Summary Reports of Committees
To the Legislative Policy Committee

2022 Interim Report

Annapolis, Maryland
January 2023

This document was prepared by the Department of Legislative Services
General Assembly of Maryland

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Bill Ferguson
President of the Senate
Co-Chair

Adrienne A. Jones
Speaker of the House
Co-Chair

MARYLAND GENERAL ASSEMBLY
Legislative Policy Committee

January 2023

Members of the Legislative Policy Committee
Members of the Maryland General Assembly

Ladies and Gentlemen:

Pursuant to Section 2-409(b) of the State Government Article, attached for your review and information is a compilation of the 2022 interim activities and recommendations of the standing, joint statutory, and special joint committees of the General Assembly.

For further information or copies of this summary report or individual committee reports, please email the staff for the Legislative Policy Committee, Ryane Necessary ryane.necessary@mlis.state.md.us or Dana Tagalicod dana.tagalicod@mlis.state.md.us.

We wish to thank the committee chairs and the staff from the Department of Legislative Services for their time, effort, and contributions to the work of the committees during the 2022 interim.

Sincerely,

William C. Ferguson IV
Co-Chair

Adrienne A. Jones
Co-Chair

BF:AAJ/RMN:DKT/mpd

Contents

Standing Committees

THE SENATE OF MARYLAND
Budget and Taxation Committee

December 14, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Senate Budget and Taxation Committee is pleased to present the report of its interim activities. The committee members were very active in numerous commissions, committees, and studies. The full committee met once during the 2022 interim. In addition, one site visit was conducted and a few members participated in a briefing provided to the Finance Committee. The subcommittees did not meet.

Full Committee Activities

On September 21, the committee had a site visit to the Back River Wastewater Treatment Plant. The committee toured the facility grounds and received updates on operations remediation and planned facility upgrades.

On November 15, the committee attended a joint fiscal briefing with the Spending Affordability Committee and the House Appropriations and Ways and Means Committees, during which the committees were briefed on the revenue and spending projections for the current and upcoming fiscal years.

Finance Committee Briefing

On October 18, the Finance Committee held a briefing on the federal Inflation Reduction Act. The Budget and Taxation Committee was invited to send 3 members to participate on behalf of the committee. Specifically, presentations were provided by the National Conference of State Legislatures, the Public Service Commission, the Maryland Energy Administration, the Maryland Health Benefit Exchange, and the Maryland Prescription Drug Affordability Board.

I would like to thank the committee members for their continued dedication, representatives of the public and private organizations who kept us informed and expressed their views, as well as our committee counsel and staff for their support.

Respectfully submitted,

Senator Guy Guzzone
Chair

GG/ES/cgs

cc: Ms. Victoria L. Gruber
Mr. Ryan Bishop
Ms. Sally Robb
Ms. Jody Sprinkle
Mr. Jeremy Baker

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THE SENATE OF MARYLAND
Education, Health, and Environmental Affairs Committee

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Senate Education, Health, and Environmental Affairs Committee respectfully submits this summary report of its activities during the 2022 interim.

The committee did not meet this interim. However, the committee is planning to hold several briefings early in the 2023 session to inform committee members, especially the newly assigned members, on topics that fall within the committee's jurisdiction.

On behalf of the Senate Education, Health, and Environmental Affairs Committee, I would like to thank the many State and local officials, private citizens, and legislative staff who have provided information and assistance to the committee over the past term.

Sincerely,

Paul Pinsky

Paul G. Pinsky, Chair

PGP/AMM/cgs

cc: Ms. Sally Robb
Mr. Jeremy Baker
Ms. Victoria L. Gruber
Mr. Ryan Bishop

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Delores G. Kelley
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Benjamin F. Kramer
Justin Ready

THE SENATE OF MARYLAND
Finance Committee

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Senate Finance Committee respectfully submits its report summarizing the committee's activities during the 2022 interim. The full committee met twice during the 2022 interim. The Health and Long-Term Care and Energy and Public Utilities subcommittees did not meet.

Many members of the committee participated in other committees, task forces, and commissions, including the Workers' Compensation Benefit and Insurance Oversight Committee; the Joint Audit and Evaluation Committee; the Joint Committee on Unemployment Insurance Oversight; the Joint Committee on Fair Practices and State Personnel Oversight; the Joint Committee on Cybersecurity, Information Technology, and Biotechnology; the Maryland Medicaid Advisory Committee; the Oversight Committee on Quality Care in Nursing Homes and Assisted Living Facilities in Maryland; the Maryland Commission on Aging; the Joint Committee on Ending Homelessness; and the Senate Workgroup on Medical Professional Liability. The activities of these committees, task forces, and commissions that met during the interim are not summarized in this report.

The committee expresses its appreciation for the advice and assistance provided by governmental officials, State agency staff, and members of the public during the 2022 interim. The committee looks forward to the same spirit of cooperation and assistance during the forthcoming 2023 session.

Respectfully submitted,

Delores G. Kelley

Delores G. Kelley, Chair

DGK/DAS/cgs

cc: Ms. Sally Robb
Mr. Jeremy Baker
Ms. Victoria L. Gruber
Mr. Ryan Bishop

Senate Finance Committee
2022 Interim Report

Hearing on SNAP Enrollment, Eligibility and Fraud

On September 19, the committee heard about problems with the Supplemental Nutrition Assistance Program (SNAP), which is a federal program administered by the State that provides cash assistance to eligible Maryland residents to buy food. During the pandemic, federal requirements for receiving SNAP benefits were lessened or waived. When the original requirements were restored after the federal emergency ended, there were problems with enrollment, eligibility, and fraud.

The committee heard from representatives of the Department of Human Services (DHS), which is the State agency that administers SNAP benefits. The attendees from DHS included: Secretary Lourdes R. Padilla; Daniel Wait, Deputy Secretary of Administration; and La Sherra Ayala, Executive Director of the Family Investment Administration. The committee also heard from organizations that advocate for SNAP recipients. The individuals and their organizations included: Veronica Crosby, Program Manager for the CASH Campaign of Maryland; and JD Robinson, Program Coordinator for Maryland Hunger Solutions. Lastly, the committee heard from SNAP recipients including: Mr. Mark from Baltimore City; and Ms. Renee from Baltimore County. It is taking some time for normalcy to return following the end of the federal emergency declaration.

Briefing on the Federal Inflation Reduction Act

On October 18, the committee received a briefing on the federal Inflation Reduction Act (IRA), a broad piece of legislation aimed at making significant investments in energy, health care, and prescription drug programs.

At the briefing, Ben Husch, Federal Affairs Advisor with the National Conference of State Legislatures, provided an overview of the legislation broken down into the broad categories of energy and health. The committee then heard from four State agencies impacted by the legislation: the Public Service Commission (PSC), the Maryland Energy Administration (MEA), the Maryland Health Benefit Exchange (MHBE), and the Maryland Prescription Drug Affordability Board (MPDAB). Each agency addressed the impact of specific IRA provisions on their programs and operations. The attendees from PSC included Molly Knoll, Senior Adviser to the PSC. Attendees from MEA included Director Mary Beth Tung and Landon Fahrig, Assistant Division Director of Policy. MHBE was represented by Michele Eberle, Executive Director, and Johanna Fabian-Marks, Director, Policy, and Plan Management, and MPDAB was represented by Executive Director Andrew York.

William C. Smith, Jr.
Chair

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Michael J. Hough
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Charles E. Sydnor III, Esq.
Christopher West

THE SENATE OF MARYLAND
Judicial Proceedings Committee

December 14, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Senate Judicial Proceedings Committee respectfully submits this summary report of its activities during the 2022 interim.

Last spring, I indicated that the Judicial Proceedings Committee had no immediate plans to meet during the 2022 interim. I am writing now to report that, as expected, the committee did not meet.

Sincerely,

William C. Smith, Jr.
Chair

WCS/JDL/cgs

cc: Ms. Sally Robb
Mr. Jeremy Baker
Ms. Victoria L. Gruber
Mr. Ryan Bishop

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Ben Barnes
Chair

Mark S. Chang
Vice Chair

THE MARYLAND HOUSE OF DELEGATES
Appropriations Committee

December 20, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

I am pleased to provide the 2022 interim report for the House Appropriations Committee. The committee held three virtual briefings, including one full committee meeting and two subcommittee meetings. A summary of the committee's activities is listed below.

Full Committee

On November 15, 2022, the committee held a fiscal briefing jointly with the Senate Budget and Taxation Committee, the House Ways and Means Committee, and the Spending Affordability Committee. The Department of Legislative Services (DLS) reported on the economic outlook, revenue estimates, general fund forecast, and the status of the reserve fund.

Health and Social Services Subcommittee

On November 1, 2022, the Health and Social Services subcommittee met jointly with the House Health and Government Operations Committee for a briefing by the Maryland Insurance Administration and the Maryland Department of Health regarding concerns with Optum's reconciliation process with providers.

