non-State funding sources during fiscal 2018 through 2021.	DBM	June 30, 2021

11. Add the following section:

Section XX Annual Report on Authorized Positions

SECTION XX. AND BE IT FURTHER ENACTED, That immediately following the close of fiscal 2020, the Secretary of Budget and Management shall determine the total number of full-time equivalent (FTE) positions that are authorized as of the last day of fiscal 2020 and on the first day of fiscal 2021. Authorized positions shall include all positions authorized by the General Assembly in the personnel detail of the budgets for fiscal 2020 and 2021, including nonbudgetary programs, the Maryland Transportation Authority, the University System of Maryland self-supported activities, and the Maryland Correctional Enterprises.

The Department of Budget and Management shall also prepare a report during fiscal 2021 for the budget committees upon creation of regular FTE positions through Board of Public Works action and upon transfer or abolition of positions. This report shall also be provided as an appendix in the fiscal 2022 Governor's budget books. It shall note, at the program level:

(1) where regular FTE positions have been abolished;

(2) where regular FTE positions have been created;

(3) from where and to where regular FTE positions have been transferred; and

(4) where any other adjustments have been made.

Provision of contractual FTE information in the same fashion as reported in the appendices of the fiscal 2021 Governor's budget books shall also be provided.

Explanation: This annual language provides reporting requirements for regular positions and contractual FTEs.

Information Request	**Author**	**Due Date**
Total number of FTEs on June 30 and July 1, 2020	DBM	July 14, 2020
Report on the creation, transfer, or abolition of regular positions.	DBM	As needed

12. Add the following section:

Section XX Positions Abolished in the Budget

SECTION XX. AND BE IT FURTHER ENACTED, That no position identification number assigned to a position abolished in this budget may be reassigned to a job or function different from that to which it was assigned when the budget was submitted to the General Assembly. Incumbents in positions abolished may continue State employment in another position.

Explanation: This language prevents employees from being moved into positions abolished in the budget. It also allows that incumbents in abolished positions may continue State employment in another position.

13. Add the following section:

Section XX Annual Report on Health Insurance Receipts and Spending

SECTION XX. AND BE IT FURTHER ENACTED, That the Secretary of Budget and Management shall include as an appendix in the fiscal 2022 Governor's budget books an accounting of the fiscal 2020 actual, fiscal 2021 working appropriation, and fiscal 2022 estimated revenues and expenditures associated with the employees' and retirees' health plan. The data in this report should be consistent with the budget data submitted to the Department of Legislative Services. This accounting shall include:

(1) any health plan receipts received from State agencies, as well as prescription rebates or recoveries, or audit recoveries, and other miscellaneous recoveries;

(2) any health plan receipts received from employees and retirees, broken out by active employees, non-Medicare-eligible retirees, and Medicare-eligible retirees;

(3) any premium, capitated, or claims expenditures paid on behalf of State employees and retirees for any health, mental health, dental, or prescription plan, as well as any administrative costs not covered by these plans, with health, mental health, and prescription drug expenditures broken out by medical payments for active employees, non-Medicare-eligible retirees, and Medicare-eligible retirees, and prescription drug expenditures broken out by active employees, non-Medicare-eligible retirees, and Medicare-eligible retirees; and

(4) any balance remaining and held in reserve for future provider payments.

Explanation: This language provides an accounting of the health plan revenues received and expenditures made on behalf of State employees and retirees. The language proposes that the language in the report be consistent with the budget data submitted with the budget bill.

