

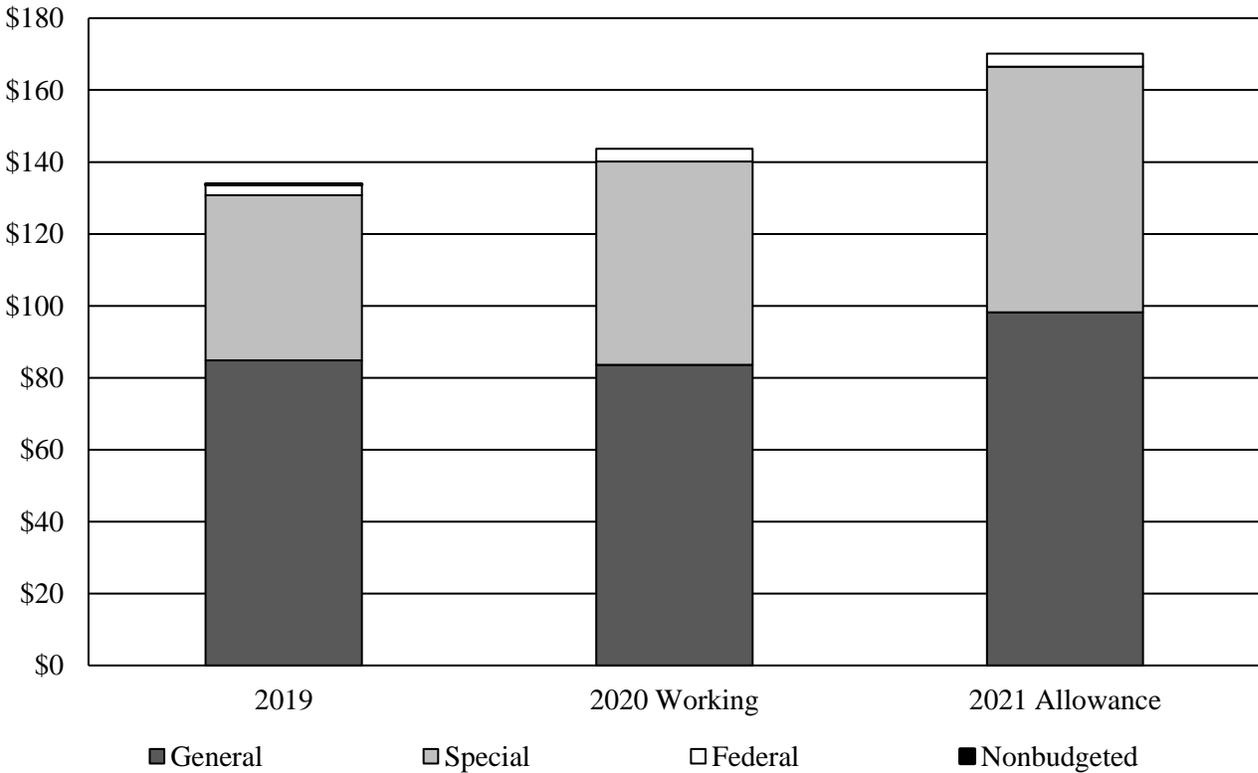
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Department of Commerce

Executive Summary

The mission of the Department of Commerce (Commerce) is to strengthen the Maryland economy. Commerce develops and implements programs that aim to generate new jobs or retain existing jobs, attract business investment in new or expanding companies, and promote the State's strategic assets.

Operating Budget Summary

**Fiscal 2021 Budget Increases by \$26.5 Million or 18.4% to \$170.2 Million
(\$ in Millions)**



Note: The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

Key Observations

- ***Decline in Maryland Economic Development Assistance Authority and Fund (MEDAAF) Activity:*** MEDAAF had approximately \$10.3 million of encumbrances and approved activity in fiscal 2019, which is less than half the activity in the prior year, and the lowest level since fiscal 2011.
- ***More Jobs for Marylanders Tax Credit Programs:*** The More Jobs for Marylanders Income Tax Credit and Sales and Use Tax Refund programs both have significant fund balances due to lower than anticipated usage as well as the timeline for disbursing funds. Expenses for the programs are difficult to forecast without additional input from Commerce on projected enrollment by additional companies.
- ***Budget Increase Driven by Howard Street Tunnel Project and Small, Minority, and Women-Owned Businesses Account (SMWOBA):*** General funds increase by \$14.6 million (or 17.5%) in fiscal 2021, including \$10 million in MEDAAF for the Howard Street tunnel project. Other large general fund increases include funding for the More Jobs for Marylanders tax credit program, the Maryland State Arts Council, tourism development, and business marketing. Special funds increase by just over 20% due to the return of video lottery terminal funding to SMWOBA totaling \$17.2 million.

Operating Budget Recommended Actions

	<u>Funds</u>
1. Increase turnover to 8.5%.	
2. Delete funding for the Howard Street tunnel project.	\$ 10,000,000
3. Reduce funding for the More Jobs for Marylanders income tax credit program.	7,063,374
4. Adopt narrative to request additional information for cost estimates in the More Jobs for Marylanders Tax Credit Reserve Fund annual report.	
5. Delete funding for the More Jobs for Marylanders sales and use tax refund program.	1,000,000
6. Reduce funding for tourism marketing.	250,000
7. Delete funding for business marketing.	1,000,000

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8.	Delete funding for the Preservation of Cultural Arts program.	1,000,000
	Total Reductions	\$ 20,313,374

Budget Reconciliation and Financing Act Recommended Actions

1. Add language to transfer Preservation of Cultural Arts (POCA) funding for fiscal 2021 to the General Fund; alter the distribution of admissions and amusement tax revenues such that funds that would otherwise go to POCA are instead distributed to the General Fund in fiscal 2022 and all future years.
2. Add language to alter maximum amount of film production tax credits to \$10 million in each fiscal year.

Updates

- Commerce awarded \$28.1 million in grants in fiscal 2019, excluding its financial assistance programs.

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Department of Commerce

Operating Budget Analysis

Program Description

The Department of Commerce's (Commerce) primary goals are to increase business investment in Maryland, enhance business success and competitiveness of businesses in their distinct markets, and develop a diverse economic base and ensure that all jurisdictions share in the State's economic vitality. The department is reorganizing effective July 1, 2020, and will contain the following three divisions:

- ***Division of Business and Industry Sector Development:*** This division unites the department's field staff, small business, and finance teams to provide assistance to the Maryland business community and to the department's local economic development partners. The division houses Commerce's business assistance programs, including the Maryland Economic Development Assistance Authority and Fund (MEDAAF); the Maryland Small Business Development Financing Authority (MSBDFA); the Small, Minority, and Women-Owned Businesses Account (SMWOBA); and the Economic Development Opportunities Program Fund (Sunny Day Fund). This division also includes the offices of Strategic Industries, International Investment and Trade, and Military and Federal Affairs.
- ***Division of Marketing, Tourism, and the Arts:*** This division's mission is to strengthen the State's quality of life and encourage economic development by investing in and promoting Maryland's unique historic, cultural, and natural assets. The division includes the offices of Marketing, Communications, Tourism and Film, and the Maryland State Arts Council (MSAC).
- ***Division of Administration and Technology:*** This division includes the offices of Budget and Finance, Contracts and Procurement, General Services, Human Resources, and Information and Technology Management.

Types of Financing Assistance

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

- ***Investments:*** Commerce considers investments the primary tool for business assistance. The agency purchases equity from companies to provide capital for them. Investments are made with the hope of an eventual financial return, but the timing and the amount of the return are unknown.
- ***Loans:*** Commerce loans are structured similar to conventional loans, but they have a favorable interest rate. The interest rate may scale down annually if the business is meeting or exceeding the job creation goals as agreed to in the loan documents. Likewise, the rate may scale up if the business is not meeting these goals.

- **Conditional Loans and Grants:** With conditional loans, repayment is forgiven if the business achieves employment goals. In effect, conditional loans become grants if conditions are met. Commerce treats conditional grants the same as conditional loans but, in some cases, a company may not want to account for Commerce assistance as debt, so they receive a conditional grant. In other cases, conditional grants are used if a company must meet a target, such as completing a feasibility study, before the funds are awarded.
- **Grants:** With grants, there is no repayment of the funds, and no conditions are attached.
- **Tax Credits:** The department administers several tax credit programs, including the Biotechnology Investment Incentive Tax Credit, the Base Realignment and Closure Revitalization and Incentive Zone Program, the Brownfields Tax Incentive, the Enterprise Zone Tax Credit, the Job Creation Tax Credit, the One Maryland Tax Credit, the Cybersecurity Investment Incentive Tax Credit, the Film Production Activity Tax Credit, the Research and Development Tax Credit, and the More Jobs for Marylanders Tax Credit Program. The More Jobs for Marylanders Tax Credit Program, the Biotechnology Investment Incentive Tax Credit, and the Cybersecurity Investment Incentive Tax Credit are budgeted within the department's appropriation.

