

**Maryland Department of Labor
Fiscal Year 2021 Operating Budget
Response to Department of Legislative Services Budget Analysis**

**Appropriations Committee
Education and Economic Development Subcommittee
Delegate Ben Barnes
February 12, 2020**

**Budget and Taxation Committee
Education, Business and Administration Subcommittee
Senator Craig J. Zucker
February 13, 2020**

The Department greatly appreciates the thoughtful and thorough analysis from Ms. Emily Haskell. Her analysis highlights some of the excellent work being done in our agency. A good example is the increase in new apprenticeship programs and the number of new apprentices. In FY20, the department surpassed 10,000 registered apprentices, a record high for Maryland.

DLS Recommendations:

1. Reduce funds to support the Clean Energy Jobs Act based on available special funds.
2. Adopt narrative requesting a report on unrecoverable federal fund revenues.
3. Adopt narrative requesting a report on projects affected by the Providing Our Workers Education and Readiness Apprenticeship Act.
4. Adopt narrative requesting a report on horse fatalities.
 - a. Labor should comment on its ongoing efforts to improve horse safety.
5. Eliminate 3.0 long-term vacant positions in Adult Corrections (PINs 053419, 055372, and 055644).

Department of Labor Responses:

- 1. Reduce funds to support the Clean Energy Jobs Act based on available special funds.**

The Department of Labor respectfully disagrees. While there may be some disagreement on how the error in the budget book occurred, the agency and DBM cannot locate any additional special funds from the SEIF fund. We have determined that this \$110,238 in special funds in Executive Direction should have been composed of SAEF funds not SEIF funds. The agency will work with DBM and our DLS analyst to fully resolve this error. We feel strongly that any recommendation of a reduction in agency budget appropriation will incorrectly harm agency programs.

- 2. Adopt narrative requesting a report on unrecoverable federal fund revenues.**

The Department of Labor concurs and will submit the requested report. Labor has separated the unrecoverable costs on the Schedule G to track repayments. At the time of the finding, Labor did not

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have an approved indirect cost rate and that resulted in expenses deemed as unrecoverable. Now that Labor has an approved rate, those indirect expenses can be properly allocated among the active federal grants. For the previously mentioned unrecoverable costs, the department has paid down \$525,000 over the past two years and will continue to repay the costs up to \$500,000 per year as the special and general funds are available.

3. Adopt narrative requesting a report on projects affected by the Providing Our Workers Education and Readiness Apprenticeship Act.

The Department of Labor concurs and will submit a report. Draft POWER Act regulations will be published in the March 13 Maryland Register. The public comment period will run 30 days until April 13. Final regs will be published immediately after that if the Department receives no substantive comments. Once regulations are posted as final, the department is prepared to go live with an online database to collect contractor information and accept payments.

4. Adopt narrative requesting a report on horse fatalities.

The Department of Labor concurs and will submit a report on horse fatalities at Maryland racetracks during training and racing. The report will include the number of fatalities at each track and necropsies. The Commission is not equipped or capable of analysing other potential contributing factors such as track surfaces and track conditions. However, the Maryland Jockey Club has its track surfaces analyzed by an independent company that specializes in track surfaces on a quarterly basis to ensure consistency, and performs other tasks on a regular basis to provide an optimum and consistent track surface. The Maryland Racing Commission will work with the Maryland Jockey Club to provide this information in a report.

The Maryland Racing Commission's ongoing efforts to improve horse safety.

DLS requested Labor comment on ongoing efforts to improve horse safety. The Maryland Racing Commission has prioritized the safety and welfare of the horses participating in races well before the recent fatalities that occurred in California. The Commission recognizes that the issue of fatalities is multifaceted and continues to review each case individually and make changes with the goal of reducing those fatalities.

Several years ago, the Commission created its own safety and welfare committee to examine the breakdowns that occurred at the Maryland tracks. At that time, the Commission, along with the participation of industry stakeholders, began to examine each breakdown individually by performing an investigation which included having a necropsy performed on the horse, interviews with the horses attending veterinarian, its trainer and the jockey riding the horse during the race. The investigation included a review of the treatment records of the horse for the previous 60 days. At that time the Commission also examined its claiming rules and amended them to conform to what the Commission deemed to be a best practice. The Commission also implemented a policy that did not allow the administration of any medication on race day except furosemide which had to be administered by an independent veterinarian. The Commission reviewed its pre-race examination procedures and made

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adjustments. Along with industry stakeholders, procedures for the maintenance of the track surface were adjusted to provide a more consistent surface.

The Commission has participated with national organizations to develop and implement successful uniform medication policies and a medication point system. This system applies to violations which escalate the penalty to a trainer who has been found guilty. In the last two years, Maryland, along with several other Mid-Atlantic states, have developed a strategic plan targeted to reduce fatalities. That plan outlines further best practices which have been mostly adopted in Maryland which include the hiring of an Equine Medical Director; creation of a mortality review board; the hiring of a Safety/compliance officer (by the Maryland Jockey Club); reporting of all fatalities to the Equine Injury Database; develop risk factors for horses participating in races and using the Equine Injury Database during pre-race examinations to input observations and review previous data entered on a specific horse that has been entered to run.