14. Add the following section:

    SECTION XX. AND BE IT FURTHER ENACTED, that for fiscal 2021 funding for State health insurance contributions for employees and retirees shall be reduced by $10,000,000 in Executive Branch, Legislative Branch, and Judicial Branch agencies. Funding for this purpose shall be reduced in Comptroller Object 0152 (Health Insurance), Comptroller Object 0154 (Retirees Health Insurance Premiums), and Comptroller Object 0217 (Contractual Health Insurance) within programs in the Executive Branch, Legislative Branch, and Judicial Branch agencies in Section 1 of this Act in fiscal 2021 by the following amounts in accordance with a schedule determined by the Governor, the Presiding Officers, and Chief Judge:

Programs	Fund	Amount
General Assembly of Maryland	General Fund	$107,880
Judiciary	General Fund	$519,556
Executive Branch	General Fund	$6,832,238
Judiciary	Special Fund	$33,747
Executive Branch	Special Fund	$1,592,087
Executive Branch	Federal Fund	$914,492

Explanation: The State Employees' and Retirees' Health Insurance Account is expected to close fiscal 2021 with excess fund balance. The reductions in the Executive Branch are to be applied to all agencies and higher education institutions proportionally to the fiscal2021 allowance. This language reduces the fund balance by $10 million ($7.5 million in general funds).

Total Reductions	**$ 33,175,550**
Total General Fund Reductions	**$ 24,064,597**
Total Special Fund Reductions	**$ 6,860,291**
Total Federal Fund Reductions	**$ 2,250,662**

Budget Reconciliation and Financing Act Recommended Actions

1. Revert $1.5 million in fiscal 2020 general funds from the SmartWork program.

Appendix 1
2019 *Joint Chairmen's Report* Responses from Agency

The 2019 *Joint Chairmen's Report* (JCR) requested that the Department of Budget and Management prepare five reports. Electronic copies of the full JCR responses can be found on the Department of Legislative Services Library website.

- ***Report on Fiscal 2019 Closeout Data for the Employee and Retiree Health Insurance Account:*** The Employee and Retiree Health Insurance Account closed with a year-end fund balance of $174.3 million in fiscal 2019, a decrease of $24 million. Further discussion of this data can be found in Issue 2 of this analysis.

- ***Report on the Department's Plan to Notify State Employees and Retirees of Upcoming Changes to State Prescription Drug Coverage:*** More than 70,000 certified notices were sent to all State employees who were eligible to retire on or before December 31, 2019, notifying them of changes in the State's prescription drug coverage. Further discussion of this data can be found in Issue 1 of this analysis.

- ***Quarterly Prescription Drug Plan Performance:*** Quarterly data on the State's prescription drug plan costs was provided and used to inform Issue 2 of this analysis.

- ***Quarterly Medical and Dental Plan Performance Reports:*** Quarterly data on the State's medical and dental plan costs was provided and used to inform Issue 2 of this analysis.

- ***Apprenticeship Reports:*** Reports on apprenticeship programs to address State workforce shortages are due on February 1, 2020, and June 30, 2020. Discussion of apprenticeship programs can be found in Issue 4 of this analysis.

Appendix 2
Audit Findings

Audit Period for Last Audit:	April 16, 2014 – September 7, 2017
Issue Date:	May 2019
Number of Findings:	6
Number of Repeat Findings:	1
% of Repeat Findings:	16.7%

Finding 1: The Office of Personnel Services and Benefits (OPSB) had not provided guidance to certain agencies regarding the need to establish controls over manual payroll adjustments nor had it established adequate internal procedures for ensuring that it processed only properly authorized payroll adjustments.

Finding 2: Certain critical adjustments could be processed in the benefits administration system (BAS) without independent review and approval.

Finding 3: OPSB did not adequately monitor employee access capabilities on BAS, and certain employees had unnecessary critical access.

Finding 4: **Internal controls were not sufficient to ensure that all collections were deposited.**

Finding 5: Sensitive personally identifiable information maintained by OPSB was stored without adequate safeguards.

Finding 6: OPSB lacked assurance that all necessary information technology security and operational controls existed over its flexible spending account system that was hosted, operated, and maintained by a third-party service provider.

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

Appendix 3
Major Information Technology Project
Department of Budget and Management – Personnel
Statewide Personnel System

A deficiency appropriation for the operation of this project is included in fiscal 2020, and is discussed in the Fiscal 2020 Actions section of this analysis.