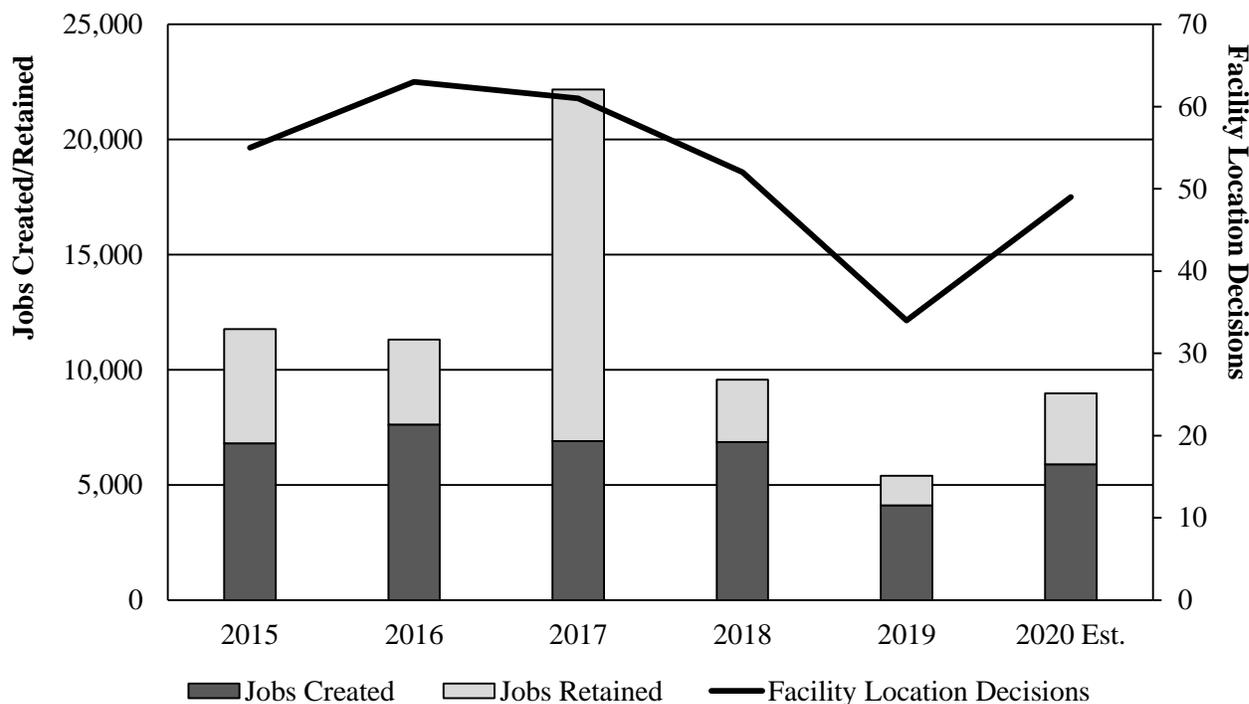
Performance Analysis: Managing for Results

1. Decrease in Jobs Created and Retained

The department aims to develop and maintain a pipeline of projects that result in facility location decisions and other projects that create or retain jobs. A facility location decision is defined as a statement by a top-level executive indicating a company's intention to locate in Maryland or to remain or expand in Maryland after considering potential locations outside the State and after intervention by the department. That intervention can include assistance related to financing, workforce training, marketing, permitting, or technical assistance.

Exhibit 1 shows the number of facility location decisions and the number of jobs created or retained. All three measures declined in fiscal 2019 by a third or more, with the department reporting a little over 4,100 jobs created, nearly 1,300 jobs retained, and 34 facility location decisions. The department attributes the decrease to various factors including fewer large projects compared to previous years. The fiscal 2017 spike in jobs retained is due to the retention of an estimated 10,000 jobs at Northrop Grumman and an estimated 3,500 jobs at Marriott International. The State has awarded Northrop Grumman a total of \$20 million from the Sunny Day Fund from fiscal 2017 to 2019 and will grant \$20 million to Marriott International over several payments that began in fiscal 2019.

Exhibit 1
Select Performance Measures
Fiscal 2015-2020 Est.

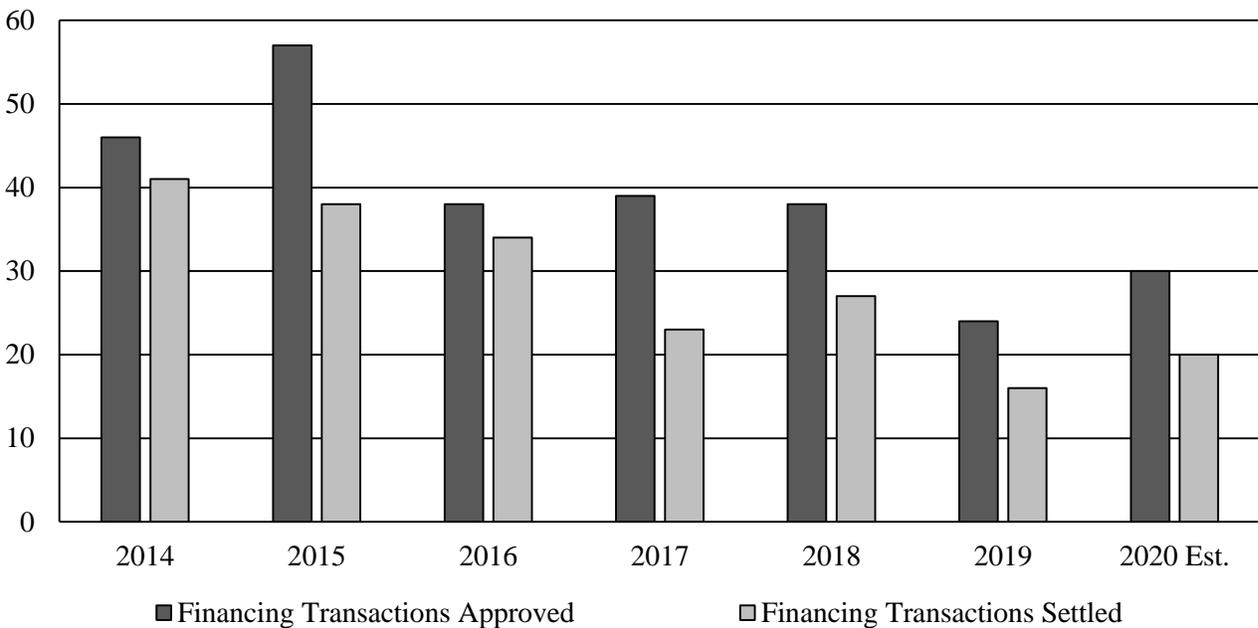


Source: Governor’s Fiscal 2021 Budget Books

2. Decrease in Financing Transactions Driven by MEDAAF

Commerce reports the total number of approved and settled transactions by fiscal year for many of its business assistance programs, including MEDAAF, the Sunny Day Fund, the Maryland Economic Adjustment Fund (MEAF), and others. A settled transaction is one that has an executed legal agreement in place with the department. As shown in **Exhibit 2**, the number of transactions approved (24) and transactions settled (16) each decreased by approximately 40% in fiscal 2019. This decline is driven primarily by MEDAAF, which accounts for around 75% of these transactions. Commerce advises that the decrease is due in part to canceled encumbrances and projects that are in discussion or in the proposal letter stage that have been slow to move forward. MEDAAF is discussed in more detail later in this analysis.

Exhibit 2
Financing Transactions
Fiscal 2015-2020 Est.



Source: Governor’s Fiscal 2021 Budget Books

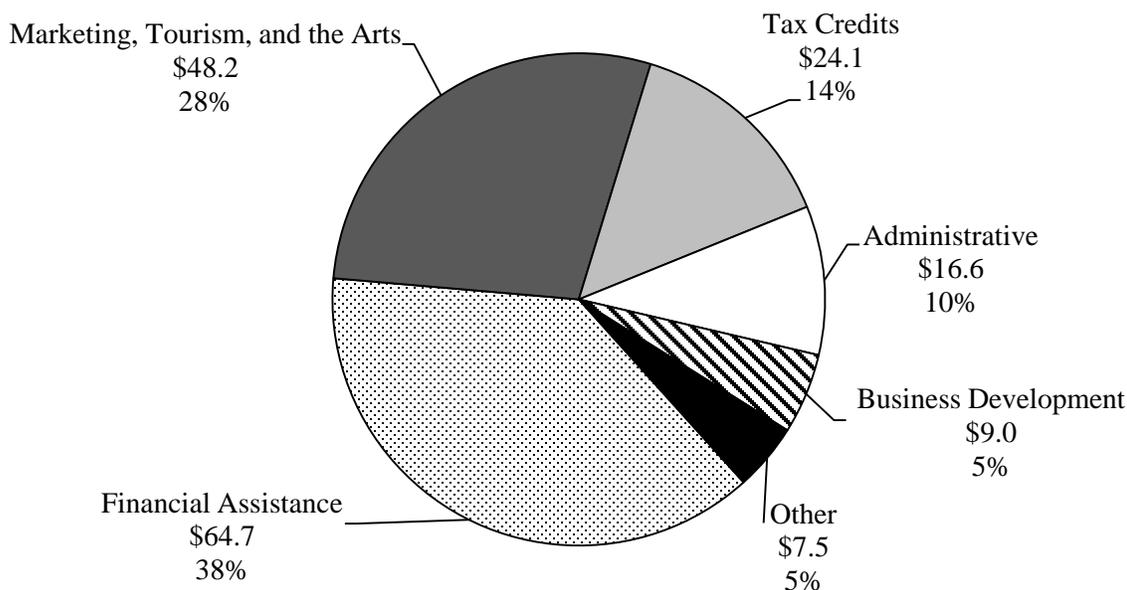
Fiscal 2020

The fiscal 2020 budget restricted \$1.25 million of the general fund appropriation in MEDAAF for various purposes, including to support a marketing campaign for Commerce’s business assistance programs and as grants to Visit Baltimore for efforts to promote the State hosting a national collegiate sporting event; to Prince George’s Community College; and to the University of Maryland, Baltimore Campus. The fiscal 2020 budget also restricted \$460,000 for the Sunny Day Fund general fund appropriation within the State Reserve Fund to support the Maryland Academy of Science (also known as the Maryland Science Center), Morgan State University, and the Light House homeless shelter in Annapolis. None of these restricted funds were released by the Governor and are assumed as planned reversions in the fiscal 2021 budget plan.

