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Judiciary Committee



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THE MARYLAND HOUSE OF DELEGATES ANNAPOLIS, MARYLAND 21401

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Dear Constituent:

It has been my great honor to represent you in the Maryland House of Delegates for Legislative District 33B. I want to update you on the 2023 session of the Maryland House of Delegates.

BUDGET

Expanded Budgeting Powers This was the first year the General Assembly was able to use its new budgeting powers granted by voters via Question 1 in 2020. Since the late 19th Century, Maryland has had a strong executive budgeting process because the General Assembly had, historically, lacked financial discipline. Over the course of Maryland's history, the General Assembly has nearly bankrupted the state on more than one occasion. The General Assembly's financial authority had to be restricted in the 1850's when the state could not repay the interest on what it borrowed for the B&O and C&O railroads. In 1914, the General Assembly overspent by \$1.5 million at a time when total state revenue was approximately \$12 million. As a result, the constitution was amended to restrict the General Assembly's budget authority, giving it the ability to cut, but not to add to the budget. For the last 100+ years, the General Assembly has only been granted the power to cut the budget – not add. In 2020, the voters of Maryland approved an expansion of budgetary powers for the General Assembly.

Revenue Write-Downs The Maryland Board of Revenue Estimates (BRE) reports revenue projections several times during the year. In its March Revenue Report, the BRE cut its revenue projections for Fiscal Years 2023 and 2024 by a total of \$478 million - \$77.4 million in Fiscal 2023 and \$400.3 million in Fiscal 2024. This represents approximately 1% of the projected revenues but is not insignificant.

Revenues are down because Maryland's economy slowed faster than anticipated. Sales tax revenue and personal income tax revenue both underperformed estimates. When compared to the national economy, Maryland's economy is underperforming when it comes to employment and consumer spending. If revenues continue to decline, budget deficits will grow. The Maryland General Assembly, historically, has had a preference for tax increases over meaningful budget reductions.

With high inflation and many forecasts predicting a significant economic downturn by the end of the year, Maryland must spend responsibly to prevent tax increases.

Blueprint Deficit When it was passed in 2020, the Blueprint for Maryland's Future was set to add approximately \$3 billion per year to education spending over the next decade.

Even before the March BRE Report, budget analysts were projecting a structural deficit in funding for the Blueprint. The Blueprint is projected to have a deficit beginning in 2027 – a deficit that is expected to grow significantly in the coming years. The Digital Advertising Tax that the General Assembly passed over Governor Hogan’s veto in 2021 was supposed to generate revenue dedicated to the Blueprint. That tax has been ruled unconstitutional by the Maryland court.

In this year’s budget, \$900 million was put into a reserve fund specifically to save it for future Blueprint costs. This will help mitigate some of the Blueprint shortfalls, but not all. In the long-term, a deficit of more than \$1.5 billion is forecast for FY 28 as the Blueprint Fund reserves are exhausted and significant education costs fall on the General Fund.

Operating Budget This was the first year the General Assembly could exercise the expanded budgetary powers granted to them by the people of Maryland. This allowed the legislature to increase, decrease, and move money around in House Bill 200 – Budget Bill Fiscal Year 2024. In total, the General Assembly cut \$1.33 billion from the Governor’s original proposal and added \$1.13 billion in spending.

The FY 2024 Budget totaled \$63 billion, with spending increasing 2% over last year. The budget includes \$8.7 billion in funding for K-12 education and caps in-state tuition increases at 2%. Approximately \$200 million in tax relief is included in the budget, primarily for low-income families. The budget also includes \$421 million for salary increases and bonuses for state employees and \$35 million for Maryland’s emergency medical systems. The budget also uses one-time cash to fund “pay-as-you-go” Capital projects rather than increase the state’s debt. At the time of its passage, the budget was structurally balanced and included \$2.85 billion in reserves, with \$2.5 billion in the Rainy Day Fund and a \$351 million fund balance in the General Fund.