Transportation and Environment Subcommittee

On June 1, 2022, the Transportation and Environment subcommittee met for a briefing on Metro safety issues by the Washington Metrorail Safety Commission and the Washington Metropolitan Area Transportation Authority.

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The committee extends its appreciation for the assistance and information provided by State and local officials, private citizens, and the staff of DLS during the 2022 interim.

Sincerely,

Benjamin S. Barnes
Chair

BSB/JC/bhj

cc: Ms. Victoria Gruber
Mr. Ryan Bishop
Mr. Jeremy Baker
Ms. Sally Guy

C. T WILSON
CHAIR

BRIAN M. CROSBY
VICE CHAIR.

THE MARYLAND HOUSE OF DELEGATES
ECONOMIC MATTERS COMMITTEE

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

On behalf of the House Economic Matters Committee, I am submitting a summary report of our activities during the 2022 legislative interim.

When the 2022 regular session ended, the members of the Economic Matters Committee anticipated monitoring several issues within its subject matter jurisdiction. The committee chose not to meet as a whole, but several members did participate in meetings or otherwise engage regarding pertinent issues.

In particular, several members of the committee were active participants in the House Cannabis Referendum and Legalization Workgroup in anticipation of the need to establish a regulatory structure for adult–use cannabis comparable to existing provisions governing alcohol and tobacco, which the voters approved in November. On an individual basis, committee members pursued a variety of other matters, including issues relating to utility regulation, climate, and low-income energy assistance.

The Economic Matters Committee wishes to thank those agencies and individuals who contributed their time and talent during this 2022 interim to inform and advise the committee.

Respectfully submitted,

C.T. Wilson
Chair

CTW/RKS:TJC:EMW/ael

cc: Ms. Victoria Gruber
Mr. Ryan Bishop
Mr. Jeremy Baker
Ms. Sally Robb

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Kumar P. Barve
Chairman

The Maryland House of Delegates
Environment and Transportation Committee

December 21, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Environment and Transportation Committee did not meet during the 2022 interim.

The committee plans to hold several briefings at the beginning of the 2023 session to inform and update committee members, especially the newly assigned members, on the subject matters over which the committee has jurisdiction.

On behalf of the Environment and Transportation Committee, I would like to extend my appreciation for the information and assistance provided by the many State and local officials, private citizens, and committee staff throughout the past term.

Respectfully submitted,

Delegate Kumar P. Barve
Chairman

KPB/RN/TPT/CCF/MJM/km

cc: Sally M. Robb
Jeremy P. Baker
Victoria L. Gruber
Ryan Bishop

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Joseline A. Peña-Melnyk
Chair

Ariana B. Kelly
Vice Chair

THE MARYLAND HOUSE OF DELEGATES
Health and Government Operations Committee

HEALTH AND GOVERNMENT OPERATIONS COMMITTEE

December 2, 2022

The Honorable Bill Ferguson, Co-chair
The Honorable Adrienne A. Jones, Co-chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

This letter provides a summary of the interim work of the House Health and Government Operations Committee (HGO). The full committee met on one occasion in 2022. On November 1, 2022, HGO held a virtual briefing jointly with the Health and Human Services subcommittee of the House Appropriations Committee and selected members of the Maryland Senate on issues related to Optum, the State's behavioral health administrative services organization.

HGO appreciates the advice and assistance of the private citizens and public officials who participated in the committee's activities during the 2022 interim. As chair, I would also like to thank the committee members and staff for their time and effort.

Sincerely,

Joseline A. Peña-Melnyk
Chair

JAP/ERH:LAR:LJS/bao

Enclosure

cc: Ms. Victoria L. Gruber
Mr. Ryan Bishop
Mr. Jeremy Baker
Ms. Sally Robb
Members, Health and Government Operations Committee

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Optum – The State's Behavioral Health Administrative Services Organization

On November 1, 2022, the House Health and Government Operations Committee, jointly with the Health and Human Services subcommittee of the House Appropriations Committee and selected members of the Maryland Senate, held a briefing on issues related to Optum, the State's behavioral health administrative services organization. The Maryland Department of Health (MDH) entered into a contract with Optum in 2019, and there have been significant issues with claims processing and provider billing, payments, and recoupment since Optum's launch on January 1, 2020.

At the briefing, the Maryland Insurance Administration (MIA) summarized the Market Conduct Examination Report of Optum Maryland. As required by Chapter 151 of 2021, MIA examined Optum's compliance with Maryland's prompt pay law (§ 15-1005(c) of the Insurance Article). The report found that Optum was unaware of and out of compliance with the law. MIA issued a consent order in June 2021 ordering Optum to pay unpaid interest on noncompliant claims, and MIA has found Optum to be in compliance with the terms of the consent order. In addition, MDH provided an update on Optum's claims processing and recoupment and forgiveness of estimated payments. A representative of Community Behavioral Health of Maryland shared provider experiences with Optum's billing practices and emphasized the impact on treatment as providers have dedicated staff to billing and away from providing treatment. Finally, MDH provided information on its policy for reimbursing emergency physicians, including a shift in policy to reimburse physicians for certain mental health services provided in the emergency room regardless of the physician's specialty type as long as the specialty is loaded into their provider profile.

Luke H. Clippinger
Chair

David Moon
Vice Chair

THE MARYLAND HOUSE OF DELEGATES
Judiciary Committee

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The House Judiciary Committee respectfully submits this summary report of its activities during the 2022 interim.

The committee did not meet this interim.

Sincerely,

Luke Clippinger

Luke Clippinger
Chair

LHC/CER/cgs

cc: Ms. Sally Robb
Mr. Jeremy Baker
Ms. Victoria L. Gruber
Mr. Ryan Bishop

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Vanessa E. Atterbeary
Chair

Alonzo T. Washington
Vice Chair

THE MARYLAND HOUSE OF DELEGATES
Ways and Means Committee

December 9, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The House Ways and Means Committee had a limited interim agenda this year due to the elections for State offices and expected turnover in the committee's membership. On September 29, 2022, the State Board of Elections briefed the committee on the July primary election and the November general election. On November 15, 2022, the committee met jointly with the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Spending Affordability Committee for a briefing on the State's fiscal condition from the Department of Legislative Services. No other formal committee activities occurred during the interim; however, staff continued to monitor and research issues within the committee's jurisdiction.

Please contact me or my staff if you require additional information about the activities of the committee during the 2022 interim.

Sincerely,

Vanessa E. Atterbeary
Chair

VEA/SDW/ael

cc: Ms. Victoria L. Gruber
Mr. Ryan Bishop
Mr. Jeremy Baker
Ms. Sally Robb

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Statutory and Special Joint Committees

The following committees did not meet during the 2022 interim:

- Joint Committee on the Chesapeake and Atlantic Coastal Bays Critical Area;
- Joint Committee on Cybersecurity, Information Technology and Biotechnology;
- Joint Committee on Fair Practices and State Personnel Oversight;
- Joint Committee on Gaming Oversight;
- Joint Committee on Legislative Information Technology and Open Government;
- Joint Subcommittee on Program Open Space and Agricultural Land Preservation;
- Oversight Committee on Unemployment Insurance; and
- Workers' Compensation Benefit and Insurance Oversight Committee.

SARAH ELFRETH
SENATE CHAIR

SAMUEL I. "SANDY" ROSENBERG
HOUSE CHAIR

MARYLAND GENERAL ASSEMBLY

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

December 15, 2022

The Honorable Bill Ferguson, Co-chair
The Honorable Adrienne A. Jones, Co-chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The following report of the Joint Committee on Administrative, Executive, and Legislative Review (AELR) for 2022 is submitted in accordance with § 2-506(b) of the State Government Article.

Functions of AELR

AELR has several statutory review functions relating to the activities of the Executive Branch. AELR's primary role is to review regulations issued by State administrative agencies. The specific statutory functions of AELR are as follows:

- review of all regulations proposed by State executive agencies before publication of the regulations in the *Maryland Register*;

- review and approval of all requests from State executive agencies for the immediate adoption, through the emergency process, of proposed regulations;

- discretionary review of the operations of any executive agency;

- discretionary inquiry into any alleged failure of an officer or employee of any branch of State government to comply with the laws of the State;

- review and approval of any executive order promulgated by the Governor pursuant to the Governor's emergency energy powers under Title 14, Subtitle 3 of the Public Safety Article;

- review of executive agency "work plans" and "evaluation reports" submitted during an agency's cyclical review of its existing regulations under the Regulatory Review and Evaluation Act, as implemented by Executive Order 01.01.2003.20;

- ongoing supervisory responsibilities under the "State Documents Law" relating to the publication of the *Maryland Register* and the *Code of Maryland Regulations* (COMAR) and;

- other specific review responsibilities established by statute.