Fiscal 2021 Overview of Agency Spending

As noted earlier, Commerce provides assistance in many ways to Maryland businesses. **Exhibit 3** shows that 38%, or \$64.7 million, of the fiscal 2021 allowance is dedicated to programs that provide financial assistance in the form of grants or loans to businesses. Nearly 30% of the allowance is used for marketing efforts as well as promoting tourism and the arts in the State. Another significant portion of the allowance (\$24.1 million) goes toward tax credits, such as the More Jobs for Marylanders tax credits.

Exhibit 3
Overview of Agency Spending
Fiscal 2021 Allowance
(\$ in Millions)



Note: Other includes International Investment and Trade, Military and Federal Affairs, and Workforce Development. The fiscal 2021 allowance includes contingent reductions and general salary increases.

Source: Governor's Fiscal 2021 Budget Books

Proposed Budget Change

The adjusted fiscal 2021 allowance increases by \$26.5 million, or 18.4%, compared to the adjusted current year working appropriation. General funds grow by \$14.6 million, or 17.5%, as shown in **Exhibit 4**.

Exhibit 4
Proposed Budget
Department of Commerce
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Nonbudgeted Fund	Total
Fiscal 2019 Actual	\$84,841	\$45,951	\$2,870	\$150	\$133,811
Fiscal 2020 Working Appropriation	83,557	56,600	3,544	0	143,701
Fiscal 2021 Allowance	<u>98,197</u>	<u>68,283</u>	<u>3,676</u>	<u>0</u>	<u>170,156</u>
Fiscal 2020-21 Amount Change	\$14,640	\$11,684	\$132	\$0	\$26,455
Fiscal 2020-21 Percent Change	17.5%	20.6%	3.7%	0.0%	18.4%

Where It Goes:

Personnel Expenses	Change
Reclassification	\$354
Fiscal 2021 general salary increase (2% effective January 1, 2021)	188
Fiscal 2021 cost of fiscal 2020 general salary increase (1% effective January 1, 2020)	92
Employee retirement	69
Employee and retiree health insurance	-62
Turnover adjustments	-164
Workers' compensation premium assessment	-251
Salaries and wages	-360
Other fringe benefit adjustments	-27
Business Assistance Programs	
Small, Minority, and Women-Owned Businesses Account	17,169
Howard St. Tunnel funding in Maryland Economic Development Assistance Authority and Fund (MEDAAF)	10,000
More Jobs for Marylanders	2,063
Maryland Small Business Development Financing Authority	600
Other MEDAAF funding	-7,750
Other Changes	
Tourism development	1,567
Formula funding for Maryland State Arts Council	1,527
New advertising contract to promote Maryland as a business location	1,000
Travel	259
Department of Information Technology services allocation	161
Other changes	19
Total	\$26,455

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.

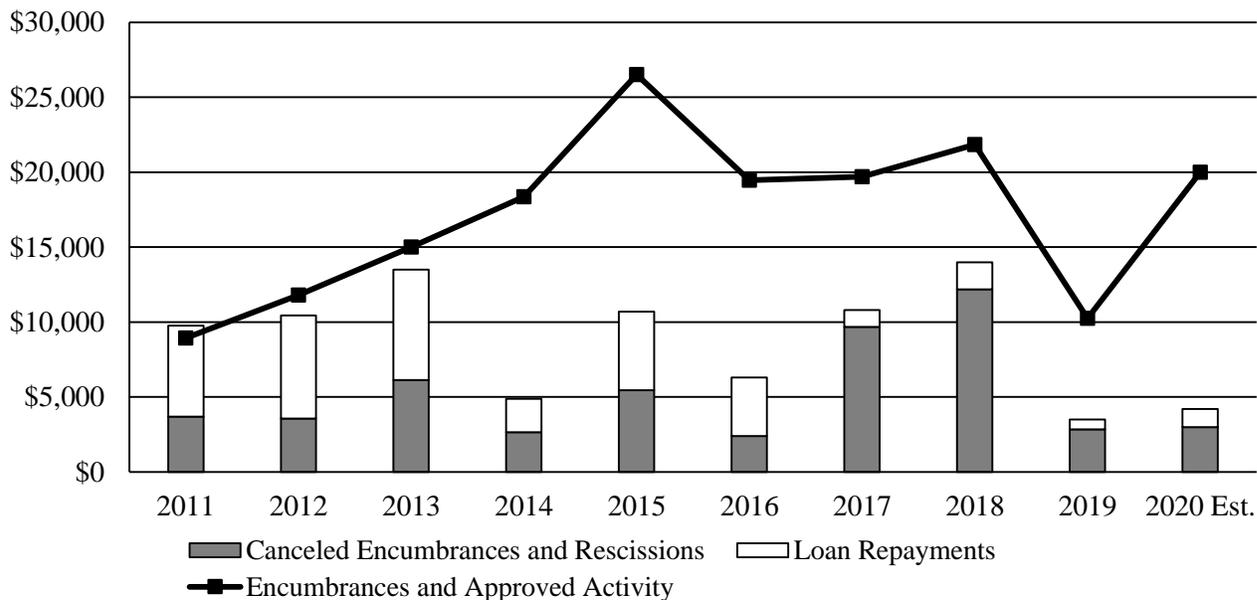
MEDAAF

Established as a revolving loan fund under Chapter 301 of 1999, MEDAAF is the department’s primary and most flexible tool for business financial assistance. The fund provides below-market, fixed-rate financing in the form of loans, grants, conditional loans, conditional grants, and direct investment to local jurisdictions and businesses. Funds may be used for property acquisition, construction, or renovation of buildings, including tenant improvements and capital equipment.

The fiscal 2021 allowance includes \$10 million in general funds and \$18 million in special funds for MEDAAF. Overall funding for MEDAAF increases \$2.25 million compared to the fiscal 2020 working appropriation, with an increase of \$9.25 million in general funds offset by a \$7 million decrease in special funds. Special funds are largely a result of loan repayments or cancellations of previously encumbered loans.

MEDAAF had approximately \$10.3 million of encumbrances and approved activity in fiscal 2019, which is the lowest level since fiscal 2011, as shown in **Exhibit 5**. As a result, the balance in MEDAAF at the end of fiscal 2019 was approximately \$14 million higher than had been estimated during the fiscal 2020 budget process. Loan repayments decreased to \$658,000, which is also the lowest level in more than a decade. **Commerce should comment on the reasons for the low activity level in MEDAAF.**

Exhibit 5
MEDAAF Encumbrances and Repayments
Fiscal 2011-2020 Est.
(\$ in Thousands)



Source: Governor’s Fiscal 2021 Budget Books

Revenues and expenditures for MEDAAF are shown in **Exhibit 6**. The fund balance is projected to close at just over \$7 million at the end of fiscal 2021. This estimate is based on projected activity levels of \$20 million in each of fiscal 2020 and 2021, which is nearly double fiscal 2019 activity but is in line with prior years’ activity. It should be noted that special funds within MEDAAF are used to defray other departmental operating costs shown as indirect expenses in the fund balance summary. The department uses special funds for a variety of its financing programs to pay the centralized costs required to administer the programs.

Exhibit 6
MEDAAF Balance Statement
Fiscal 2018-2021 Est.
(\$ in Thousands)

	<u>2018 Actual</u>	<u>2019 Actual</u>	<u>2020 Est.</u>	<u>2021 Est.</u>
Beginning Balance	\$14,008	\$29,078	\$27,969	\$18,388
Revenues				
General Funds	\$13,823	\$0	\$750	\$10,000
Loan Repayments	1,811	658	1,197	2,427
Loan Recoveries and Grant Repayments	2,915	1,779	1,550	1,550
Interest Income	156	141	123	113
Investment Income	673	879	745	771
Brownsfield Local Property Tax				
Contributions	4,815	5,955	4,610	3,000
Investment Liquidation and Other Income	4,072	1,342	2,026	1,340
Canceled Prior Year Encumbrances	12,183	2,850	3,000	3,000
Total Revenues	\$40,447	\$13,605	\$14,000	\$22,201
Total Funds Available	\$54,455	\$42,683	\$41,969	\$40,588
Expenditures				
Encumbrances/Approval Activity	\$21,845	\$10,259	\$20,000	\$20,000
Howard Street Tunnel Project	0	0	0	10,000
Operating Expenses	528	524	538	532
Indirect Expenses	3,004	3,094	3,043	3,051
Prior Period Adjustment	0	838	0	0
Total Expenditures	\$25,377	\$14,714	\$23,581	\$33,582
Ending Balance	\$29,078	\$27,969	\$18,388	\$7,006

MEDAAF: Maryland Economic Development Assistance Authority and Fund

Note: Numbers may not sum due to rounding. The fiscal 2021 expenditures shown are the department’s estimate of the level of activity. However, the fiscal 2021 allowance only includes \$28 million including the \$10 million for the Howard Street tunnel project.

Source: Governor’s Fiscal 2021 Budget Books

Howard Street Tunnel Project

The \$10 million in general funds is for the Howard Street tunnel project, which would increase the tunnel’s clearance to allow double-stacked container railcars. As shown in **Exhibit 7**, the total estimated funding for the project is \$466 million, including a little over \$80 million in fiscal 2021. The general funds contributed through MEDAAF exceed the funding to be provided through the Maryland Department of Transportation (MDOT) for the entire project. **Due to the transportation nature of this project, the Department of Legislative Services (DLS) recommends deleting the \$10 million in general funds intended for the Howard Street tunnel project and that funding instead be provided through the Transportation Trust Fund.** This issue is discussed further in other analyses, including the MDOT Overview and the Capital Budget Overview.