New/Ongoing: Ongoing								
Start Date: January 2008				**Est. Completion Date:** December 2018				
Implementation Strategy: Waterfall								
($ in Millions)	**Prior year**	**2020**	**2021**	**2022**	**2023**	**2024**	**Remainder**	**Total**
SF	$1.276	0.0	0.0	0.0	0.0	0.0	0.0	**1.276**
RF	78.936	1.750	0.0	0.0	0.0	0.0	0.0	**80.686**
Total	**$80.212**	**$1.750**	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$81.962**

- ***Project Summary:*** The project includes modules such as recruiting, human resources, compensation, performance management, employee self-service, benefits administration, and timekeeping. The project has now entered its third phase and is conducting parallel testing for the benefits administration module.

- ***Need:*** The purpose of this project is to implement a cloud-based system to replace an antiquated legacy personnel system from 1975, enable automated personnel-related reporting and business analysis, provide centralized data management, reduce administrative redundancies, and provide web-based employee self-service. A successful system will provide faster processing times, increased efficiencies, and robust current and historical reporting.

- ***Observations and Milestones:*** The system has been live since January 2019. The first statewide open enrollment using the new benefits system was performed in fall 2019 for calendar 2020 benefits.

- ***Concerns*:** Risk concerns include a lack of available permanent staff with the skills and knowledge necessary to manage the system.

Appendix 4
Permanent Employee Statewide Salary Actions
Fiscal 2003-2020

Fiscal Year	Date of General Salary Increase	General Salary Increase	Increments
2003	July 1, 2002	None	None
2004	July 1, 2003	None	None
2005	July 1, 2004	$752	On time
2006	July 1, 2005	1.5%	On time
2007	July 1, 2006	2% with $900 floor and $1,400 ceiling	On time
2008	July 1, 2007	2%	On time
2009[1]	July 1, 2008	2%	On time
2010[2]	July 1, 2009	None	None
2011[2]	July 1, 2010	None	None
2012	July 1, 2011	$750 one-time bonus	None
2013	January 1, 2013	2%	None
2014	January 1, 2014	3%	April 1, 2014
2015	January 1, 2015	2%	On time
2016	July 1, 2015	None	None
2017	July 1, 2016	None	On time
2018	July 1, 2017	None	None
2019	January 1, 2019	2%	None
2019	April 1, 2019	0.5%, $500 one-time bonus	None
2020	July 1, 2019	3%	None
2020[3]	January 1, 2020	1%	None

[1] 2- to 5-day furlough.
[2] 3- to 10-day furlough.
[3] Not applied to AFSCME-represented employees.

Source: Department of Budget and Management

Appendix 5
Bargaining Units and Representatives
As of January 9, 2019

Unit	Title	Exclusive Representative	Employees	Expiration Dates
A	Labor and Trades	AFSCME	2,579	December 31, 2020
B	Administrative, Technical, and Clerical	AFSCME	6,423	December 31, 2020
C	Regulatory, Inspection, and Licensure	AFSCME	968	December 31, 2020
D	Health and Human Service Nonprofessionals	AFSCME	1,590	December 31, 2020
E	Health Care Professionals	AFT-Healthcare Maryland	1,606	December 31, 2020
F	Social and Human Service Professional	AFSCME	3,423	December 31, 2020
G	Engineering, Scientific, and Administrative Professionals	MPEC	6,213	December 31, 2020
H	Public Safety and Security	AFSCME/Teamsters	7,590	December 31, 2020
H	BWI Airport Fire Fighters	International Airport Professional Firefighters Local 1742 I.A.F.F., AFL-CIO, CLC	69	December 31, 2021
I	Sworn Police Officers	SLEOLA	1,729	June 30, 2022
J	MDTA Sworn Officers	MDTA Police Lodge #34	426	June 30, 2022
		Total	**32,616**	

AFL-CIO: American Federation of Labor and Congress of Industrial Organizations
AFSCME: American Federation of State, County, and Municipal Employees
BWI: Baltimore/Washington International
CLC: Canadian Labor Congress
I.A.F.F: International Airport Fire Fighters
MDTA: Maryland Transportation Authority
MPEC: Maryland Professional Employees Council
SLEOLA: State Law Enforcement Officers' Labor Alliance