CRIME

While violent crime and juvenile crime continue to plague our state, little was done this year to meaningfully address either.

HB 481 - Criminal Law – Wearing, Carrying, or Transporting a Handgun – Penalty was requested by Baltimore City State’s Attorney Ivan Bates as a tool to help combat violent crime in the city and throughout Maryland. The bill increases the penalty, from 3 years to 5 years, for unlawfully wearing, carrying, or transporting a handgun. While the bill itself did not pass, its provisions were included in HB 824.

JUSTICE FOR VICTIMS OF ABUSE HB 1 – The Child Victims Act of 2023 eliminates the statute of limitations for child sexual abuse survivors to bring civil lawsuits against their abusers. This means that abuse survivors who missed their chance to sue under existing statutes of limitations will have another chance to bring lawsuits against abusers and the institutions accused of protecting them, such as schools, camps, and religious entities. Going forward, there will no longer be a statute of limitations and survivors can sue their abusers or organizations that harbored them at any time. There is an \$890,000 liability cap for suits brought against public institutions such as school boards. There is also a \$1.5 million cap for claims against private institutions for non-economic damages such as pain and suffering. There is no cap for economic damages like therapy or medical treatment for suits brought against private institutions.

ECONOMY

CANNABIS

SB 516/HB 556 – Cannabis Reform establishes a recreational cannabis industry in the state, building on last year's ballot referendum where Marylanders gave final approval to legalizing recreational cannabis. The 2023 legislation governed possession, smoking in public, driving while high, and the number of homegrown plants allowed. Additionally, the referendum gave the General Assembly until July 1, 2023 to develop the guardrails and launch a recreational cannabis industry.

SB 516/HB 556 sets the regulatory framework for the industry by granting the first licenses for recreational growers, processors, and dispensaries, while also imposing a 9% sales tax on cannabis products, with an exemption for medical cannabis cardholders. It is estimated that the recreational cannabis industry will generate nearly \$94 million in tax revenue for the State by FY 27.

The framework includes provisions for the allocation of this tax revenue, in addition to zoning laws prohibiting dispensaries from being located within 500 feet of a school, library, playground, recreation center, or public park. It also establishes buffer zones to prevent the clustering of dispensaries. Moreover, the legislation aims to promote diversity and equity in the industry by allocating a portion of revenues to support equity programs, specifically for those individuals seeking to enter the industry who live or lived in communities that were policed at a higher rate due to the war on drugs.

CLEAN CARS AND CLEAN TRUCKS The Maryland Clean Cars Act of 2007 requires MDE to adopt regulations implementing the California Clean Car Program. In August of 2022, California adopted new regulations that would ultimately ban the sale of gas-powered cars in the state. California's regulation accelerates requirements that automakers deliver an increasing number of zero-emission light-duty vehicles each year beginning in the model year 2026. Sales of new zero-emission vehicles (ZEVs) and (plug-in hybrid vehicles (PHEVs)) will start at 35% that year, build to 68% in 2030, and reach 100% in 2035.

Governor Hogan declined to enact the standard in 2022. However, in March of this year, Governor Moore announced that Maryland would move forward with the enactment of the standard. The ban is phased in over several years. As such, Maryland will require 50% of the cars sold in the state to be electric within the next four years and will have a full ban on the sale of gasoline-powered cars by 2035.

Senate Bill 224 – Clean Trucks Act of 2023 requires Maryland to adopt California standards on the sale of medium- and heavy-duty vehicles. The Clean Trucks Act requires the Maryland Department of the Environment to adopt regulations that include the California Advance Clean Truck regulations which currently require 40-75% of new mid- and heavy-duty vehicle sales to be electric vehicles by 2035. The phase-in will begin in the model year 2027, the calendar year 2026.

The California Air Resource Board is set to vote in April on regulations that will ban the sale of gas and diesel-powered mid- and heavy-duty trucks by 2040. Under the Clean Trucks Act, Maryland will also adopt this full ban should California make that change.