Exhibit 7
Howard Street Tunnel Project Funding by Source
Fiscal 2020-2024
(\$ in Millions)

	Expended Thru <u>2020</u>	<u>2021</u>	<u>2022-2024</u>	<u>Total</u>
Federal funds	\$0.0	\$25.0	\$103.0	\$128.0
State – General Obligation Bonds	0.0	0.0	124.5	124.5
State – General Funds	0.0	10.0	30.0	40.0
State – Baltimore City Highway User Revenues	0.0	5.0	15.0	20.0
State – Maryland Transportation Authority	0.0	10.0	0.0	10.0
State – Maryland Department of Transportation	0.0	0.3	7.8	8.0
Other sources	35.0	30.0	70.5	135.5
Total	\$35.0	\$80.3	\$350.8	\$466.0

Note: Numbers may not sum due to rounding. Other sources include CSX and the Pennsylvania Department of Transportation.

Source: Maryland Department of Transportation; Department of Legislative Services

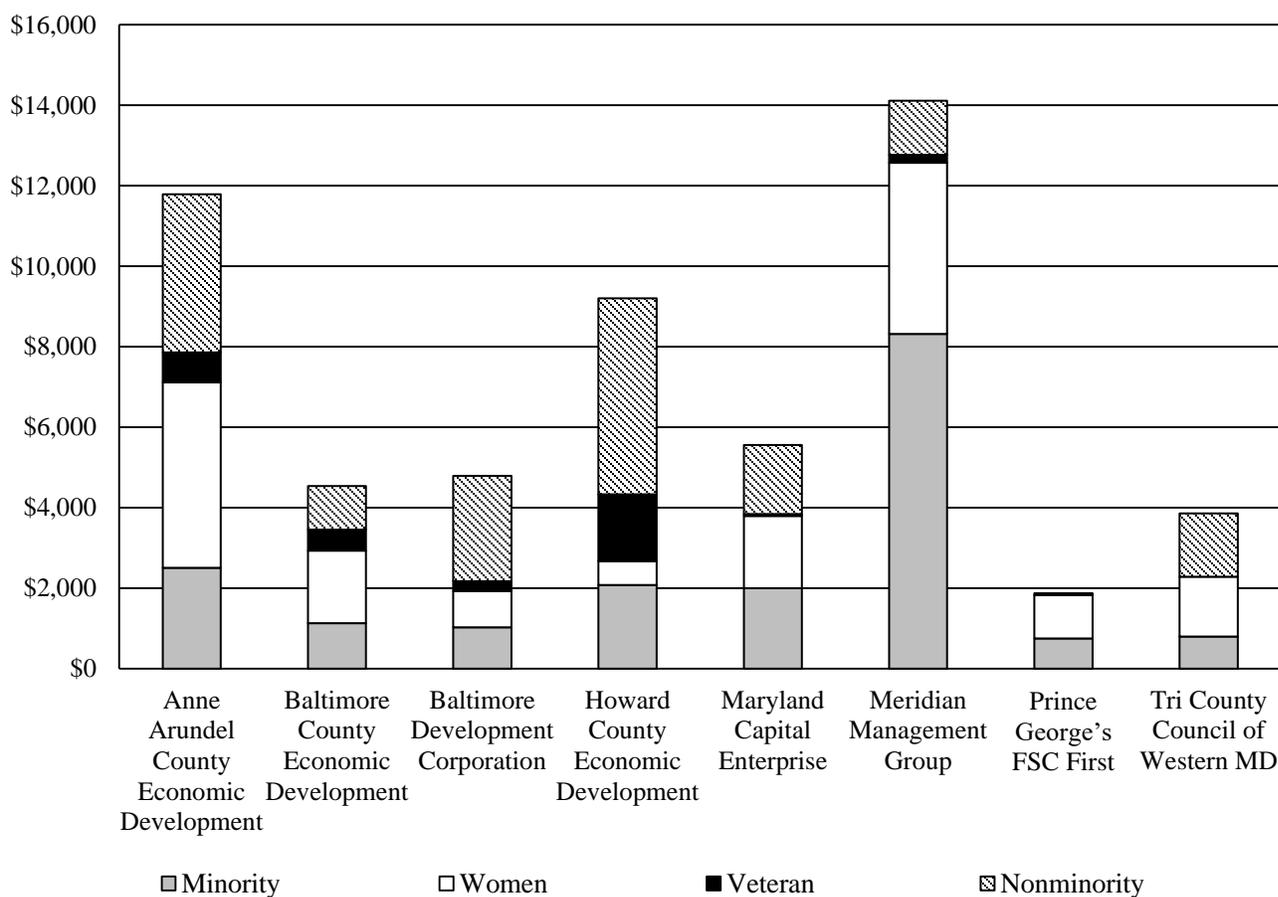
SMWOBA

SMWOBA is designed to provide capital investments and loans for small, minority, and women-owned businesses that are located primarily in the areas of the State with gaming facilities. The fiscal 2021 allowance includes \$17.2 million for SMWOBA, which represents 1.5% of the projected revenue from video lottery terminals (VLT). This is the first year of funding since fiscal 2017, as VLT funds that would otherwise have gone to SMWOBA were diverted to the General Fund in fiscal 2018 and to the Education Trust Fund in fiscal 2019 and 2020. Additionally, the Clean Energy Jobs Act of

2019 (Chapter 757) requires that a total of \$7 million be transferred from the Strategic Energy Investment Fund to SMWOBA from fiscal 2021 to 2028, including \$200,000 in fiscal 2021. This funding is expected to be added through a supplemental budget.

Exhibit 8 shows the breakdown of settled transactions in SMWOBA since the program’s inception in fiscal 2014, both by fund manager and by type of business assisted. Overall, settled transactions total \$55.7 million, with about a third going to minority-owned businesses, 30% to women-owned businesses, and 6% to veteran-owned businesses.

Exhibit 8
SMWOBA Settled Transactions by Fund Manager
Fiscal 2014-2019
(\$ in Thousands)



SMWOBA: Small, Minority, and Women-Owned Businesses Account

Source: Department of Commerce

According to the department, fund managers had just under \$5 million combined in the checking accounts that they control as of December 2019. In addition, there is approximately \$7.2 million available to Commerce to disburse to the fund managers. The recent average of approved transactions in the program is approximately \$11.6 million annually. Additionally, the Department of Housing and Community Development is still in control of approximately \$2.3 million that it is using for loans to assist businesses affected by the Ellicott City flooding in 2016. These funds will be returned to SMWOBA as the Ellicott City loans are repaid.

MSBDFFA

MSBDFFA is designed to provide financing options for small businesses that are not able to qualify for financing from private lending institutions or are owned by socially and economically disadvantaged persons. MSBDFFA is the only Commerce program with multiple capabilities (surety bonds, loan guarantees, lines of credit, and term loans) that can serve existing and startup businesses that the private market will not support. A private contractor, currently Meridian Management Group, Inc., reviews the financing applications for presentation to the MSBDFFA board. MSBDFFA has four programs: the Contract Financing Program; the Long-term Guaranty Program; the Surety Bond Program; and the Equity Participation Investment Program. The fiscal 2021 allowance for MSBDFFA increases by \$500,000 in special funds from the Maryland Enterprise Fund for the Equity Participation Program and \$100,000 in federal funds from the State Small Business Credit Initiative.

Marketing and Tourism

The fiscal 2021 allowance includes \$1 million in general funds for a new contract to promote Maryland's competitive business advantages. Commerce advises the funds would be used to create a magazine highlighting the best attributes of living and working in Maryland, as well as to extend the duration of advertising for the "Open for Business" campaign and expand it to additional locations and events. **DLS recommends deleting the \$1 million in general funds for new marketing activities due to competing priorities for funding.**

Funding for tourism development increases by approximately \$1.6 million in fiscal 2021. This includes a \$1 million grant to support the Central Intercollegiate Athletic Association men's and women's basketball tournament coming to Baltimore for three years beginning in February 2021. The fiscal 2021 allowance also includes an increase of \$500,000 for marketing efforts by the Tourism Development Board, which represents a 13.7% increase in grants by the board. Commerce has not provided details on how these funds will be used. **The department should comment on the use of the additional tourism marketing funds. DLS recommends reducing funding for tourism marketing by \$250,000 in general funds.**

Arts Programs

The adjusted fiscal 2021 general fund allowance for MSAC is \$23.9 million, which is an increase of \$1.5 million over the fiscal 2020 working appropriation. By statutory mandate, general funds allocated to MSAC are required to grow each year by the expected percentage of growth in general fund revenues. Per Chapter 145 of 2016, MSAC also receives funds from the admissions and

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amusement (A&A) tax revenues on electronic bingo and electronic tip jars that would otherwise be distributed to the Special Fund for Preservation of Cultural Arts (POCA), including \$1 million in fiscal 2021, and funds from this source must also be included in the calculation to determine the required mandated general fund appropriation. The Budget Reconciliation and Financing Act (BRFA) of 2017 placed a sunset of fiscal 2021 on both the diversion of A&A funds to MSAC and the use of these funds in determining the MSAC allowance.

The fiscal 2021 allowance also includes \$1 million in special funds for POCA from the A&A tax. POCA funds are intended to provide supplemental grants to cultural arts organizations that qualify for general operating support grants from MSAC. Due to the diversion of funds for cost containment and other budgetary purposes, the special fund has never been used for its intended purpose. **DLS recommends deleting \$1 million for POCA in fiscal 2021 and adopting a BRFA provision transferring these funds to the General Fund and changing the distribution of A&A tax revenues such that funds that would otherwise go to POCA are instead distributed to the General Fund in fiscal 2022 and all future years.**

Chapter 743 of 2019 mandated an appropriation of \$1.6 million for the Baltimore Symphony Orchestra (BSO) in fiscal 2021. The BRFA of 2020 would repeal this mandate. Although there was no prior requirement that BSO receive State funding, in practice, BSO has received State support annually through MSAC, including \$2.0 million in fiscal 2019 and \$1.6 million in fiscal 2020.

