

D06E02.02
Public School Construction – PAYGO

Public School Construction Program

GO Bonds	\$155,200,000	Recommendation: Approve
PAYGO SF	\$2,400,000	

Bill Text: Provide funds to construct public school buildings and public school capital improvements in accordance with Sections 5-301 through 5-305 of the Education Article.

Program Description: The State began providing incentive aid for school construction in 1947, and in 1971 established the Public School Construction Program (PSCP). The program was established to provide State contributions toward school construction costs in an attempt to give property tax relief to local governments and equalize educational facilities across the State.

The Board of Public Works (BPW) created the Interagency Committee on School Construction (IAC) to oversee PSCP. IAC consists of the State Superintendent of Schools, who serves as the chairperson, the Secretary of the Department of General Services, and the Secretary of the Maryland Department of Planning. Each September, the Governor provides IAC with the proposed amount of funding for public school construction for the upcoming fiscal year. IAC then transmits this information to the local jurisdictions and requests their annual and five-year capital improvement programs (CIPs) by October 7.

Annually in October and November, IAC staff reviews the CIPs and recommends to IAC which projects should be funded based on certain criteria. Each December, IAC develops a list of eligible projects and decides which of those projects should be recommended to BPW for its approval. IAC must recommend an initial allocation of 75.0% of the proposed school construction budget. In January, BPW hears appeals from the local jurisdictions and votes on IAC recommendations. The list of projects approved by BPW and any supplemental requests made by the Governor become part of the State's proposed capital budget. The proposed budget is then submitted to the General Assembly for approval. In May, BPW allocates any remaining school construction funds to school construction projects recommended by IAC and the Governor.

State and local governments share in the cost of school construction projects. **Exhibit 1** shows each local government's share of school construction costs. **Appendix 1** lists the total State allocation for public school construction between 1972 and the initial fiscal 2006 allocation. **Appendix 2** shows a summary of the proposed fiscal 2006 CIP by jurisdiction. **Appendix 3** shows the amount of capital program funds that local school systems have requested between fiscal 2006 and 2011 by jurisdiction. **Appendix 4** shows the estimate to bring facilities up to current standards for new construction as estimated by the Task Force to Study Public School Facilities.

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Exhibit 1
State Share of Eligible Costs for Public School Construction

<u>50%</u>	<u>55–69%</u>	<u>70–74%</u>	<u>75–89%</u>	<u>90+%</u>
Anne Arundel	Howard (58)	Cecil (70)	Prince George's* (75)	Somerset (97)
Baltimore	Carroll (65)	Charles (70)	Dorchester (77)	Baltimore City** (97)
Kent	Harford (65)	Garrett (70)	Wicomico (81)	
Montgomery	Washington (65)	Queen Anne's (70)	Caroline (89)	
Talbot	Calvert (69)	Frederick (72)	Allegany (90)	
Worcester		St. Mary's (72)		

*For fiscal 1999 through 2005, the State provided 75% of Prince George's County's eligible costs for the first \$35 million, and for funding above \$35 million the State provided 60% (fiscal 1999 through 2003) or 65% (fiscal 2003 through 2004) of eligible costs. For fiscal 2006 through 2008, the State will provide 75% of eligible costs for the first \$35 million, and for funding above \$35 million, 69% of eligible costs.

**For fiscal 2002 through 2005, the State provided 90% of Baltimore City's eligible costs for the first \$20 million, and for funding above \$20 million the State provided 75% of eligible costs. For fiscal 2006 through 2008, the State will provide 97% of eligible costs.

Source: Public School Construction Program, Department of Legislative Services

Comments:

Proposed Allocation and Distribution for Fiscal 2006

The fiscal 2006 budget for school construction as introduced contains \$157.6 million, consisting of \$155.2 million in general obligation (GO) bonds and \$2.4 million in special fund PAYGO. This total includes \$1.6 million in GO bonds for the Aging Schools Program, which prior to last year had been fully funded in the operating budget with general funds. The remaining \$156 million is for the traditional public school construction program. Of the \$156 million, \$81 million has been recommended by the IAC and approved by BPW for specific projects, including \$894,000 dedicated for the purchase of locally owned relocatable classrooms. The remaining \$75.1 million are funds available for allocation to school construction projects derived from the difference between the Governor's allowance and funding recommended by the IAC.