Statistical Overview

As of December 13, 2022, AELR had received 19 regulations submitted by executive agencies in 2022 for emergency approval and 164 regulations proposed for adoption within normal timeframes, for an overall total of 183 regulations. In 2021, AELR received 20 emergency regulations and 241 proposed regulations for a total of 261 regulations. The overall number of regulations was substantially lower in 2022. This decrease in regulations is largely due to ongoing regulation submission problems stemming from the Division of State Document's (DSD) ELF system upgrades. ELF is the online database agencies use to submit and track regulations through the promulgation process. This matter is discussed in more detail below.

AELR has compiled statistics since 1993 on the number of regulations received from each agency. The Maryland Department of Health (MDH) has historically been the most prolific agency in submitting regulations to AELR, and in 2022 again submitted the most regulations. In 2022, MDH submitted 42 regulations, of which five were emergency regulations. The Department of Natural Resources and the Maryland Department of Labor (MDL) both submitted 13 regulations in 2022. Of the 13 regulations submitted by MDL, three were emergency regulations. In 2022, the Maryland Department of Assessments and Taxation submitted 12 regulations, the Maryland Department of Transportation (MDOT) submitted 11, and the Maryland Higher Education Commission and the State Board of Elections (BOE) submitted nine. Four of BOE's regulations were emergency submissions. As discussed below, regulations submitted by the State Board of Education (SBOE) and the Maryland Department of Public Safety and Correctional Services (DPSCS) all received public hearings in 2022. There was also a public briefing on regulations submitted by BOE and a public vote to oppose one set of regulations submitted by MDOT, as discussed below.

Major Regulatory Issues of 2022 – Public Hearings, Briefings, and Committee Votes

State Board of Education

Emergency Regulation
DLS Control No. 21–237E
State Board of Education:
State School Administration:
Face Coverings in School Facilities: COMAR 13A.01.07.01 through .05

On December 9, 2021, SBOE submitted emergency regulations that would revise face mask policies for each public school in local school systems in the State.

AELR held a virtual public hearing on January 5, 2022, to provide AELR members and the public with an opportunity to learn more about the regulations and ask questions. The public hearing was well attended with time allotted for proponents and opponents to offer testimony. AELR approved the emergency regulations at the public hearing by a vote of 11–5, with three members absent. On February 25, 2022, AELR held a public hearing to consider the request of SBOE to withdraw the emergency regulations. Once again, the public hearing was well attended with time allotted for proponents and opponents to offer testimony. AELR voted to rescind approval of the emergency regulations at the public hearing by a vote of 17–1, with one member absent.

State Board of Elections

AELR held a virtual public briefing on Tuesday, October 11, 2022, regarding the implementation of emergency and proposed regulations submitted by BOE during the spring and summer of 2022 and the effect, if any, of the regulations on the primary election. BOE provided information and took questions from the members of AELR.

Maryland Department of Public Safety and Correctional Services

DLS Control No. 22-406
Maryland Department of Public Safety and Correctional Services:
Police Training Commission:
Police Accountability Boards and Administrative Charging Committees:
COMAR 12.04.09.01 through .07

DLS Control No. 22-407
Maryland Department of Public Safety and Correctional Services:
Police Training Commission:
Model Uniform Disciplinary Matrix: COMAR 12.04.10.01 through .05

These sets of regulations followed a June submission of emergency regulations from the Maryland Police Training and Standards Commission (MPTSC) which were drafted to implement certain police discipline reform legislation passed during the 2021 and 2022 legislative sessions. Although AELR voted on September 6, 2022 to adopt the emergency regulations, the Chairs sent a letter to the leadership at MPTSC noting alterations they felt would enable the proposed regulations to better apply the law and promising a hearing when the proposed regulations were submitted.

AELR held a virtual public hearing on December 8, 2022, to provide the members and the public with an opportunity to hear from the leadership at the MPTSC. Following introductory remarks from the Chair of the MPTSC, members of the public had the opportunity to offer testimony in favor or in opposition to the proposed regulations. Several opponents attended the hearing and several more submitted written testimony.

Maryland Department of Transportation

DLS Control No. 22–275
Maryland Department of Transportation:
Motor Vehicle Administration – Vehicle Inspections:
Vehicle Emissions Inspection Program: COMAR 11.14.08.01 through .20

MDOT filed these regulations, which make numerous changes to the Vehicle Emissions Inspection Program (VEIP), with AELR on February 15, 2022 and first published the regulations in the September 9, 2022 issue of the *Maryland Register*. The text of the regulations published in the *Maryland Register* were substantively different from the version submitted to AELR for review. AELR placed an administrative hold on the regulations on October 24, 2022. On November 22, 2022, MDOT sent a letter to the Chairs indicating its intent to final publish and adopt the proposed regulations on December 23, 2022.

During the December 8, 2022 virtual public hearing on the MPTSC regulations, discussed above, AELR also conducted a vote on whether to oppose the adoption of the proposed VEIP regulations. The vote to oppose the regulations passed 9 to 2, with eight members absent. AELR's stated reason for opposing the adoption of the proposed regulations was primarily due to concerns regarding the regulations' potential disproportionate burden on low-income and minority motorists due to the expanded exemptions for newer model year vehicles. AELR noted that the decision was not based on any intent to affect agency procurement policy.

Supervisory Responsibilities under the State Documents Law

As part of its supervisory responsibilities under the "State Documents Law" (Title 7, Subtitle 2 of the State Government Article), AELR continued to monitor significant developments concerning publications of the Division of State Documents (DSD), a unit within the Office of the Secretary of State. DSD publishes the *Maryland Register* and COMAR. One item of note is the ongoing update to DSD's ELF system, which is the online interface that agencies use to electronically file regulations.

Due to the system upgrade, DSD took the old ELF system offline in early September and initially requested that agencies refrain from submitting regulations from September 2 to September 19, 2022. Ultimately the new system, referred to as "ELF 2.0," was not up and running until November 18, 2022. Department of Legislative Services (DLS) counsel worked with agencies and DSD to create a temporary patchwork system of emailing regulations to continue receiving and processing regulations while ELF was unavailable, but there was significant miscommunication and substantial delays during this time period. Although ELF 2.0 is online, there are continuing issues with useability for both agencies and DLS. As of December 13, 2022, DLS has been unable to successfully download and receive regulations submitted by agencies from ELF 2.0. AELR counsel continues to communicate with DSD and agencies to try to resolve the problem.

Existing Agency Operations and Regulations

Under § 2-506(b) of the State Government Article, AELR is required to comment on any legislative action that is needed to change or reverse a regulation of a unit of the Executive Branch. AELR has generally been satisfied with the continued cooperation it receives from the Executive Branch regarding their regulation submissions. However, as discussed above, there have been ongoing issues regarding the electronic filing system used to submit regulations to DSD and, by extension, DLS. DLS will continue to monitor the situation and may recommend legislative solutions depending on how the problem evolves.

AELR wishes to note its appreciation for the continued cooperation of the Executive Branch and its various agencies in making the process of legislative review of regulations successful.

Sincerely,

Sarah Elfreth

Senator Sarah K. Elfreth
Senate Chair (Presiding)

Sandy Rosenberg

Delegate Samuel I. Rosenberg
House Chair

SHE:SIR/KPK:GC;KVL/cr

cc: Ms. Sally Robb
Mr. Jeremy Baker
Ms. Victoria Gruber
Mr. Ryan Bishop

THE MARYLAND GENERAL
ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT AUDIT AND EVALUATION COMMITTEE

January 4, 2023

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Joint Audit and Evaluation Committee respectfully submits the report of its activities during the 2022 interim. The joint committee's work covered the following principal areas of activity.

Review of Selected Legislative Audits

The joint committee met on November 15 and December 6 to review several legislative audits conducted by the Office of Legislative Audits (OLA) covering the period from December 1, 2021, to November 30, 2022. The joint committee reviewed the audits listed below:

- State Lottery and Gaming Control Agency (report dated March 2022);
- Department of Human Services – Family Investment Administration (report dated October 2022);
- Maryland Department of Health – Behavioral Health Administration and Medical Care Programs Administration – Administrative Service Organization for Behavioral Health Services (report dated October 2022);
- Maryland Department of Labor – Division of Unemployment Insurance – Part 1– Unemployment Insurance Tax Contributions (report dated May 2022); and
- Maryland Department of Labor – Division of Unemployment Insurance – Part 2 – Unemployment Benefits (report dated November 2022).

The joint committee also issued letters of concern in response to multiple audit reports based on the nature and significance of the findings. Letters of concern typically request that agencies review the audit report, ascertain whether the recommendations have been or will be promptly implemented and that an ongoing monitoring process exists, and provide a status report to the committee. The letters of concern issued by the joint committee are listed below:

- Maryland Department of Health – Regulatory Services (report dated January 2021);
- Maryland Department of Health – Developmental Disabilities Administration (report dated October 2022);
- Baltimore City Community College (report dated February 2022); and
- Department of Human Services (DHS) – Social Services Administration (SSA) Follow-up Review (report dated July 2022).