The BRFA of 2020 would also decrease the maximum amount of film production activity tax credits that Commerce may award in fiscal 2021 from \$14 million to \$10 million. A qualified film production may receive a tax credit equal to 25% of qualified production costs incurred in the State, or 27% of costs for a television series, with a maximum tax credit amount per project of \$10 million. Commerce is required to reserve 10% of all tax credits in each fiscal year for small film entities. Chapter 595 of 2018 established maximum amounts of film production activity tax credits that Commerce may award in each fiscal year from fiscal 2019 onward: (1) \$8 million in fiscal 2019; (2) \$11 million in fiscal 2020; (3) \$14 million in fiscal 2021; (4) \$17 million in fiscal 2022; and (5) \$20 million annually in fiscal 2023 and thereafter. The BRFA action affects the maximum credit amount for fiscal 2021 only. **DLS recommends making the \$10 million maximum credit amount permanent, which would result in an increase in general fund revenues of up to \$7 million in fiscal 2022 and \$10 million in fiscal 2023 and each year thereafter.**

Personnel Data

	<u>FY 19</u> <u>Actual</u>	<u>FY 20</u> <u>Working</u>	<u>FY 21</u> <u>Allowance</u>	<u>FY 20-21</u> <u>Change</u>
Regular Positions	188.00	188.00	188.00	0.00
Contractual FTEs	<u>34.03</u>	<u>26.00</u>	<u>26.00</u>	<u>0.00</u>
Total Personnel	222.03	214.00	214.00	0.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	11.79	6.27%
Positions and Percentage Vacant as of 12/31/19	26.00	13.83%
Vacancies Above Turnover	14.21	

- As of the end of December 2019, Commerce had more than twice as many vacancies as needed to meet the budgeted turnover for fiscal 2021. The vacancy rate has increased for the second year in a row, from 8.5% in December 2018 and 5.2% in December 2017. **DLS recommends increasing turnover to 8.5%, which would result in savings of \$437,573.**

Issues

1. More Jobs for Marylanders

The More Jobs for Marylanders Act of 2017 (Chapter 149) established the More Jobs for Marylanders Program, to be administered by Commerce. The law creates several tax incentives for manufacturing businesses that locate in certain jurisdictions. New businesses in Baltimore City and Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, and Worcester counties (Tier 1 areas under the law) are eligible for a variety of incentives. The Secretary of Commerce has also designated Baltimore, Cecil, and Prince George’s counties as Tier 1 areas under authority granted by the legislation; all other counties are Tier 2 areas.

New businesses in Tier 1 jurisdictions get a refundable State income tax credit of 5.75% of the wage of each new position, a State property tax credit, a refund of sales and use tax, and the waiver of the State Department of Assessments and Taxation fees if the business creates at least 5 new jobs. Existing businesses in the State receive a refundable State income tax credit of 5.75% of the wage per new position if 5 jobs (in Tier 1 locations) or 10 jobs (in Tier 2 locations) are created. Commerce may award up to \$9.0 million (in addition to any authority carried over from a previous fiscal year) in new income tax credits and \$1.0 million in sales tax refunds each fiscal year. The incentives are for a 10-year period, and amounts issued in prior years do not count toward the annual maximum amount of new credits and refunds that may be issued each year.

Chapter 211 of 2019 extended Tier 1 benefits under the program to businesses that locate or expand in opportunity zones, including to nonmanufacturing businesses in opportunity zones. Additionally, Chapter 211 extended the enrollment period for the program by two years, from June 1, 2020, to June 1, 2022, thereby authorizing up to \$200 million in additional tax credits and refunds.

The department provided projections of income tax credits that may be claimed in fiscal 2019 through 2021 by companies whose enrollment applications had been approved by February 2020. These projections do not account for companies that may enroll in the program going forward through the cut-off date in June 2022, which makes it difficult to forecast future expenditures for the program. The department also does not currently report on usage or projected usage of the sales and use tax refund. **DLS recommends that Commerce include cost estimates in its annual report on the More Jobs for Marylanders Income Tax Credit Reserve Fund that account for projected participation in the program by new companies and that the department include projections of expenses for a five year period. Commerce should also include that same information for the Sales and Use Tax Refund Reserve Fund.**

Under statute, unused authority to issue new tax credits rolls over for one fiscal year. As shown in **Exhibit 9**, given the department’s estimate of \$4.5 million of new income tax credits claimed in fiscal 2020 and the \$9.1 million in general funds included for the income tax credits in the fiscal 2021 allowance, Commerce would have the authority to issue a little over \$16 million in new credits in fiscal 2021. **DLS recommends reducing the allowance for the More Jobs for Marylanders Income**

Tax Credit Reserve Fund by \$7,063,374. This would result in an appropriation of \$2 million, and Commerce would have the authority to issue \$9 million in new tax credits in fiscal 2021.

**Exhibit 9
More Jobs for Marylanders Authority to Issue New Income Tax Credits
Fiscal 2019-2021**

	<u>2019</u>	<u>2020</u>	<u>2021</u>
Prior Year New Tax Credit Authority Carry Forward	\$0	\$5,646,835	\$7,000,000
Appropriation	9,000,000	7,000,000	9,063,374
New Tax Credit Authority	\$9,000,000	\$12,646,835	\$16,063,374
New Credits Claimed	\$3,353,165	\$4,481,725	\$9,000,000
Lost Credit Authority		\$1,165,110	\$0
Credit Authority Carry Forward	\$5,646,835	\$7,000,000	\$7,063,374
Reduction Required to Limit New Credit Authority to \$9 Million			\$7,063,374

Note: The fiscal 2020 new credit activity is estimated by Commerce. The fiscal 2021 new credit activity is based on setting the maximum amount of new credits the department could issue to \$9 million.

Source: Department of Legislative Services

Exhibit 10 shows the income tax credits projected to be claimed by companies enrolled in the program by February 2020 as well as the effect of the proposed reduction on the fund balance of the More Jobs for Marylanders Income Tax Credit Reserve Fund. A company can claim a tax credit for jobs created in fiscal 2019 for 10 consecutive years (fiscal 2019 to 2028), and if the company adds additional jobs in fiscal 2020, the company can claim an additional tax credit for those new jobs for 10 consecutive years (fiscal 2020 to 2029). The tax credit for the new jobs created in fiscal 2020 would count toward the maximum new credit amount in fiscal 2020 of \$12.6 million, while the tax credit claimed in fiscal 2020 for jobs created in fiscal 2019 would not. Tax credits claimed by companies for a given fiscal year are not disbursed from the fund until the following fiscal year. As a result, the reserve fund has a significant balance, and the full fiscal 2021 appropriation is not needed, even if new tax credits in fiscal 2020 were to far exceed the department’s estimates.

Exhibit 10
More Jobs for Marylanders Tax Credit Projected Usage and Allowance
Fiscal 2019-2021

	<u>2019</u>	<u>2020</u>	<u>2021</u>
Starting Balance	\$0	\$9,000,000	\$12,646,835
Funding			
More Jobs for Marylanders Income Tax Credit Funding	\$9,000,000	\$7,000,000	\$2,000,000
Available Funds	\$9,000,000	\$16,000,000	\$14,646,835
Tax Credits Claimed (Estimate)			
Carry Forward from Previous Years	\$0	\$3,353,165	\$7,834,889
New	\$3,353,165	\$4,481,725	\$4,383,473
Subtotal	\$3,353,165	\$7,834,889	\$12,218,362
Total Expenses for Credits Claimed in Previous Fiscal Year	\$0	\$3,353,165	\$7,834,889
End of Year Funds Available	\$9,000,000	\$12,646,835	\$6,811,946

Source: Governor's Fiscal 2021 Budget Books; Department of Commerce

The fiscal 2021 allowance also includes \$1 million in general funds for the sales and use tax refunds. Commerce advises that the department has not received any applications for the sales and use tax refund and is aware of only one potential eligible applicant. The More Jobs for Marylanders Sales and Use Tax Reserve Fund received \$1 million in each of fiscal 2019 and 2020. **DLS recommends deleting the \$1 million general fund allowance for the More Jobs for Marylanders Sales and Use Tax Reserve Fund.**

It should be noted that the General Fund revenue estimate for fiscal 2021 assumes the General Fund will receive \$9 million from the More Jobs for Marylanders program. Based on the estimated expenses of \$7.8 million shown in Exhibit 10, the General Fund will receive \$1.2 million less than estimated.

2. Audit Reveals Lack of Verification in Several Programs

The Office of Legislative Audits (OLA) completed an examination of Commerce in September 2019 that included 9 findings. The findings primarily related to the lack of verification of required information or adequate controls over the issuance of tax credits and grants, and the forgiveness of loans in several of Commerce’s programs, including the One Maryland Tax Credit, the Biotechnology Investment Tax Credit, MEDAAF, MSBDFA, the Maryland E-Innovation Initiative Fund (MEIF), MSAC, and SMWOBA. The findings are listed in **Appendix 2**.

Tax Credits

For the One Maryland and Biotechnology Investment Tax Credit Programs, OLA noted that Commerce did not adequately verify information such as new positions created or applicant and ownership information, as required, before issuing tax credits. Commerce’s verification process for 13 applicants for 15 One Maryland Tax Credits totaling nearly \$70 million was limited to a review of 3 credit certificates of approximately \$15 million. Commerce did not verify employment and ownership information for biotechnology tax credits of \$8 million issued to investors out of \$47 million of tax credits issued in total.

Grant and Loan Programs

The audit disclosed that Commerce only reviewed payroll data for 4 out of 20 forgiven loans in MEDAAF during the audit period, and verifications were not comprehensive for 2 of these loans. In MSBDFA, Commerce paid loan guarantees to lenders without receiving all required documentation and without reviewing the accuracy of loan guarantee claim information provided by the lending institutions. In addition, OLA determined that proper processes were not in place regarding awards from MEIF or MSAC.