Sources: Department of Budget and Management; Maryland Department of Transportation

Appendix 6
Object/Fund Difference Report
Department of Budget and Management – Personnel

Object/Fund	FY 19 Actual	FY 20 Working Appropriation	FY 21 Allowance	FY 20 - FY 21 Amount Change	Percent Change
Positions					
01 Regular	138.20	135.40	135.40	0.00	0%
02 Contractual	4.00	2.00	2.00	0.00	0%
Total Positions	**142.20**	**137.40**	**137.40**	**0.00**	**0%**
Objects					
01 Salaries and Wages	$ 13,804,019	$ 28,261,632	$ 151,611,390	$ 123,349,758	436.5%
02 Technical and Special Fees	264,787	101,591	101,591	0	0%
03 Communication	858,163	784,000	784,000	0	0%
04 Travel	9,229	20,940	21,912	972	4.6%
07 Motor Vehicles	0	0	2,250,000	2,250,000	N/A
08 Contractual Services	9,206,557	10,440,799	12,811,131	2,370,332	22.7%
09 Supplies and Materials	38,467	65,000	65,000	0	0%
10 Equipment – Replacement	25,431	32,000	39,500	7,500	23.4%
12 Grants, Subsidies, and Contributions	0	2,000,000	2,000,000	0	0%
13 Fixed Charges	198,833	208,155	213,948	5,793	2.8%
Total Objects	**$ 24,405,486**	**$ 41,914,117**	**$ 169,898,472**	**$ 127,984,355**	**305.3%**
Funds					
01 General Fund	$ 9,379,932	$ 23,099,631	$ 118,165,471	$ 95,065,840	411.5%
03 Special Fund	0	1,851,184	22,838,643	20,987,459	1133.7%
05 Federal Fund	0	0	9,541,697	9,541,697	N/A
09 Reimbursable Fund	15,025,554	16,963,302	19,352,661	2,389,359	14.1%
Total Funds	**$ 24,405,486**	**$ 41,914,117**	**$ 169,898,472**	**$ 127,984,355**	**305.3%**

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.

Appendix 7
Fiscal Summary
Department of Budget and Management – Personnel

Program/Unit	FY 19 Actual	FY 20 Wrk Approp	FY 21 Allowance	Change	FY 20 - FY 21 % Change
01 Executive Direction	$ 2,319,731	$ 8,148,532	$ 11,527,870	$ 3,379,338	41.5%
02 Division of Employee Benefits	7,432,346	8,830,949	8,462,741	-368,208	-4.2%
04 Division of Employee Relations	10,537,366	5,068,853	4,635,627	-433,226	-8.5%
06 Division of Classification and Salary	1,775,026	2,041,338	2,057,938	16,600	0.8%
07 Division of Recruitment and Examination	1,292,084	1,429,263	1,465,946	36,683	2.6%
08 Statewide Expenses	1,048,933	14,395,182	139,748,350	125,353,168	870.8%
09 SmartWork	0	2,000,000	2,000,000	0	0%
Total Expenditures	**$ 24,405,486**	**$ 41,914,117**	**$ 169,898,472**	**$ 127,984,355**	**305.3%**
General Fund	$ 9,379,932	$ 23,099,631	$ 118,165,471	$ 95,065,840	411.5%
Special Fund	0	1,851,184	22,838,643	20,987,459	1133.7%
Federal Fund	0	0	9,541,697	9,541,697	N/A
Total Appropriations	**$ 9,379,932**	**$ 24,950,815**	**$ 150,545,811**	**$ 125,594,996**	**503.4%**
Reimbursable Fund	$ 15,025,554	$ 16,963,302	$ 19,352,661	$ 2,389,359	14.1%
Total Funds	**$ 24,405,486**	**$ 41,914,117**	**$ 169,898,472**	**$ 127,984,355**	**305.3%**

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.