Review of Chapter 241 of 2022

Chapter 241 of 2022 requires OLA to redact any cybersecurity findings in a manner consistent with auditing best practices before an audit report is made available to the public.

Reports in both the November 15 and December 6 meetings contained cybersecurity findings that were required to be redacted from the public reports. The joint committee held a portion of each meeting in closed session under the Open Meetings Act to discuss the publicly redacted cybersecurity findings of the reports.

Review of Fraud Investigation Unit Operations and Data Analytics Unit

At the December 6 meeting, OLA provided the joint committee with an update on its Fraud Investigation Unit (FIU) and Data Analytics Unit (DAU) operations. During the past year, a significant amount of FIU resources were redirected to mandated audits due to staffing shortages; however, FIU will be fully staffed in the near future. The projected call volume for 2022 is about 1,700 calls.

Calls related to DHS benefits programs (*e.g.*, SNAP, TCA, child support) continue to account for a significant number of calls to the hotline (about 35% of calls received). An additional 10% of calls received related to unemployment benefits and tolling issues. Although FIU did not issue any special reports in the last year, two reports (the State Lottery and Gaming Control Agency and the Baltimore City Community College reports) had findings resulting from allegations that were received by the fraud hotline. Additionally, FIU provided various technical assistance on 20 other audits for the past year.

DAU directly assisted over 25 audits and reviews using hundreds of datasets. DAU played a major role in the unemployment insurance audit and analyzed over 300 million records across more than 60 datasets for that audit. The data came from a multitude of systems at several state agencies and utilized central payroll data, vital statistics data, and public safety/incarceration data. DAU is providing assistance for several large audits that are currently in the field and collecting, validating, and analyzing a significant amount of tolling data in response to concerns raised by the legislature regarding electronic tolling errors.

Review of OLA Follow-up Processes for Repeat Audit Findings

Agencies with five or more repeat audit findings are required by law to provide status reports to OLA on corrective actions taken on all findings within nine months of the related audit reports and, thereafter, quarterly status reports until satisfactory progress have been made on all findings or the next audit begins. At the December meeting, review of the follow-up audit process from fiscal 2006 through 2022 showed that the overall percentage of repeat audit findings has decreased from 40% for the audit cycle ending June 30, 2006, to 27% for the audit cycle ending June 30, 2022. Since 2013, the overall repeat findings percentage had been relatively stable, although in the past four years, the number of repeat findings started rising again (with a slight reduction over the past year). During calendar 2021, three audit reports had five or more repeat findings. The OLA follow-up process was recently completed for one report (DHS–SSA) and found that three of the six findings had not been corrected. All three reports are subject to the quarterly status report process, which is still ongoing.

Budget Actions on Repeat Audit Findings

Since 2013, the *Joint Chairmen's Report* (JCR) has annually included budget bill language restricting appropriations for agencies with four or more repeat audit findings until corrective action has been taken on those repeat findings. This process is not mutually exclusive from the statutory follow-up process described above. The 2022 JCR included fund restrictions for three agencies with repeat audit findings: the Uninsured Employers' Fund, DHS–SSA; and the Maryland Higher Education Commission. OLA received status reports from each agency and will review the reports submitted and report to the budget committees its conclusions regarding the corrective actions taken on the collective 15 repeat audit findings.

Local School System Audits

Chapter 261 of 2016 establishes a voluntary exemption process from the requirement that OLA, at least once every six years, conduct an audit of each local school system. In practice, OLA audits each school system once per six-year audit cycle. The next audit cycle for local school systems will begin in the second half of fiscal 2023.

As required by Chapter 261, for a local school system to be exempt from the upcoming cycle, the county governing body, the county board of education, and the county delegation to the General Assembly were each required to submit a letter to the joint committee requesting an exemption by November 1, 2022.

The joint committee received one request from Allegany County. The joint committee will review summary information provided by OLA related to the prior audits of the school system before approving the waiver request. If a school system's request for exemption is approved for the upcoming audit cycle, the school system may not be exempt from the next audit cycle because Chapter 261 prohibits a school system from being exempt from two consecutive audit cycles.

The joint committee extends its appreciation for the assistance and information provided by State and local officials, private citizens, and the staff of the Department of Legislative Services during the 2022 interim.

Respectfully submitted,

Clarence K. Lam
Senate Chair

Mark S. Chang
House Chair

CKL:MSC/JC:RH:EP/mta

cc: Ms. Sally Robb
Mr. Jeremy Baker
Ms. Victoria L. Gruber
Mr. Gregory A. Hook
Mr. Michael Powell
Mr. Ryan Bishop

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Joint Committee on Children, Youth, and Families respectfully submits the following summary of its 2022 interim activities. The joint committee met once during the interim to learn about programs that serve children, youth, and families and may be relevant throughout an individual's lifespan.

On December 6, 2022, the joint committee heard presentations related to the impact of the COVID-19 pandemic on children, families, and women. Members of the Children's Behavioral Health Coalition briefed the joint committee on worsening youth behavioral health outcomes that were exacerbated by the COVID-19 public health emergency. A panel from the Maryland Commission for Women discussed findings from the commission's report, *At the Heart of the Pandemic: Maryland Women and the COVID-19 Crisis*. Finally, joint committee staff from the Department of Legislative Services presented a summary of legislation enacted during the 2019 through 2022 legislative term related to programs and policy areas monitored by the joint committee.

The Joint Committee on Children, Youth, and Families wishes to thank those individuals who contributed their time and expertise to inform and advise the committee's work.

Sincerely,

Mary L. Washington
Senate Chair

Ariana B. Kelly
House Chair

MLW:ABK/APW:JE/bao

cc: Members, Joint Committee on Children, Youth, and Families
Ms. Victoria L. Gruber
Mr. Ryan Bishop
Ms. Sally Robb
Mr. Jeremy Baker

Joint Committee on Federal Relations

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

During the 2022 interim, the Joint Committee on Federal Relations (1) held a briefing on the management of Maryland toll policy/billing and revenue collection from an interstate perspective and (2) undertook its annual review of a portion of the interstate compacts of which Maryland is a member. These activities are summarized below.

September 14 Briefing

The joint committee held a briefing on September 14 in which the Maryland Transportation Authority (MDTA) was asked to address a number of topics relating to (1) how Maryland toll policy and billing changes are communicated and applied to out-of-state drivers and (2) the importance and effectiveness of the State's toll revenue collection from out-of-state drivers. MDTA's executive director, William Pines, gave a presentation on Maryland's tolling procedures and the agency's customer assistance efforts in general and answered questions relating to various subjects, including (1) the agency's revenue collection efforts and methods with respect to both in-state vs. out-of-state collections; (2) the agency's recent change in tolling vendors and the pause in E-ZPass transactions on the Intercounty Connector that resulted from the change in vendors; (3) Maryland's participation in, and the functioning of, the E-ZPass Interagency Group; (4) the status of MDTA customer service wait times; (5) how waiving civil penalties for failure to pay tolls affects the agency's trust agreement with bondholders; and (6) proactive notification of customers when E-ZPass transponders are not functioning or other billing issues occur.

Annual Interstate Compact Review

The joint committee conducts an annual review of Maryland's membership in various interstate compacts, covering all compacts over a four-year cycle. The review focuses on whether Maryland's continued membership in the compacts serves the interests of the State and whether any legislative changes to the compacts are needed. This interim, the joint committee staff sent questionnaires to the State agencies involved with each of the eight compacts up for review this year and prepared summaries for the committee members based on the agencies' responses. The compacts up for review this year are: (1) the Chesapeake Bay Commission Agreement; (2) the Interstate Mining Compact; (3) the Interstate Oil and Gas Compact; (4) the Susquehanna River Basin Compact; (5) the Interstate Commission on the Potomac River Basin; (6) the Potomac River Compact; (7) the Southern States Energy Compact; and (8) the Interstate Anti-Doping and Drug Testing Standards Compact.

Based on the responses from the State agencies involved with each compact, the joint committee is taking the following actions for five of the compacts:

- **Interstate Oil and Gas Compact:** The Maryland Department of the Environment (MDE) indicated that the cost of the State's membership in the compact may exceed the benefits of membership. The joint committee will follow up with MDE during the 2023 interim regarding whether the State should withdraw from the compact.

- **Susquehanna River Basin Compact:** The joint committee is requesting additional information from MDE on shortfalls in annual funding received by the Susquehanna River Basin Commission from Pennsylvania, the federal government, and Maryland, and the reasons behind these funding shortfalls.

- **Interstate Commission on the Potomac River Basin:** The joint committee is requesting additional information from MDE on the status of the commission's federal funding request (which MDE indicated in September was pending in Congress).

- **Potomac River Compact:** The joint committee is requesting additional information from the Department of Natural Resources (DNR) on revisions to the compact that the department indicated are needed, and how to best pursue those revisions, as well as additional information on the level of funding provided by Virginia to the Potomac River Fisheries Commission.