Three of the audit findings related to the oversight of fund managers for SMWOBA. Commerce did not have effective processes to ensure that fund manager agreements included critical loan underwriting details, and the department also did not adequately verify fund manager compensation or data related to fund manager achievement of lending goals.

Changes in Response to Audit

The department notes that it has taken corrective actions in four categories: strengthening verification procedures; evaluating and revising standard operating procedures; making personnel changes; and implementing stronger reporting requirements.

In October 2019, Commerce amended an agreement with the Maryland Department of Labor and the Jacob France Institute at the University of Baltimore that will allow Commerce to receive additional employment data that will aid in verifications for MEDAAF and other programs. Commerce has adopted standard operating procedures regarding the submission of ownership details for investors applying for the Biotechnology and Cybersecurity Investment Incentive Tax Credits. The department has also implemented

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additional review procedures for MSBDEFA and SMWOBA and instituted a quarterly process of reconciliation of the MSAC grant system with the State's Financial Information Management System.

Commerce is in the process of recruiting for a new compliance officer position. In addition, the department has assigned an accountant to oversee the SMWOBA fund managers and appointed a new manager of tax credit programs. In addition to the improved verification procedures, Commerce has introduced new reporting requirements for higher education institutions that receive funding under the MEIF program.

Operating Budget Recommended Actions

1. Add the following language:

Provided that \$315,436 in general funds, \$106,935 in special funds, and \$15,202 in federal funds for turnover in subobject 0189 is reduced.

Explanation: This action reduces funds for turnover to a level consistent with a turnover rate of 8.5%. The department had a vacancy rate of 13.83% as of December 2019. A turnover rate of 8.5% is in line with the department’s vacancy rate in December 2018.

	<u>Amount Reduction</u>	<u>Position Reduction</u>
2. The allowance includes \$10 million in funding for the Howard Street tunnel project in the Maryland Economic Development Assistance Authority and Fund. This action deletes this funding for the project that should be funded through the Transportation Trust Fund.	\$ 10,000,000	GF
3. Reduce funding for the More Jobs for Marylanders income tax credit program in order to limit the department’s authority to issue new tax credits.	7,063,374	GF
4. Adopt the following narrative: More Jobs for Marylanders Income Tax Credit Reserve Fund Annual Report: The committees request that the Department of Commerce (Commerce) include in the annual report on the More Jobs for Marylanders Income Tax Credit Reserve Fund a cost estimate that accounts for projected participation in the program by new companies and includes projected expenses for five years. Commerce should also include this same information for the Sales and Use Tax Reserve Fund.		
	<u>Amount Reduction</u>	<u>Position Reduction</u>
5. Delete funding for the More Jobs for Marylanders sales and use tax refund program due to lower than anticipated usage.	1,000,000	GF
6. Reduce funding for tourism marketing in the Maryland Tourism Development Board.	250,000	GF

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7.	Delete funding for a new contract to promote Maryland’s business advantages.	1,000,000	GF
8.	Delete special funds for the Preservation of Cultural Arts program. A related Budget Reconciliation and Financing Act provision would transfer these funds to the General Fund.	1,000,000	SF
	Total Reductions	\$ 20,313,374	
	Total General Fund Reductions	\$ 19,313,374	
	Total Special Fund Reductions	\$ 1,000,000	

Budget Reconciliation and Financing Act Recommended Actions

1. Add a provision that transfers \$1 million in special funds from the Special Fund for the Preservation of the Cultural Arts (POCA) in fiscal 2021 to the General Fund, and alters the distribution of admissions and amusement tax revenues such that funds that would otherwise go to POCA are instead distributed to the General Fund in fiscal 2022 and all future years.
2. Amend the provision that decreases the maximum amount of film production tax credits to \$10 million in fiscal 2021 to apply to all future years.

Updates

1. Grants

The department awarded \$28.1 million in grants in fiscal 2019, excluding its financial assistance programs, as shown in **Exhibit 11**. The exhibit also shows another \$31.8 million being disbursed in the current fiscal year as well as a planned \$35.0 million in fiscal 2021.

Exhibit 11
Summary of Major Grants
Fiscal 2019-2021

	Actual <u>2019</u>	Estimated Appropriation <u>2020</u>	Allowance <u>2021</u>
Office of the Secretary and Business and Industry Sector Development			
International Trade and Development Grants			
Maryland Israel Development Corp	\$300,000	\$300,000	\$300,000
World Trade Center Institute	240,000	240,000	240,000
Export Maryland – Small Business Foreign Trade Grants	215,000	650,000	400,000
Military/Federal and Base Realignment and Closure (BRAC) Assistance Grants			
Southern Maryland Navy Alliance	40,000	40,000	40,000
Army Alliance	40,000	40,000	40,000
Montgomery County – White Oak	15,333	15,333	15,333
Fort Meade Alliance	40,000	40,000	40,000
Fort Dietrick Alliance	40,000	40,000	40,000
Maryland Maritime Alliance	40,000	40,000	40,000
Military Alliance Council (Charles County)	40,000	40,000	40,000
Andrews Air Force Base, Business Roundtable of Prince George’s County	40,000	40,000	40,000
To Be Determined Per Federal Grant		813,318	889,000
Maryland Technology Development Corporation	60,000		
Regional Council Grants			
Tri-County Council of Western Maryland	200,000	200,000	200,000
Tri-County Council of Southern Maryland	200,000	200,000	200,000
Mid-Shore Regional Council	200,000	200,000	200,000
Tri-County Council Lower Shore	200,000	200,000	200,000
Upper Shore Regional Council	200,000	200,000	200,000
Technology Transfer Grants			
Technology Council of Maryland	75,000	57,000	60,000
Betamore	20,000	10,000	

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	Actual <u>2019</u>	Estimated Appropriation <u>2020</u>	Allowance <u>2021</u>
Northeastern Maryland Technology Council	15,000	15,000	
Carrol County Technology Council	7,500	10,000	
Howard County Technology Council	10,000	13,000	
Regional Additive Manufacturing Partnership	15,000	5,000	
Regional Manufacturing Institute	30,000	30,000	30,000
Maryland Business Incubator Association	10,000	5,000	
Emerging Technology Centers	15,000	10,000	
Startup Maryland	15,000	20,000	20,000
BW Tech @ UMBC		20,000	2,000
Cybersecurity Association of Maryland	34,000	21,500	21,500
Other/To Be Determined		33,500	116,500
Subtotal Technology Transfers Grants	246,500	250,000	250,000
Strategic Industries Support			
Economic Alliance of Greater Baltimore – BioPharma	62,000	62,000	62,000
Manufacturing Extension Partnership	220,000	220,000	220,000
Maryland Technology Council, Inc. ImMD platform	200,000		
Miscellaneous Grants to Cyber Industry	150,000	150,000	
Other Grants			
Partnership for Workforce Quality	1,000,000	1,000,000	1,000,000
Maryland Public Private Partnership			
National Veterans Institute for Procurement	150,000	150,000	150,000
Economic Alliance of Greater Baltimore	62,000	62,000	62,000
Governor’s Workforce Investment Board	55,647	30,000	30,000
Not-For-Profit Development Fund Grants	150,000	150,000	150,000
Appalachian Regional Commission	16,500	16,500	16,500
Grants Total from Office of Secretary and Business and Industry Sector Development	\$4,422,980	\$5,389,151	\$5,064,833
Division of Tourism, Film, and the Arts			
Tourism			
Capital Region USA, Inc.	\$400,000	\$400,000	\$400,000
Maryland Tourism Coalition	40,000	40,000	40,000
Tourism – Sports – Central Intercollegiate Athletic Association			1,000,000
Various Other Tourism Grants	1,266,200	786,820	1,330,000
<i>County Cooperative Grants (Various Recipients – Amounts TBD)</i>			2,500,000
Allegany	28,072	27,353	
Anne Arundel	155,542	154,138	
Baltimore City	362,777	243,378	
Baltimore County	24,475	25,082	
Calvert	42,728	31,303	
Caroline	20,468	20,706	

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	<u>Actual 2019</u>	<u>Estimated Appropriation 2020</u>	<u>Allowance 2021</u>
Carroll	51,045	49,541	
Cecil	38,305	43,324	
Charles	32,775	28,534	
Dorchester	58,879	83,889	
Frederick	222,589	252,902	
Garrett	73,372	79,924	
Harford	72,994	98,813	
Howard	48,530	44,796	
Kent	47,728	43,079	
Montgomery	87,365	102,915	
Prince George's	350,464	299,268	
Queen Anne's	49,012	51,961	
Somerset	21,632	22,390	
St. Mary's	23,832	26,671	
Talbot	59,125	89,901	
Washington	87,847	60,397	
Wicomico	42,675	77,461	
Worcester	140,607	207,154	
Ocean City	373,225	373,225	
<i>Subtotal – Tourism</i>	<i>\$4,222,263</i>	<i>\$3,764,925</i>	<i>\$5,270,000</i>
 Maryland State Arts Council (MSAC) – Grants for Organization (GFO)			
Academy Art Museum	\$127,167	129,164	
Access Art	31,741	33,842	
Adventure Theatre – Maryland Tourism Council	182,182	197,244	
AEMS: Arts Education in Maryland Schools Alliance	35,287	60,000	
AEMS: Arts Education in Maryland Schools Alliance	210,000	31,121	
AFI Silver Theatre and Cultural Center		196,611	
American Visionary Art Museum	206,000	222,498	
Annapolis Chorale	30,453	29,899	
Annapolis Opera Company	28,803	35,737	
Annapolis Symphony Orchestra	108,423	151,839	
Ann's Circle, Inc	34,141	34,631	
Art League of Ocean City		45,885	
Art Works Studio School Inc (Art Works Now)	74,777	30,893	
Artivate		63,259	
Artpreneurs, Inc. dba Arts on the Block	29,943	40,013	
Arts for the Aging, Inc.	33,974	31,197	
ArtStream, Inc.	39,152	45,512	
Avalon Foundation, Inc.	142,075	133,544	
Ballet Theatre of Maryland, Inc.	71,581	69,272	
Baltimore Choral Arts Society	52,588	47,177	
Baltimore Clayworks, Inc.	73,000	70,713	
Baltimore Museum of Art, The	1,132,183	1,108,356	