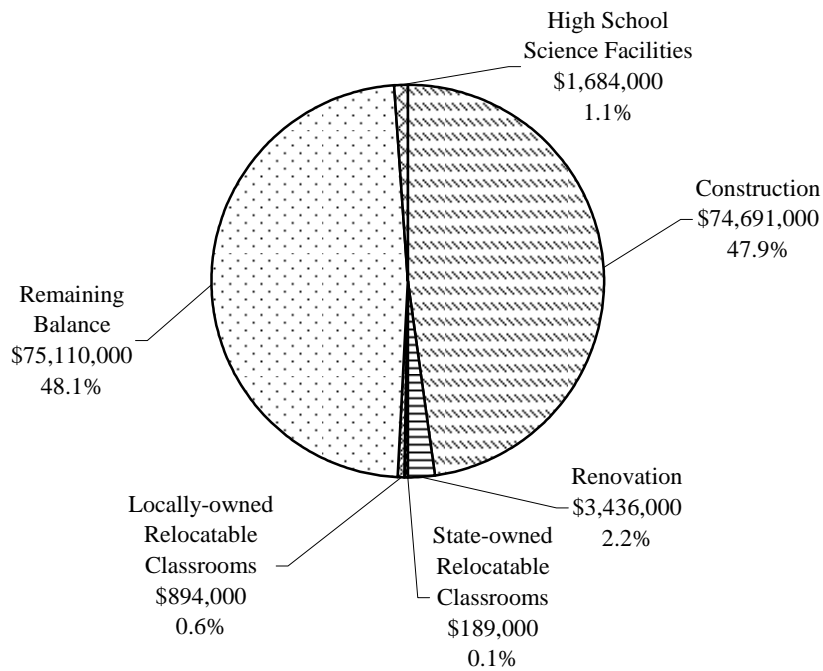
The Governor's fiscal 2006 capital budget provides \$57.6 million more than the \$100 million projected in the fiscal 2005 Capital Improvement Program (CIP). The Public School Facilities Act of 2004 established a State goal to provide \$2 billion in State funds over the next eight years to address

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deficiencies, or \$250 million per year through fiscal 2013. The Governor’s fiscal 2006 CIP indicates \$100 million annually in fiscal 2007 through 2010.

Exhibit 2 shows IAC’s proposed distribution of the \$156 million. The recommendations include 63 construction projects at \$74.7 million, or 47.9% of the proposed budget; 8 systemic renovation projects at \$3.4 million, or 2.2% of the proposed budget; 3 renovated high school science laboratory projects at \$1.7 million, or 1.1% of the proposed budget; 10 State-owned relocatable building projects at \$189,000, or 0.1% of the proposed budget; and 17 locally-owned relocatable building projects at \$894,000, or 0.6% of the proposed budget. The remainder of the proposed budget consists of \$75.1 million, or 48.1% of which remains to be allocated towards specific school construction projects.

Exhibit 2
Proposed Fiscal 2006 Allocation of Public School Construction



Source: Interagency Committee on Public School Construction

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Remaining Funds Available for Specific Projects

In addition to the \$75.1 million in the fiscal 2006 capital budget for school construction that has not yet been allocated to specific projects, the school construction contingency fund has a balance of \$18.0 million as of December 31, 2004. Of this amount, \$2 million is dedicated towards the Technology in Maryland Schools (TIMS) Program, and \$198,416 is reserved for repairs to State-owned relocatable classrooms, leaving an unrestricted balance of \$15.7 million. The IAC has recommended allocating \$6 million of the unrestricted contingency fund balance to specific projects and is likely to recommend an additional amount for allocation in May. The contingency fund is discussed further in the Issues section of this analysis.

State Eligible for \$9.36 Million in Additional QZABs

In November 2004, the State made its second Qualified Zone Academy Bond (QZAB) issuance of \$9.043 million. QZABs were created under the Tax Reform Act of 1997 as a new type of debt instrument to finance specific education projects. Specifically, the program was created to provide an additional means for states to fund school repair projects while lessening the burden of issuing additional debt. QZABs are a type of debt instrument that states can issue only to financial institutions, insurance companies, and investment houses. The institutions that purchase these bonds receive a federal tax credit rather than interest on the bonds. Consequently, the State received the proceeds from the sale of the bonds but does not have to pay interest on them.

The QZAB program was extended for 2004 and 2005 at the current national level of \$400 million. Due to the delay in renewal of the program, QZABs for 2004 could be applied retroactively and QZABs for 2005 could be issued anytime after January 1, 2005. The State is qualified for \$4.375 million in QZABs for 2004 and \$4.986 million for 2005.

Fund Data

Prior Program Activity – All Fund Sources

	<i>FY 2001</i>	<i>FY 2002</i>	<i>FY 2003</i>	<i>FY 2004</i>	<i>FY 2005*</i>
Encumbrances	\$250,266,865	\$307,169,954	\$123,680,984	\$100,685,142	\$75,725,204
Expenditures	\$235,237,196	\$220,302,078	\$231,144,260	\$145,430,447	\$49,241,108

*As of 11/04

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**Authorization Summary
(\$ in Millions)**

<i>Fiscal Year</i>	<i>Authorization</i>	<i>Funds</i>		<i>Balances</i>	
		<i>Encumbered</i>	<i>Expended</i>	<i>To Be Encumbered</i>	<i>To Be Expended</i>
Prior Years	\$2,985.623	\$2,979.364	\$2,978.858	\$6.259	\$6.765
2001	223.468	215.814	214.849	7.654	8.619
2002	196.844	183.691	175.483	13.153	21.361
2003	240.036	219.355	202.214	20.681	37.822
2004	106.522	83.878	55.630	22.644	50.892
2005	115.026	47.389	18.637	67.637	96.389
Total	\$3867.519	\$3729.491	\$3645.671	\$138.028	\$221.848