- **Interstate Anti-Doping and Drug Testing Standards Compact:** The joint committee will follow up with the Maryland Racing Commission in 2023 or a later year regarding the status and effectiveness of a recently established federal regulatory program that superseded this compact. The joint committee may consider introducing legislation to repeal the compact as obsolete in a future year.

Upon receipt of additional information from DNR and MDE, the joint committee may consider additional actions, including communication with officials in Virginia, Pennsylvania, and the federal government about funding for the Susquehanna River Basin Commission, the Interstate Commission on the Potomac River Basin, and the Potomac River Fisheries Commission.

For the other three compacts reviewed by the joint committee this year, the State agencies involved with each of these compacts indicated that Maryland's membership in the compacts continues to serve the interests of the State, and no legislative changes are necessary.

Sincerely,

Senator Jill P. Carter
Senate Chair

Delegate Alfred C. Carr, Jr.
House Chair

JPC:ACC/SDK:SMQ/km

cc: Sally M. Robb
Jeremy P. Baker
Victoria L. Gruber
Ryan Bishop

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ENDING HOMELESSNESS

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Joint Committee on Ending Homelessness is pleased to submit a summary report of its 2022 interim activities. This report also serves as the joint committee's annual report detailing its work. The joint committee met virtually this interim to receive a general briefing on the status of homelessness services in the State, in addition to learning how homelessness service organizations provided services both during and after the COVID-19 pandemic.

At the November 16, 2022 meeting, the Department of Housing and Community Development updated the joint committee on existing homelessness prevention programs and the distribution of housing and homelessness prevention funding. The University System of Maryland updated the joint committee on tuition exemptions for foster care recipients and homeless youth. Finally, Healthcare for the Homeless provided an update regarding their efforts to address homelessness.

The joint committee does not have any formal recommendations for this interim period. However, the joint committee looks forward to starting the new legislative term with a productive session on issues related to housing and homelessness, in addition to continuing our work next interim. We wish to thank the joint committee members for their participation, representatives of public and private organizations who kept us informed, and our committee staff for their support.

Sincerely,

Mary L. Washington
Senate Chair

Geraldine Valentino-Smith
House Chair

MLW:GVS/HJC:TSE/mhr

cc: Ms. Victoria L. Gruber
Mr. Ryan Bishop
Mr. Jeremy Baker
Ms. Sally Robb

MARYLAND GENERAL ASSEMBLY
JOINT COMMITTEE ON LEGISLATIVE ETHICS

December 13, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Legislative Ethics met once during the 2022 interim. At that meeting, the committee reviewed disclosures and disclaimers filed by legislators. As you know, any other activities of the committee are required, by law, to remain confidential.

The committee will continue to meet on an as-needed basis.

Respectfully submitted,

George C. Edwards
Co-Chair

J. Sandy Bartlett
Co-Chair

GCE:JSB/DWD/mlm

cc: Ms. Sally Robb
Mr. Jeremy Baker
Ms. Victoria L. Gruber
Mr. Ryan Bishop

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

Joint Committee on the Management of Public Funds

December 14, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The Joint Committee on the Management of Public Funds is pleased to present this report on its activities undertaken during the 2022 interim in the conduct of its charge to oversee the general management of State public funds. The joint committee met twice and was briefed on several relevant topics, including the State's economic development programs, the activities of the Comptroller's and Treasurer's offices, and audits of local governments.

A summary of the activities of the joint committee is enclosed. The joint committee will sponsor legislation for the Treasurer's Office relating to the notice requirement for bond sales, the format of denial of claims, and its investment policy on commercial paper. Additionally, the joint committee recommends local governments that are delinquent in timely filing their audit reports as required by State law report to the joint committee regarding their noncompliance. Furthermore, the joint committee recommends that the General Assembly look into the possibility of creating a center for fraud detention, spearheaded by the Comptroller's Office.

The joint committee greatly appreciates the assistance of the many individuals who participated in the activities of the joint committee during the 2022 interim.

Respectfully submitted,

Malcolm Augustine

Pat Young

Senator Malcolm Augustine
Senate Chair (Presiding)

Delegate Pat Young
House Chair

MA:PY/HM:MS/cr

Enclosure

cc: Ms. Sally Robb
Mr. Jeremy Baker
Ms. Victoria Gruber
Mr. Ryan Bishop

Joint Committee on the Management of Public Funds 2022 Interim Report

The Joint Committee on the Management of Public Funds held two meetings during the 2022 interim.

October 12 Meeting

State Treasurer's Office – Update on Activities

State Treasurer Dereck Davis provided an update on the activities of the Treasurer's Office. Treasurer Davis reported on his three-pronged approach to improving agency operations, which focuses on hiring and retaining employees, modernizing information technology (IT) systems, and promoting the presence of the State Treasurer's Office through education and social media. In May 2022 all three rating agencies affirmed the State's AAA bond rating. Maryland is 1 of only 13 states with AAA ratings from all three rating agencies. Since taking office in December 2021, Treasurer Davis has filled key vacancies and improved the delivery of core services through various modernization efforts.

The Treasurer's Office began a financial and insurance systems modernization project in fiscal 2017 to replace their legacy IBM system with Microsoft Dynamics 365. The new system will consist of four modules. A variety of unforeseen issues, such as the COVID-19 pandemic and staffing shortages, have delayed the project; however, the accounting module is fully operational, and the insurance claims module and the citizen and agency portal are currently being implemented, with plans for the final module, the Treasury Management System (banking module), to begin implementation in the third quarter of fiscal 2023.

Comptroller's Office – Update on Activities

Comptroller Peter Franchot provided an update on the activities of the Comptroller's Office. The Comptroller explained how the Workgroup on Pandemic Spending was formed and how it allowed to see how taxpayer dollars were spent and the challenges faced by interest groups. Maryland's economy remains strong, as the September revenue estimates by the Board of Revenue Estimates anticipate ending the year with approximately $1.6 billion in surplus revenue along with increasing the revenue forecast by $1.2 billion for fiscal 2023.

During the most recent tax season through October 1, the State collected $4.5 billion in gross income tax revenue and processed more than 3.1 million tax returns. More than 2.3 million families received tax refunds, on average within 2.5 business days. The Comptroller's Office also discussed its continued efforts to protect State taxpayers against fraud and identity theft. The Comptroller recommended creating a center for fraud detention, spearheaded by the Comptroller's Office, to prevent fraud across all State agencies. Thus, the joint committee recommends that the General Assembly explore that issue further. Lastly, the Comptroller provided the joint committee with an update on the transition to Compass, a new tax processing system.

Office of Legislative Audits – Review of Local Government Audit Reports

The Office of Legislative Audits (OLA) presented information on the reviews of local government audits for fiscal 2021. OLA found that the local governments generally complied with generally accepted accounting principles and auditing standards and the local governments generally appeared to be in good financial condition.

OLA's report summarized the most significant and frequent problem areas found during its annual review of local government audits, which include failing to timely file an audit report, failing to present the audit or financial statements in accordance with generally accepted auditing and accounting principles, failing to present all required statements, lacking adequate disclosures, and unsecured cash deposits. The Upper Potomac River Commission was identified as having a potential financial problem with the auditor reporting uncertainty regarding the fund's ability to continue as a going concern. Additionally, the auditor's report for one local government contained a qualified opinion for one unit. The Town of Deer Park has not filed an audit report for fiscal 2019 through 2021. Failing to timely submit local government audit reports has been an ongoing issue for a number of years. Thus, the joint committee requests local governments that are delinquent in filing audit reports to report to the joint committee on their failure to timely submit audit reports.

November 16 Meeting

State Treasurer's Office – Request for Sponsoring Legislation

Representatives of the State Treasurer's Office requested that the joint committee introduce three bills on its behalf. First, the Treasurer's Office would like to remove an obsolete reference and allow for electronic posting of the notice requirement for bond sales. Second, State law requires the Treasurer's Office to deny a claim made under the Maryland Tort Claims Act by certified mail, and the Treasurer would like to allow for electronic (email) denial of a claim. Lastly, the Treasurer's Office proposes to repeal the statutory threshold of 10% for commercial paper and instead require the adoption of regulations to establish proportions for all of the types of investments allowed under the law. The proposed legislation would also require the Treasurer's Office to notify local governments that are required to have specified local investment policies of the changes contained in the bill so that they would have the opportunity to review, revise, and report any changes in those policies.

Update on State Economic Development Programs

Representatives of the Maryland Department of Commerce (Commerce), the Maryland Technology Development Corporation (TEDCO), and the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) addressed the joint committee regarding their economic development and small business financing programs across the State.