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	Actual	Estimated	
	<u>2019</u>	Appropriation	Allowance
		<u>2020</u>	<u>2021</u>
Baltimore Symphony Orchestra, Inc.	1,978,275	1,577,598	
Baltimore’s Festival of The Arts, Inc.	175,000	300,720	
Bender Jewish Community Center of Greater Washington	34,838	45,130	
BlackRock Center for the Arts	100,000	97,999	
Chesapeake Arts Center	39,000	52,502	
Chesapeake Chamber Music, Inc. (Trading as Chesapeake Music)	29,125	27,035	
Center Stage Associates, Inc.	617,683	632,565	
Chesapeake Shakespeare Company	87,500	115,500	
City of Gaithersburg	60,000	113,193	
City of Greenbelt	39,339	41,361	
City of Rockville	39,998	34,156	
Columbia Center for Theatrical Arts, Inc.		39,112	
Columbia Festival, Inc.	39,605	31,988	
Common Ground on the Hill	41,671	38,041	
Dance Exchange, Inc	37,025	43,040	
The Delaplaine Visual Arts Education Center	75,820	62,312	
Delmarva Public Radio WSCL and WSDL	27,160	34,470	
Encore Creativity for Older Adults		36,782	
Everyman Theatre, Inc., The		274,560	
Fells Point Creative Alliance	280,302	163,757	
Frostburg State University	164,490	37,453	
Glen Echo Park Partnership for Arts and Culture, Inc.	53,250	163,727	
Greater Baltimore Cultural Alliance	147,546	70,606	
Hippodrome Foundation, Inc.	66,911	39,433	
Howard Community College Educational Foundation for Rep Stage	40,640	29,574	
Imagination Stage, Inc.	388,383	363,873	
Jewish Community Center of Baltimore/Gordon Center for Performing Arts	54,517	66,098	
Lumina Studio Theatre	25,820		
Maryland Ensemble Theatre	30,336	39,629	
Maryland Hall for the Creative Arts	176,965	189,332	
Maryland Institute College of Art	35,199	29,756	
Maryland State Boychoir, The	47,500	57,684	
Maryland Symphony Orchestra, Inc., The	112,000	119,039	
Maryland Youth Ballet	90,000	92,958	
Maryland National Capital Parks and Planning Commission (MNCPPC): Area Operations	90,027	67,200	
MNCPPC: Arts and Cultural Heritage	293,348	363,786	
Metropolitan Center for the Visual Arts (VisArts)	68,714	107,118	
Montgomery College – Parilla Performing Arts Center	37,000	51,449	
National Council for the Traditional Arts	51,382	50,191	
National Philharmonic	162,908	169,863	
Olney Theatre Center	440,000	421,247	

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	Actual	Estimated	
	<u>2019</u>	Appropriation	Allowance
		<u>2020</u>	<u>2021</u>
Producers Club of Maryland – Maryland Film Festival	51,878	75,735	
The Puppet Company	33,499	33,085	
Pyramid Atlantic Art Center	31,648	38,069	
Round House Theatre	285,463	322,785	
Sandy Spring Museum	39,339	28,602	
Shriver Hall Concert Series		47,601	
Single Carot Theatre (SCT)		31,330	
Strathmore Hall Foundation, Inc.	955,785	862,686	
The Lyric Foundation, Inc.	320,000	302,940	
University of Maryland – Clarice Smith Performing Arts Center	450,000	495,052	
UMBC – Center for Art, Design, and Visual Culture	42,705	39,777	
University of Maryland, College Park – David C Driskell Center	36,992	43,036	
University of Maryland University College		30,929	
Walters Art Museum, The	1,055,422	1,059,982	
Ward Museum of Wildfowl Art, The		61,502	
Washington County Museum of Fine Arts	87,283	116,080	
Waterfowl Revels, Inc.	88,969	51,787	
Waterfowl Festival, Inc.	45,000	63,896	
WBJC-FM	70,377	59,154	
Weinberg Center for the Arts/City of Frederick	70,000	158,908	
Wide Angle Youth Media	131,382	59,344	
World Arts Focus dba Joe's Movement Emporium	52,570	100,780	
Writer's Center, The	93,617	70,906	
Young Audiences of Maryland, Inc. (YAMD)	103,308	288,805	
Your Public Radio 88.1	215,307	48,542	
Other GFO Grants Less Than \$25,000	1,057,711	3,842,584	
To Be Determined			18,513,611
Subtotal GFO	\$14,241,002	\$17,434,141	\$18,513,611
 Community Arts Development			
Allegany Arts Council, Incorporated	126,103	135,361	
Arts and Humanities Council of Montgomery County	179,277	192,216	
Arts Council of Anne Arundel County, Inc.	153,122	164,614	
Arts Council of Calvert County	127,175	164,614	
Baltimore County Commission on Arts and Sciences	167,085	136,579	
Baltimore Office of Promotion and the Arts	155,191	179,234	
Caroline County Council of Arts, Inc.	124,034	166,147	
Carroll County Arts Council	131,172	133,179	
Cecil County Arts Council, Inc.	127,780	141,006	
Charles County Arts Alliance, Inc.	130,848	137,206	
Dorchester Center for the Arts, Inc.	123,978	140,604	
Frederick Arts Council, Inc.	135,821	133,103	

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	Actual	Estimated	
	<u>2019</u>	Appropriation	Allowance
		<u>2020</u>	<u>2021</u>
Garrett County Arts Council, Inc.	123,821	146,057	
Harford County Public Library – Harford County Cultural Arts Advisory Board	115,105	132,939	
Howard County Arts Council	139,542	145,959	
Kent County Arts Council	123,290	149,970	
Prince George’s Arts and Humanities Council	171,410	132,373	
Queen Anne’s County Arts Council, Inc.	124,927	183,918	
Salisbury Wicomico Arts Council	127,790	134,161	
Somerset County Arts Council	114,622	137,227	
St. Mary’s County Arts Council	128,315	132,737	
Talbot County Arts Council, Inc.	124,244	137,776	
Washington County Arts Council, Inc.	130,357	133,391	
Worcester County Arts Council	125,030	139,992	
To Be Determined/Various		134,252	4,498,200
<i>Subtotal Community Arts Development</i>	<i>\$3,230,039</i>	<i>\$3,664,615</i>	<i>\$4,498,200</i>
Artists in Education			
InterAct Story Theatre Education Association	\$65,500		
InterAct Story Theatre Education Association		58,106	
Young Audiences of Maryland, Inc. – Synetic Theater		59,285	
Young Audiences of Maryland, Inc.	40,000		
Young Audiences of Maryland, Inc.	194,798	126,249	
Young Audiences of Maryland, Inc.	163,550	40,000	
Other Arts in Education Grants Less Than \$25,000		118,830	
To Be Determined			600,000
<i>Subtotal Artists in Education</i>	<i>\$463,847</i>	<i>\$402,470</i>	<i>\$600,000</i>
Individual Artist Awards			
Various Individual Artist Awards	<i>\$250,000</i>	<i>\$200,000</i>	<i>\$275,000</i>
Maryland Traditions:			
Fells Point Creative Alliance	25,000		
Frostburg State University	25,000		
Greater Baltimore Cultural Alliance	27,500	90,304	
National Council for the Traditional Arts	125,000	152,500	
Ward Museum of Wildfowl Art, The	35,000		
Other Maryland Traditions Grants Less Than \$25,000	77,500	50,000	
To Be Determined			300,000
<i>Subtotal Maryland Traditions</i>	<i>\$315,000</i>	<i>\$292,804</i>	<i>\$300,000</i>
Other MSAC			
Maryland Citizens for the Arts		50,000	
Maryland Science Center		25,000	
Wide Angle Youth Media		35,000	
<i>Subtotal Other MSAC</i>	<i>\$0</i>	<i>\$110,000</i>	<i>\$0</i>

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	Actual	Estimated	
	<u>2019</u>	Appropriation	Allowance
		<u>2020</u>	<u>2021</u>
Preservation of Cultural Arts Special Funds			
Habitat for Humanity of the Chesapeake	\$100,000		
Delmarva Community Services	50,000		
Barco	200,000		
Community Services for Autistic Adults and Children	75,000		
Chesapeake Shakespeare Company	75,000		
Maryland Theatre Association	50,000		
Pact Helping Children with Special Needs	100,000		
Maryland Historical Society		250,000	250,000
AA County Arts		250,000	250,000
Baltimore Symphony Orchestra	100,000		
To Be Determined/Various	250,000		
Total Preservation of Cultural Arts	\$1,000,000	\$500,000	\$500,000
Total MSAC and Preservation Grants	\$19,499,888	\$22,604,030	\$24,686,811
Total Commerce Grants	\$28,145,131	\$31,758,106	\$35,021,644

UMBC: University of Maryland, Baltimore County

Source: Department of Commerce

Appendix 1
2019 Joint Chairmen’s Report Responses from Agency

The 2019 *Joint Chairmen’s Report* (JCR) requested that the Department of Commerce (Commerce) prepare two reports. Electronic copies of the full JCR responses can be found on the Department of Legislative Services Library website.