As mentioned earlier, the Maryland Jockey Club has its track surfaces analyzed by an independent company that specializes in track surfaces on a quarterly basis to ensure consistency and performs other tasks on a regular basis to provide an optimum and consistent track surface. The Maryland Jockey Club and the Maryland Thoroughbred Horseman's Association support a horse aftercare program called "Beyond The Wire" whose sole purpose is to find homes for horses no longer able to compete in racing.

Health and Safety Regulations

The Commission adopted fourteen health and safety best practices on January 1, 2020 that will be discussed in our JCR report. Also, effective February 1, administration of furosemide (Lasix) shall be restricted to 4 hours prior to post time of the horse's race. A horse not meeting the 4 hour restriction shall be scratched. The Commission has also recently adopted emergency regulations that restrict and prohibit certain medications and has proposed additional regulations that will be discussed in our report.

Finally, the Maryland Jockey Club and the Maryland Thoroughbred Horseman's Association have contracted with the MedStar Health organization who provide a health center for racetrack workers and have also developed concussion protocols for jockeys which include a return to ride program and have launched a jockey medical record database that will be made available in all participating racing jurisdictions to protect their health and welfare.

5. Eliminate 3.0 long-term vacant positions in Adult Corrections (PINs 053419, 055372, and 055644).

The Department of Labor respectfully disagrees with eliminating these three positions. Department initiatives currently underway are aimed at increasing the number of adults served behind the fence, requiring full utilization of allotted PINs with plans for future growth. For instance, the Department has introduced legislation that will double the number of days inmates are in class, partnering with DPSCS to procure an additional 1,345 tablets for inmates, and the department is working with DPSCS to offer occupational training programs at the revamped Brockbridge Correctional Facility.

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- **Senate Bill 70 – Correctional Institutions - Correctional Education Council - Mandatory Education Program Requirements**

This departmental bill increases the mandatory education days for any inmate without a diploma from 120 to 240 calendar days. SB70 passed the Senate on 2/5/20 and is awaiting a hearing in the House of Delegates. There is no opposition to the bill. In preparing the Fiscal and Policy Note for this legislation, the Department did not request any additional PINS for what may amount to certain students remaining in Correctional Education seats for a longer period of time. The Department testified that we would utilize existing PINS, including vacant PINS, to ensure adequate capacity in our classrooms.

- **Tablet Expansion**

Labor and the Department of Public Safety and Correctional Services (DPSCS) are in the process of releasing an RFP to procure approximately an additional 1,345 tablets. This number is based on the number of Correctional Education PINs currently allotted to Labor, multiplied by the maximum capacity of each classroom assuming every seat is filled. 1,345 tablets would allow every inmate in every class to have access to a tablet. Reducing the number of Correctional Education PINs reduces the number of inmate students for the deployment of tablets.

- **Reopening of Brockbridge Correctional Facility**

Brockbridge Correctional Facility (BCF) will be reopening in December, 2020 with the expectation that Labor will provide additional educational programming beyond what was previously offered. Prior to BCF depopulating in 2019, Labor provided mostly academic classes and one transition course at BCF. DPSCS is planning a robust menu of occupational training programs to be available for returning citizens at this facility. This will require that all PINs be filled in order to staff BCF's expanded Occupational Training programs. Moreover, additional PINs may be needed to achieve DPSCS & Labor's shared vision for this pre-release, re-entry focused training facility.

Here is a breakdown of the three PINs proposed for elimination:

- **PIN 053419:** This PIN will be used to replace the Office Technology Teacher at Occupational Skills Training Center in Baltimore City (OSTC). The current Office Technology Teacher at OSTC has been promoted to Teacher Supervisor and is being transferred to Patuxent Institution in Jessup (PATX).
 - Reclassification paperwork is in process to take it from a Teacher Supervisor classification to Teacher Standard Professional Certificate (SPC) classification (OfficeTech Occupational Teacher).
 - We expect to fill this PIN quickly as we are aware of a candidate for this position. It will be posted and all best qualified will be interviewed. However, in the likely event that applicants are minimal, in 2018 the Department terminated an Office Tech teacher who was very good at her job but failed to pass the PRAXIS exam for teacher certification in the 2 years and 90 days allowed. That exam is no longer a requirement for Occupational Teachers per MSDE effective 01/01/2019. The Department would welcome this teacher

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back to her former teaching role now that the PRAXIS exam no longer applied to occupational teachers.

- **PIN 055372:** This is an Advanced Professional Certificate (APC) Teacher at Maryland Correctional Training Center (MCTC) that has been vacant since 6/30/17. The Department plans to transfer this PIN to Jessup Correctional Institution (JCI) because there is only 1 GED teacher at JCI currently and there is a waitlist for educational services. The PIN is ready for posting pending the outcome of budget discussions with the Legislature.
- **PIN 055644:** This PIN for Roxbury Correctional Institution (RCI) is one of two vacant teaching positions. RCI also has a waitlist for educational services which will be addressed when the two teaching positions are filled. The PIN is ready for posting pending the outcome of budget discussions with the Legislature.
- The three teaching PINs are represented by the Maryland Professional Employees Council (MPEC).