Maryland Department of Commerce

Commerce representatives Andy Fish and Jennifer LaHatte provided a briefing on Commerce's programs, with a focus on two main programs: the Maryland Economic Development Assistance Authority Fund (MEDAAF), which is used for job creation and retention, and the Maryland Small Business Development Finance Authority (MSBDFA). They also discussed the Small, Minority and Women-Owned Businesses Account funded through video lottery terminal revenues and the demographics of program participants. Another goal held by Commerce is to continue to support businesses with their growth, workforce development, and networking across both government and international sectors.

Maryland Technology Development Corporation

The executive director of TEDCO, Troy LeMaile-Stovall, provided an overview of the organization and emphasized that interactions at TEDCO are driven by its core values of accountability, collaboration, integrity, respect, and stewardship. The executive director also provided an overview of TEDCO's funding programs by stage. Much of the presentation was focused on the collaborations TEDCO has with local colleges, the stem cell research fund, and the investments in communities that would otherwise be overlooked for funding sources through their social impact fund.

Maryland Agricultural & Resource-Based Industry Development Corporation

Stephen McHenry, the executive director of MARBIDCO, briefed the joint committee on the activities of the organization. MARBIDCO highlighted some of the challenges faced by the agriculture and rural industries in the State, which include an aging and seasonal workforce, loss of rural working land, and lack of access to affordable business capital. One of the focuses of MARBIDCO is the Great Maryland Outdoors Act which will support next generation programs and incentivize young farmers to buy farms. Much of the focus of this program is also to target women, minority, and first-time farmers to get into the profession. By targeting farmers through advertisements in agricultural newspapers and attending annual conferences, MARBIDCO hopes to continue to reach and communicate financial programs to support the industry.

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

Joint Committee on Pensions

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne A. Jones, Co-Chair
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

During the 2022 interim, the Joint Committee on Pensions met twice. The joint committee addressed legislative proposals requested by the Board of Trustees for the State Retirement and Pension System and a legislative proposal regarding the amortization of unfunded system liabilities. The joint committee made recommendations on these items at its final meeting for the 2022 interim, voting to sponsor five legislative proposals. The joint committee also had briefings on the actuarial valuation of the system and the system's investments. A complete report of the joint committee's 2022 interim activities and legislative recommendations will be published in January 2023.

We thank the joint committee members for their diligence and attention to the work of the committee. Also, on behalf of the committee members, we thank Phillip S. Anthony, June Chung, and Katylee Cannon of the Department of Legislative Services, and the staff of the Maryland State Retirement Agency for their assistance.

Sincerely,

Senator Sarah K. Elfreth
Senate Chair

Delegate Brooke E. Lierman
House Chair

SKE:BEL/PSA:JC/kmc

cc: Ms. Victoria L. Gruber
Mr. Ryan Bishop
Mr. Jeremy Baker
Ms. Sally Robb

Jim Rosapepe
Senate Chair

Marc Korman
House Chair

MARYLAND GENERAL ASSEMBLY

SPENDING AFFORDABILITY COMMITTEE

December 16, 2022

The Honorable Lawrence J. Hogan, Jr.
Governor, State of Maryland
State House
Annapolis, Maryland 21401

Dear Governor Hogan:

We are pleased to submit the fiscal policy recommendations of the Spending Affordability Committee made during the 2022 interim. These recommendations were adopted by the committee at its meeting on December 15, 2022. The committee reviewed data concerning the economic condition of the State, revenue and expenditure trends during the past several years, personnel data, the Transportation Trust Fund, and the results of the Capital Debt Affordability Committee report.

Recommendations were made concerning the fiscal 2024 spending limit and sustainability, the use of general fund cash balances, reserve fund balances, general obligation and higher education debt limits, priorities for pay-as-you-go capital spending, debt service, State employment, and the Transportation Trust Fund.

As required by law, the recommendations of the committee have been submitted to the Governor and the Legislative Policy Committee.

We are most appreciative of the time and effort expended by each member of the committee. A special note of thanks and appreciation is extended to the members of the Citizens Advisory Committee for their valuable assistance and input.

Sincerely,

Delegate Marc Korman
Presiding Chair

Senator Jim Rosapepe
Senate Chair

JR:MK/JAK/mrm

Enclosure

Jim Rosapepe
Senate Chair

Marc Korman
House Chair

MARYLAND GENERAL ASSEMBLY

SPENDING AFFORDABILITY COMMITTEE

December 16, 2022

The Honorable Bill Ferguson, Co-Chair
The Honorable Adrienne Jones, Co-Chair
Members of the Legislative Policy Committee

Dear Colleagues:

We are pleased to submit the fiscal policy recommendations of the Spending Affordability Committee made during the 2022 interim. These recommendations were adopted by the committee at its meeting on December 15, 2022. The committee reviewed data concerning the economic condition of the State, revenue and expenditure trends during the past several years, personnel data, the Transportation Trust Fund, and the results of the Capital Debt Affordability Committee report.

Recommendations were made concerning the fiscal 2024 spending limit and sustainability, the use of general fund cash balances, reserve fund balances, general obligation and higher education debt limits, priorities for pay-as-you-go capital spending, debt service, State employment, and the Transportation Trust Fund.

As required by law, the recommendations of the committee have been submitted to the Governor and the Legislative Policy Committee.

We are most appreciative of the time and effort expended by each member of the committee. A special note of thanks and appreciation is extended to the members of the Citizens Advisory Committee for their valuable assistance and input.

Sincerely,

Delegate Marc Korman
Presiding Chair

Senator Jim Rosapepe
Senate Chair

JR:MK/JAK/mrm

Enclosure

2022 Spending Affordability Committee Report and Recommendations to the Governor and the Legislative Policy Committee

The Spending Affordability Committee was created in 1982 (Chapter 585). The committee is composed of equal numbers of senators and delegates and includes the Presiding Officers, the majority and minority leaders, the chairmen of the fiscal committees (or their designees), and other members appointed by the Presiding Officers. A citizen advisory committee assists the committee.

The committee's primary responsibility is to recommend to the Governor and the General Assembly a level of spending for the State operating budget that is reflective of the current and prospective condition of the State's economy. Historically, this has been in the form of a recommended growth limit. More recently, however, efforts to close the structural budget gap have been the focus of the committee's recommendations. The full list of the committee's prior recommendations and legislative action on the operating budget are reflected in the table in **Appendix 1**. Since its inception 39 years ago, the recommendation of the committee has been adhered to by the legislature in all but 1 year.

Growth in personal income is often used as a proxy for the State's economic performance. The committee notes that operating spending in relation to the State's economy, as measured by the personal income statistic, has fluctuated between 6.7% and 7.5% over the past 30 years. The unprecedented increases under the Bridge to Excellence in Public Schools Act of 2002 raised spending as a percentage of income during the period of 2004 to 2008. By 2009, the ratio reached 7.5%, the highest level since 1991, in part, due to falling income. Conversely, rising income and reduced State spending caused the ratio to drop to 7.2% in 2010; the rate has fluctuated between 6.9% and 7.5% since.

The committee's statutory responsibility is to consider spending in relation to the State's economy. In its review of the State's economy, the committee considered income and wealth factors in developing a broad understanding of Maryland's economic position. In determining the spending recommendation, the committee has considered economic performance, revenue estimates, and current and future budget requirements.

Economy

The economy continues to recover from the COVID-19 pandemic, which threw the U.S. economy into a deep but relatively brief contraction. Nationally, employment exceeded the prepandemic level in August 2022. U.S. wages grew 8.8% in 2021 and were up 9.6% in the first nine months of 2022. But accelerating inflation has undercut wage growth as the consumer price index (CPI) increased 4.7% in 2021, the highest annual growth since 1989. The average wage per worker (total wages divided by employment) was up 5.9% in 2021 compared to 2020 but only 1.1% when wages are adjusted for inflation. In the first six months of 2022, the average wage per worker was down 2.8% adjusted for inflation relative to the same period in 2021.

In Maryland, the impact of the pandemic-induced recession has been similar to the country as a whole. Between January and April 2020, the State saw employment fall by 402,800 jobs, or 14.5%. Employment growth resumed, but as of October 2022, total employment was below the prepandemic level by 48,400 jobs, or 1.7%. Wages grew strongly in Maryland in 2021, following the pickup in employment. Total average wage per worker was up 4.0% in 2021 compared to the prior year but down 0.6% when adjusted for inflation. In the first half of 2022, the wage per worker was up 3.9% over the same period in 2021 but down 4.0% adjusting for inflation.

Economic growth in calendar 2022 has been weaker than expected when the year began. Inflation-adjusted gross domestic product fell on a quarter-over-quarter basis in both the first and second quarters of 2022. The U.S. CPI was up 8.2% in the first 10 months compared to the same period in 2021. Already weak economic growth combined with the Federal Reserve's efforts to lower inflation via aggressive interest rate increases has increased the odds of a recession over the next year to 50% or more. Some economic forecasters have added a recession to their baseline forecast for the next 3 to 6 months.