- ***Report on the Ability of Independent Filmmakers to Access the State Film Tax Credit:*** The budget committees requested a report on the number and amount of tax credits requested and disbursed to small film entities as well as the number of rejected applications for such entities. The report noted that Commerce received and approved one tax credit application in fiscal 2019 for a small film production, which would qualify for a maximum of \$61,430 in tax credits. The final amount will be determined upon conclusion of the production and the submission of a final application, which Commerce did not expect to occur until December 2019 at the earliest. Commerce did not reject any applications for small films in fiscal 2019, and also did not disburse any tax credits to small filmmakers.

- ***Report on Make Office Vacancies Extinct Program:*** Chapter 846 of 2017 established the Make Office Vacancies Extinct (MOVE) program to create incentives for new businesses to lease vacant commercial office space. Commerce reported the results of a survey that it conducted of economic development organizations in all 24 counties and in 23 municipalities assessing the need and interest for MOVE, or a similar State program to reduce office vacancy rates. Of the 18 county organizations that responded, 11 reported being aware of MOVE, and 6 expressed interest in participating in the program. Commerce concluded that demand for the program is low and that office vacancy rates are driven by local factors and are better addressed by local programs.

Appendix 2 Audit Findings

Audit Period for Last Audit:	July 1, 2014 – December 18, 2017
Issue Date:	September 2019
Number of Findings:	9
Number of Repeat Findings:	2
% of Repeat Findings:	22%
Rating: (if applicable)	NA

Finding 1: **The Department of Commerce (Commerce) had not established effective procedures to ensure that One Maryland Tax Credit applicants accurately reported their compliance with required new job creation numbers, and a tax credit was issued to one applicant based on ineligible project costs.**

Finding 2: Commerce did not have procedures to ensure biotechnology companies accurately reported employment and ownership information prior to being certified and the issuance of tax credits to investors. In addition, Commerce did not establish procedures to identify tax credits subject to recapture.

Finding 3: Commerce did not establish a sufficient process to verify loan recipients met employment requirements before forgiving conditional loans, and Commerce paid certain loan guarantees without obtaining, reviewing, and verifying adequate documentation to support lender claims.

Finding 4: Commerce did not have an established process to ensure that Maryland E-Innovation Initiative Fund recipients secured and deposited required private funding and that the related expenditures were made for qualified purposes.

Finding 5: Commerce had not established effective procedures and controls over the Maryland State Arts Council’s Grants for Organizations program.

Finding 6: Commerce did not have a process to ensure that fund manager agreements for the Small, Minority, and Women-Owned Businesses Account (SMWOBA) included critical details relating to loan underwriting processes.

Finding 7: Commerce did not establish an effective process to verify fund manager compensation for SMWOBA.

Finding 8: Commerce did not verify data reported by fund managers for SMWOBA relating to their efforts to meet certain specific program lending goals.

Finding 9: **Certain purchasing and disbursement transactions and access to the State’s Financial Management Information System were not sufficiently controlled.**

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

Appendix 3
Object/Fund Difference Report
Department of Commerce

<u>Object/Fund</u>	<u>FY 19</u> <u>Actual</u>	<u>FY 20</u> <u>Working</u> <u>Appropriation</u>	<u>FY 21</u> <u>Allowance</u>	<u>FY 20 - FY 21</u> <u>Amount Change</u>	<u>Percent</u> <u>Change</u>
Positions					
01 Regular	188.00	188.00	188.00	0.00	0%
02 Contractual	34.03	26.00	26.00	0.00	0%
Total Positions	222.03	214.00	214.00	0.00	0%
Objects					
01 Salaries and Wages	\$ 20,388,048	\$ 22,430,692	\$ 21,989,975	-\$ 440,717	-2.0%
02 Technical and Spec. Fees	1,354,532	1,299,581	1,328,381	28,800	2.2%
03 Communication	473,788	329,337	349,135	19,798	6.0%
04 Travel	599,254	621,122	880,124	259,002	41.7%
06 Fuel and Utilities	21,684	23,438	25,438	2,000	8.5%
07 Motor Vehicles	305,419	269,467	291,189	21,722	8.1%
08 Contractual Services	12,622,288	16,247,863	17,561,858	1,313,995	8.1%
09 Supplies and Materials	205,063	254,507	276,256	21,749	8.5%
10 Equipment – Replacement	244,710	21,700	21,700	0	0%
11 Equipment – Additional	15,533	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	69,726,999	58,224,045	81,443,317	23,219,272	39.9%
13 Fixed Charges	2,480,243	2,449,206	2,468,425	19,219	0.8%
14 Land and Structures	25,373,208	43,147,500	44,747,500	1,600,000	3.7%
Total Objects	\$ 133,810,769	\$ 145,318,458	\$ 171,383,298	\$ 26,064,840	17.9%
Funds					
01 General Fund	\$ 84,840,594	\$ 85,199,140	\$ 99,522,308	\$ 14,323,168	16.8%
03 Special Fund	45,950,575	56,578,044	68,194,726	11,616,682	20.5%
05 Federal Fund	2,869,600	3,541,274	3,666,264	124,990	3.5%
07 Nonbudgeted Fund	150,000	0	0	0	0.0%
Total Funds	\$ 133,810,769	\$ 145,318,458	\$ 171,383,298	\$ 26,064,840	17.9%

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 4
Fiscal Summary
Department of Commerce**

<u>Program/Unit</u>	<u>FY 19 Actual</u>	<u>FY 20 Wrk Approp</u>	<u>FY 21 Allowance</u>	<u>Change</u>	<u>FY 20 - FY 21 % Change</u>
01 Office of the Secretary	\$ 1,663,633	\$ 1,645,112	\$ 1,812,557	\$ 167,445	10.2%
02 Office of Policy and Research	1,646,157	1,701,936	1,745,516	43,580	2.6%
03 Office of the Attorney General	1,390,467	1,529,836	1,541,557	11,721	0.8%
06 Division of Marketing and Communications	2,236,071	2,691,878	0	-2,691,878	-100.0%
07 Office of International Investment and Trade	3,342,417	3,421,856	0	-3,421,856	-100.0%
08 Division of Administration and Technology	3,953,491	5,270,262	5,396,069	125,807	2.4%
09 Office of Military and Federal Affairs	2,560,607	3,009,064	0	-3,009,064	-100.0%
10 Maryland Marketing Partnership	1,953,697	2,000,000	2,000,000	0	0%
01 Division of Business and Industry Sector	427,229	469,256	762,926	293,670	62.6%
02 Office of BioHealth	941,171	1,189,184	0	-1,189,184	-100.0%
03 MD Small Business Development Financing	1,624,322	1,827,716	1,827,716	0	0%
04 Office of Business Development	3,953,494	4,027,557	4,031,820	4,263	0.1%
05 Office of Strategic Industries and	1,482,104	1,822,431	3,786,014	1,963,583	107.7%
06 Office of Cybersecurity and Aerospace	926,364	1,194,362	0	-1,194,362	-100.0%
07 Partnership for Workforce Quality	1,000,000	1,000,000	1,000,000	0	0%
08 Office of Finance Programs	3,525,200	4,031,378	4,139,095	107,717	2.7%
09 Maryland Small Business Development	4,956,561	4,860,000	5,460,000	600,000	12.3%
10 Office of International Investment and Trade	0	0	3,446,288	3,446,288	0%
11 Maryland Not-For-Profit Development Fund	300,000	337,500	337,500	0	0%
12 MD Biotechnology Investment Tax Credit	12,308,938	12,000,000	12,000,000	0	0%
13 Office of Military Affairs and Federal Affairs	0	0	3,029,629	3,029,629	0%
15 Small, Minority, and Women-Owned Business	0	0	17,169,226	17,169,226	0%
16 Economic Development Opportunity Fund	10,000,000	5,000,000	5,000,000	0	0%
18 Military Personnel and Service-Disabled Veteran	200,000	400,000	400,000	0	0%
19 Cybersecurity Investment Incentive Tax Credit	1,691,062	2,000,000	2,000,000	0	0%
20 Maryland E-nnovation Initiative	9,500,000	8,500,000	8,500,000	0	0%
21 Maryland Economic Adjustment Fund	0	200,000	200,000	0	0%
23 Maryland Economic Development Assistance	10,258,667	27,000,000	28,000,000	1,000,000	3.7%
24 More Jobs for Marylanders Tax Credit Reserve	9,000,000	1,000,000	9,063,374	8,063,374	806.3%

25 More Jobs for Marylanders Sales and Use Tax	1,000,000	1,000,000	1,000,000	0	0%
26 More Jobs for Marylanders Tax Credit Reserve	0	6,000,000	0	-6,000,000	-100.0%
42 Maryland Industrial Development Financing	150,000	0	0	0	0%
01 Office of the Assistant Secretary	689,868	673,845	336,021	-337,824	-50.1%
02 Office of Tourism Development	3,592,102	3,488,551	5,054,520	1,565,969	44.9%
03 Maryland Tourism Development Board	9,550,000	10,160,000	10,660,000	500,000	4.9%
04 Office of Marketing and Communications	0	0	3,112,445	3,112,445	0%
05 Maryland State Arts Council	22,187,147	24,406,734	27,571,025	3,164,291	13.0%
08 Preservation of Cultural Arts Program	800,000	1,000,000	1,000,000	0	0%
01 Economic Development Opportunities Program	5,000,000	460,000	0	-460,000	-100.0%
Total Expenditures	\$ 133,810,769	\$ 145,318,458	\$ 171,383,298	\$ 26,064,840	17.9%
General Fund	\$ 84,840,594	\$ 85,199,140	\$ 99,522,308	\$ 14,323,168	16.8%
Special Fund	45,950,575	56,578,044	68,194,726	11,616,682	20.5%
Federal Fund	2,869,600	3,541,274	3,666,264	124,990	3.5%
Nonbudgeted Fund	150,000	0	0	0	0.0%
Total Appropriations	\$ 133,810,769	\$ 145,318,458	\$ 171,383,298	\$ 26,064,840	17.9%

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.