MINIMUM WAGE Senate Bill 555 – Fair Wage Act of 2023 was one of Governor Moore's legislative initiatives. As introduced, the bill would have increased Maryland's minimum wage to \$15.00 per hour effective October 1, 2023. Beginning July 1, 2025, the minimum wage would have increased based on

the increase in the Consumer Price Index of the preceding year, with the growth capped at 5%. The bill eliminated the slower phase-in of the minimum wage increases for small businesses in existing law.

The bill was amended significantly in the Senate and the automatic increases tied to the CPI were removed. The increase to \$15 per hour was also delayed until January 1, 2024. An effort to restore a phase-in of the increase for small businesses was defeated in the House. The bill now heads to the Governor's desk for signature.

EDUCATION

CURRICULUM

House Bill 119 – County Boards of Education - Curriculum Guides and Courses of Study – Requirements was originally drafted to establish a highly controversial health education framework for public schools in Maryland, including sexual orientation, gender identity, and human sexuality. The bill was completely rewritten through amendment in the House Ways and Means Committee and was, fundamentally, turned into a weapon for the State Board of Education to use to intimidate and control local school systems. Incidentally, it granted power the State Board of Education did not ask for, nor want to be bestowed upon them.

As the bill passed the House, it allows the State Superintendent of Schools to withhold funding from local school systems if they are not in 100% lockstep with any part of the state curriculum. If the State Superintendent of Schools determines that a local board of education is not following every element of the policy and guidelines established by State Board of Education (SBE) or is authorizing a student to opt out of a course of instruction in a manner that is not approved by SBE, the State Superintendent must notify the local board of education. If the local board does not resolve the discrepancy within 30 days, as specified, 10% of the funds budgeted by the State for the current fiscal year must be withheld. If the discrepancy is not resolved within 90 days, an additional 10% must be withheld.

In its updated form, the bill was opposed by multiple local school systems across the state, the Maryland Association of Boards of Education, Public School Association of Maryland, Maryland Retired School Personnel Association, and the Maryland State Board of Education.

The bill passed the House but died in the Senate Committee.

BOOST The Broadening Options and Opportunities for Students Today (BOOST) program provides scholarships to low-income and at-risk youth to attend a non-public school. It is the only school choice program in Maryland.

Governor Moore's budget proposal cut funding for BOOST by 20%, from \$10 million to \$8 million, and included language that would phase out the program.

The House Republican Caucus was the first to cry foul over the cut and phase-out of BOOST. One of the bills in our Caucus' Legislative Package, The Right to Learn Act of 2023, included language to codify BOOST and make its funding permanent. House and Senate Republicans came together to call for the full funding of the BOOST program and press for the passage of the Right to Learn Act.

Members of the House Republican Caucus tried to restore the funding and eliminate the phase-out but opposition to the program runs deep in the House and efforts to save BOOST were unsuccessful. When

the Maryland Senate took up the Budget, they restored BOOST funding to \$10 million and eliminated the phase-out language. Differences between the House and Senate forced the Budget to go to Conference Committee.

At the conclusion of the Conference Committee, the BOOST Program received \$11.5 million in FY24, with \$9 million going to scholarships and \$2.5 million available to participating schools for safety, textbooks, nurses, and other school health expenses. This reflects another \$1.5 million in funding for the program. Additionally, language that would have phased out the BOOST Program was removed.

The battle to save BOOST permanently is far from over. The best option for BOOST students and families is to make the program permanent in state statute. But for this year, the program is safe.

Maryland 529

SB 959 – Higher Education – Maryland 529 Program – Reform Following the outcry from families over major issues with Maryland’s 529 College Savings Plans where interest earnings were miscalculated and some were unable to access their funds, the General Assembly took action through SB 959 to make significant changes to the program.

Maryland offers two 529 plans – a College Investment Plan that functions more like a 401k with an independent fund manager, and a pre-paid college trust where parents can purchase college credits at today’s cost and use them when their child is ready for college in the future. Issues with interest calculations and access to funds arose with the pre-paid college trust when the State switched to a new vendor.