In September, the Board of Revenue Estimates (BRE) issued a revised economic forecast for Maryland, its first since March 2022. BRE expects employment in Maryland to reach its prepandemic level by the first quarter of calendar 2024. The forecast assumes economic growth will slow, but the economy will not experience a recession. In December 2022, the BRE made mostly small changes to the economic outlook to reflect revised history and the performance to date in 2022. The exception was capital gains income which the BRE now expects to fall more significantly in both 2022 and 2023 than in their September forecast.

Revenues

Fiscal 2022 general fund revenues were above the estimate by $1.6 billion, or 7.0%. General fund revenues totaled $24.0 billion in fiscal 2022, an increase of 15.4% over fiscal 2021, while ongoing revenues grew 17.5% in fiscal 2022. The top three revenue sources all exceeded the estimate by significant amounts: $1.0 billion for the personal income tax; $268.0 million for the sales tax; and $93.8 million for the corporate income tax. The fourth largest revenue source, the State lottery, was under the estimate in fiscal 2022 by $12.2 million.

The personal income tax performance was driven almost entirely by returns filed for tax year 2021, reflecting strong growth in nonwage income. Refunds for tax year 2021 were below expectations by 6.3%, while payments with returns were above the estimate by 45%. The net impact of lower refunds and higher payments accounted for roughly $890 million of the $1 billion general fund overattainment in fiscal 2022. Income tax withholding, by far the largest component of the personal income tax, was over the estimate slightly (0.4%) in fiscal 2022. Combined, nonwithholding payments accounted for 64% of the growth in the personal income tax in fiscal 2022.

Sales tax gross receipts in fiscal 2022 were up 21% over fiscal 2021. Fiscal 2022 reflected the first full year of collections from digital downloads and streaming services, but overall, online sales contributed only marginally to the total increase. Higher inflation added to growth but likely a relatively small portion as the sectors that have been driving inflation are generally not subject to the sales tax such as gasoline, cars, groceries, and housing. Ultimately, strong income growth combined with drawing down savings built up over the last two years provided consumers with ample resources to support spending. The impact of legislation related to the distribution of sales tax revenue to the Blueprint for Maryland's Future Fund (Chapter 33 of 2022) accounted for about $65 million of the general fund overattainment. The legislation's June 1, 2022 effective date eliminated the Blueprint distribution for the last two months of fiscal 2022. The adjusted fiscal 2022 estimate accounted for only a one-month impact, and revenues from online sales were stronger than anticipated.

In September, BRE increased their estimate for fiscal 2023 general fund revenues by $1.2 billion, or 5.5%. The personal income tax estimate was revised up by $966.1 million (3.5%), while the sales tax was revised higher by $367.8 million, or 6.4%. Total ongoing revenues are forecasted to grow 2.2% in fiscal 2023 and 3.2% in fiscal 2024. In December, BRE made small changes to the forecast reflecting year-to-date revenues and the revised outlook for capital gains income. The estimate for fiscal 2023 was revised up by $55.8 million (0.2%), and fiscal 2024 was revised down by $166.8 million (0.7%). Ongoing revenues are now projected to grow 2.4% in fiscal 2023 and 2.3% in fiscal 2024.

Budget Requirements

Taking into consideration the revenue projections by BRE in December 2022, the committee currently projects an ending general fund balance of nearly $2.6 billion at the close of fiscal 2023. The projected balance represents an extraordinary level of balance reflecting continued strong performance of revenues, particularly personal income from nonwithholding sources. Fiscal 2023 general fund deficiency appropriations are expected to reduce general fund spending by a net of $205 million.

The largest anticipated area of deficiencies supports capital expenditures that were originally funded with bond premiums, which due to higher than anticipated interest rates will not be available. The second largest area of deficiencies represents the anticipated general fund share of a 4.5% cost-of-living adjustment (COLA) provided to State employees on November 1, 2022. These increases were more than offset by savings in other areas, the largest of which are from higher than budgeted vacancies and an unexpected extension of the enhanced federal Medicaid match for the first nine months of fiscal 2023.

The baseline estimate for fiscal 2024 projects general fund spending will decline by 8.1% ($2.25 billion) compared to the fiscal 2023 legislative appropriation after adjusting for anticipated deficiencies. The fiscal 2024 general fund ending balance is projected to be a surplus of $2.2 billion. The significant general fund spending decline reflects approximately $1.5 billion of one-time spending included in supplemental budgets in fiscal 2023 and a decrease of $1.5 billion in the appropriation to the Reserve Fund resulting primarily from a lower required appropriation to the Revenue Stabilization Account (Rainy Day Fund) in fiscal 2024 ($1.1 billion) compared to fiscal 2023 ($2.4 billion). The largest increase is in the area of entitlements, primarily for Medicaid and behavioral health spending ($533.7 million) due to the return to typical levels of Medicaid match for the full fiscal year as well as provider rate increases and lower availability of special funds. The elimination of the enhanced Medicaid match also results in an increase in general fund spending of $70.2 million in the Developmental Disabilities Administration.

State agency spending, excluding the replacement of the enhanced Medicaid funds and one-time spending in the supplemental budgets, is projected to increase by approximately $570 million, of which more than half ($329.9 million) is related to compensation changes. These changes include the annualization of the COLA provided on November 1, 2022, and a change in fund source for a portion of the COLA expenses that were supported with the Fiscal Responsibility Fund in fiscal 2023, as well as the anticipation of a 2% COLA for most State employees and a 5% COLA for State Law Enforcement Officer Labor Alliance employees consistent with collective bargaining agreements and a merit increase. Public higher education funding, excluding employee compensation and pension rate related increases, results in $84.1 million of general fund spending growth largely related to mandates, changes in fund source for some mandates, and formula-related increases for St. Mary's College of Maryland and Baltimore City Community College.

The committee projects that the State will close fiscal 2024 with a balance of $3.9 billion in the Rainy Day Fund, which represents 15.7% of general fund revenues and would be the highest percentage in more than 20 years.

As previously noted, current baseline projections estimate the General Fund to have a cash surplus of $2.2 billion at the close of fiscal 2024. The structural surplus is projected to be $1.4 billion. As shown in **Exhibit 1**, which provides the cash and structural balance projections for the General Fund through fiscal 2028, the cash outlook is expected to remain strong through the forecast period. The structural surplus is projected to exceed $1.0 billion from fiscal 2023 through 2025 before beginning to decrease due to the impacts of the investment loss on pension contributions in the out-years and the need for general funds to support costs related to the Blueprint for Maryland's Future beginning in fiscal 2028, the first year in which the Blueprint for Maryland's Future Fund no longer fully supports the costs, Even with these additional cost, however, the structural; surplus remains greater than $600 million in fiscal 2028.

Exhibit 1
General Fund Budget Outlook
Fiscal 2023-2028 Est.
($ in Millions)

	Working Appropriation 2023	Est. 2024	Est. 2025	Est. 2026	Est. 2027	Est. 2028
Cash Balance	$2,627	$2,212	$4,363	$4,668	$4,951	$5,060
Structural	1,582	1,363	1,402	934	835	695

Recommendations

In light of the considerations discussed earlier, the committee proposes the following recommendations for the 2023 session:

1. Operating Budget Spending Limit and Sustainability

State revenues continue to benefit from pandemic-related federal aid and stronger than anticipated economic performance in recent years, placing the State in a strong fiscal position throughout the forecast period. Although the fiscal 2024 baseline projects a $1.4 billion structural surplus, the current forecast reflects a diminishing structural balance over the five-year period as ongoing spending outpaces ongoing revenues and does not account for weakening economic conditions that could lead to a recession. **To ensure sustainability throughout the long-term forecast period, the committee recommends ongoing revenues exceed ongoing spending by at least $100 million in the fiscal 2024 budget. This will enable the State to make investments in vital State services that have been overlooked and underfunded in recent years. This includes investments in our State workforce that will ensure the delivery of timely and effective services to Marylanders, expanded availability of behavioral health services for our residents, and full funding of existing State programs and commitments. The committee also recommends that the surplus be used for one-time investments in our transportation infrastructure and to ensure the sustainability of commitments to providing a world class education for our children before committing to new ongoing funding requirements.**

2. General Fund Balance and Use of Cash Surplus

Estimated cash balances, after assuming a 10% balance in the Rainy Day Fund, total $3.1 billion at the close of fiscal 2023. Although this surplus continues to provide the State with the opportunity for investment in unmet needs and priorities, it is largely the result of increased nonwithholding income tax revenues, a historically unreliable revenue source. When considered in combination with the potential for an economic downturn, the committee acknowledges the need for the State to bolster available resources for the future and be wary in committing a significant portion of the surplus toward ongoing commitments. **As such, the committee recommends:**

- **achieving a minimum ending general fund balance for fiscal 2024 of $350 million to cover normal operating deficiencies and protect the State against revenues falling short of estimates;**

- **maintaining a Rainy Day Fund balance of 10% of general fund revenues to further ensure the availability of resources during periods of economic stress and to meet new needs in such periods;**

- **committing cash toward pay-as-you-go (PAYGO) capital needs to supplement general obligation bonds, offset the impact of construction inflation, and provide funds for legislative bond initiatives;**

- **to the extent practical, reducing other underfunded liabilities, including eliminating the deficit in the health insurance account for employees and retirees; and**

- **allocating one-time revenues to support important State investments, including State workforce, education, and transportation needs.**

3. Capital Budget

A. General Obligation Debt

In September 2022, BRE increased its estimate of general fund revenues through fiscal 2028. The improved revenues reduced the State's debt service to revenues ratio from 7.7% in November 2020 to 6.7% in November 2022. Despite the improved debt affordability ratio, the Capital Debt Affordability Committee (CDAC) recommended limiting fiscal 2024 general obligation (GO) bond authorizations to $600 million, which is $525 million below the amount programmed in the 2022 *Capital Improvement Program* (CIP) and $605 million below the level recommended by the Spending Affordability Committee (SAC) in December 2021. CDAC last recommended that GO bond authorizations be $600 million or less in 2002, when State revenues were not nearly as high. The percentage decrease from the fiscal 2023 level to the proposed fiscal 2024 level is the largest in at least 30 years.