SB 959 transfers responsibility for the entire Maryland 529 program to the State Treasurer’s Office and abolishes the Maryland 529 board as of June 1, 2023.

The Maryland Pre-Paid College Trust program will also be phased out with no new accounts created after June 1, 2023.

In addition, SB 959 also develops a claims process within the Treasurer’s Office to receive claims from impacted account holders, complete an investigation and issue settlements.

2ND AMENDMENT

While failing to address crime in a meaningful way, the General Assembly spent a great deal of time further restricting the rights of those who lawfully own firearms.

SB 858 – Firearm Safety – Storage Requirements and Youth Suicide Prevention (Jaelynn’s Law)

requires gun owners to store firearms in a manner to which minors will not have access. Under the bill, a person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised minor would have access. The bill does not apply if the minor’s access to the firearm is supervised by an individual at least 18 years old if the minor’s access was obtained as a result of unlawful entry, if the minor has a certificate of firearm and hunter safety, or if the firearm is in the possession of a law enforcement officer while the officer is engaged in official duties. A violation is a misdemeanor. However, violators become prohibited persons if convicted of a second or subsequent violation or if the violation resulted in the use of a loaded firearm by a minor causing death or serious bodily injury to the minor or another individual. The bill also requires the Deputy Secretary of Public

Health Services to develop a youth suicide prevention and firearm safe storage guide. The Department of Health is responsible for the publication and distribution of the guidelines. The Department must also provide grants to local school systems, health departments, etc. to support educating families on the safe storage of firearms and the risks of youth suicide.

HB 824 – Public Safety – Regulated Firearms – Possession and Permits to Carry, Wear, and Transport a Handgun alters the requirements, training, and procedures for possessing a regulated firearm and a permit to carry, wear, and transport a handgun. The bill adds to the list of persons prohibited from owning a regulated firearm anyone on supervised probation after being convicted of driving under the influence of alcohol or drugs or for violating a protective order.

With regard to wear and carry permits, the bill adds those prohibited from being issued wear and carry permits to include (1) individuals on supervised probation after being convicted of driving under the influence of alcohol or drugs or for violating a protective order, (2) individuals convicted more than once of storing a loaded firearm where a minor could access (SB 858) or convicted of storing a loaded firearm where a minor gained access and caused death or serious bodily injury to themselves or someone else and; (3) individuals who met the requirements under the provisions of Maryland’s Red Flag Law. The bill also increases the fee for the initial application for a permit from \$75 to \$125 and from \$50 to \$75 for renewals and requires individuals to be at least 21 years old to be granted a permit. The bill also specifies what firearms training courses must include. Under the bill, the Secretary of the Maryland State Police must revoke a wear and carry permit if they find the holder does not meet the qualifications or becomes disqualified. The Secretary is also required to send email notifications to owners of regulated firearms when the General Assembly passes new laws regarding firearms. Emails must be sent within 45 days of the General Assembly’s adjournment and again 30 days before the new law goes into effect.

SB 1 – Gun Safety Act of 2023 is a de facto ban on the wearing and carrying of a firearm in Maryland. The bill prohibits wearing and carrying at a private dwelling unless you have express permission from the property owner. It also sets up numerous locations where the wearing and carrying of a firearm is prohibited. Some are traditional locations such as schools and government buildings, but the bill also creates “special purpose areas” that include areas such as amusement parks, stadiums, racetracks, video lottery facilities, museums, and anywhere that serves alcohol including restaurants. It is very likely that this bill is unconstitutional and will be challenged in the court system.

If you have any questions or concerns about issues or legislation before the Maryland General Assembly or need my assistance, please do not hesitate to contact me or my Chief of Staff, Angie Mattero, at 410-841-3110 or by emailing me at Stuart.Schmidt@house.state.md.us.

Sincerely,



Delegate Stuart M. Schmidt, Jr.
District 33B