The committee is concerned that the CDAC recommendation does not provide a level of capital investment necessary to address current commitments, rising construction costs, and the need to continue to invest in the critical infrastructure needs of the State. The capital program is one of the State's best tools to respond to opportunities to meet the infrastructure needs of large employers considering relocating to Maryland.

The committee finds reducing GO authorizations to $600 million unnecessary given the State's outstanding affordability ratios and therefore recommends adhering to the $1.205 billion level of new GO bond authorizations for the 2023 session recommended by the committee in December 2021. The committee further recognizes that current capital commitments will require upward of $2.8 billion of combined GO bond and general fund PAYGO in the 2023 session and therefore recommends substantial use of one-time cash balances to support the capital program. The capital plan should:

- **fund projects preauthorized by the General Assembly for fiscal 2024 and fiscal 2023 authorized capital projects supported with unrealized bond premiums;**

- **provide funds necessary to address rising construction costs, including providing an appropriation to the Construction Contingency Fund sufficient to provide a fund balance of a least $20 million at the beginning of fiscal 2024 as a further hedge against rising construction inflation;**

- **allocate funds to make strategic capital and operating investments in facility renewal for State facilities managed by the Department of General Services and higher education facilities; and**

- **set aside GO bonds for allocation by the General Assembly.**

As to the long-range plan, the committee continues to support the CDAC debt affordability criteria, which limits debt service to 8% of State revenues and debt outstanding to 4% of State personal income. The committee is concerned, however, that the CDAC recommendation through the planning period, which does not return the authorization level to the amounts currently programmed in the CIP until fiscal 2026 ($1.145 billion), is unnecessary at current debt affordability ratios and does not account for construction inflation, which has increased at an average annual rate of 14% since calendar 2020. **Accordingly, the committee recommends GO bond authorization levels consistent with the December 2021 SAC recommendation. This includes rebasing authorization levels beginning in fiscal 2024 to a level of $1.205 billion and applying annual 4% increases as opposed to the 1% currently recommended by CDAC.**

B. Higher Education Debt

The University System of Maryland (USM) intends to issue up to $30 million in academic debt for fiscal 2024, which is the same amount authorized in fiscal 2023 and is consistent with the amount programmed in the 2022 CIP for fiscal 2024. This level of issuance will result in a debt service ratio within the 4.5% of current unrestricted funds and mandatory transfers criterion recommended by the system's financial advisers.

The committee concurs in the recommendation of CDAC that $30 million in new academic revenue bonds may be authorized in the 2023 session for USM.

4. State Employment

Personnel costs comprise approximately 20% of the State's operating budget. The committee anticipates a net increase of 986 positions in the fiscal 2024 budget compared to the fiscal 2023 legislative appropriation. This is comprised of 492 positions added in higher education and 494 new positions in the Executive Branch, most of which are the result of recent legislation. The resulting authorized number of State employees would be 81,844 in fiscal 2024.

The State currently has a historically high vacancy rate of 13.4% with almost 6,500 Executive Branch vacancies in October 2022 excluding higher education. Over the past year, the number of vacancies has increased by 710, continuing this worrisome trend. The trend coincides with the elimination over 3,300 Executive Branch positions and a nationwide shock to the labor force from the COVID-19 pandemic and its subsequent recovery. The position eliminations and vacancies impact State agencies in various ways: increased use of overtime; difficulty performing mandated responsibilities; higher caseload to staff ratios; and slow implementation of legislative reforms. While the committee has continuously raised concerns about the high level of vacant positions in State government, few actions have been taken to reverse these trends.

The committee remains concerned about the high number of vacant positions, which has continued to grow despite recent salary increases. With a large structural surplus forecast for the next few years, it is time for the new Administration and the General Assembly to restaff and adequately fund State government.

5. Transportation

The target closing balance for the Transportation Trust Fund (TTF) is intended to ensure that the Maryland Department of Transportation (MDOT) has sufficient working cash to administer its operating and capital programs. System preservation spending is necessary to maintain or bring capital assets into a state of good repair, which is where assets are performing as designed, and the chance of breakdowns is small. MDOT has an identified 10-year shortfall of nearly $4 billion between programmed spending for state of good repair and needed spending. The committee recommends:

- **a fiscal 2024 target closing balance of $200 million for the TTF; and**
- **fiscal 2024 spending on system preservation of at least $1.2 billion, which is $150 million more than the average spent over the previous 10 years.**

Appendix 1

Prior Recommendations and Legislative Action on the Operating Budget

($ in Millions)

	Committee Recommendation		Legislative Action	
Session Year	**Growth Rate**	**Amount**	**Growth**	**Amount**
1983	9.00%	$428.0	5.70	$269.8
1984	6.15%	326.7	8.38	402.0
1985	8.00%	407.2	7.93	404.6
1986	7.70%	421.5	7.31	402.2
1987	7.28%	430.2	7.27	429.9
1988	8.58%	557.5	8.54	552.9
1989	8.79%	618.9	8.78	618.2
1990	9.00%	691.6	8.98	689.7
1991	5.14%	421.8	5.00	410.0
1992	No recommendation		10.00	823.3
1993	2.50%	216.7	2.48	215.0
1994	5.00%	443.2	5.00	443.2
1995	4.50%	420.1	4.50	420.0
1996	4.25%	415.0	3.82	372.8
1997	4.15%	419.6	4.00	404.6
1998	4.90%	514.9	4.82	506.6
1999	5.90%	648.8	5.82	640.6
2000[1]	6.90%	803.0	6.87	800.0
2001[2]	6.95%	885.3	6.94	884.6
2002	3.95%	543.2	3.40	468.1
2003	2.50%	358.2	0.94	134.1
2004	4.37%	635.2	4.33	629.0
2005[3]	6.70%	1,037.1	6.69	1,036.3
2006[3]	9.60%	1,604.7	9.57	1,599.0
2007	7.90%	1,450.0	7.51	1,378.4
2008	4.27%	848.7	4.16	826.8
2009[4]	0.70%	145.7	0.19	39.2
2010[4]	0.00%	0.0	-	-626.9
2011	Reduce fiscal 2012 structural deficit by 33⅓%		36.90%/46.00%[5]	
2012	Reduce fiscal 2013 structural deficit by 50.0%		50.60%	
2013	Reduce fiscal 2014 structural deficit by $200.0 million			-211.2
2014	4.00%	937.8	2.76	646.4
	Reduce fiscal 2015 structural deficit by $125.0 million			-126.1
2015	Reduce fiscal 2016 structural deficit by 50.0%		68.27%	
2016	4.85%	1,184.2	4.55	1,111.2
2017	Reduce fiscal 2018 structural deficit by at least 50.0%		90.19%	
2018	Eliminate 100% of the fiscal 2019 structural deficit		100%	
2019	3.75%	1,019.0	3.31	900.7
	Maintain structural balance in fiscal 2020			76.0[6]
2020	Maintain structural balance in fiscal 2021			160.2
2021	Limit fiscal 2022 structural deficit to $700 million or less			63.0
2022	Maintain structural balance in fiscal 2023			276.0

[1] 2000 legislative action does not reflect $266 million of Cigarette Restitution Fund (CRF) appropriations. CRF dollars were excluded because it had not previously been available to the State. The 2000 growth rate, including CRF dollars, was 9.16%.

[2] Methodology revised effective with the 2001 session.

[3] The committee initially approved a limit of 5.70% for 2005 and 8.90% for 2006.

[4] Legislative action calculation includes federal funds under the American Recovery and Reinvestment Act of 2009 used in lieu of ongoing general fund spending.

[5] Spending reduction/total reduction.

[6] Amount reflects difference between the estimated structural deficit of $64 million in the Governor's allowance and the structural surplus of $12 million in the legislative appropriation.