**Authorization Request
(\$ in Millions)**

<i>Description</i>	<i>2004 Actual</i>	<i>2005 Approp.</i>	<i>2006 Request</i>	<i>2007 Estimate</i>	<i>2008 Estimate</i>	<i>2009 Estimate</i>	<i>2010 Estimate</i>
PAYGO GF	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
PAYGO SF	2.400	2.400	2.400	2.400	2.400	2.400	2.400
PAYGO FF	0.050	0.000	0.000	0.000	0.000	0.000	0.000
Go Bonds	104.072	112.626	155.200	97.600	97.800	97.600	97.800
Total	\$106.522	\$115.026	\$157.600	\$100.000	\$100.200	\$100.000	\$100.200

Issues

1. Proposed Changes to the Public School Construction Contingency Fund Could Provide Additional Funds for Public School Construction

IAC reserves all money not used from projects in prior years in a contingency fund. A portion of the contingency fund is dedicated to specific items such as funding for the Technology in Maryland Schools (TIMS) Program and pay-as-you-go funding designated for repairs to State-owned relocatable classrooms. The IAC determines how much it will allocate within the remaining balance of the contingency fund towards specific projects, with the approval of BPW. The Department of Legislative Services (DLS) believes that changes in the reporting of the contingency fund balance could lead to providing additional funds towards public school construction in the capital budget.

Contingency Fund Revised Annually to Capture Unused Funds from Prior Years

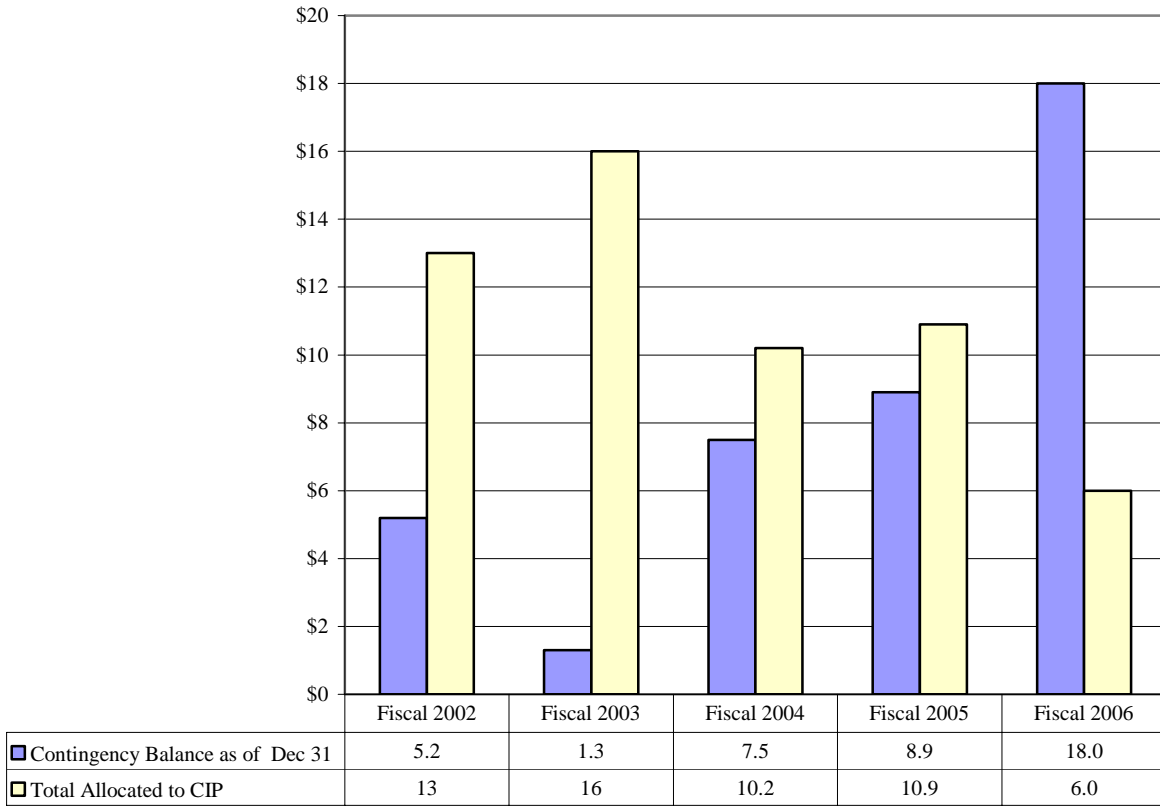
Funds approved by the IAC and BPW for school construction that have not been contracted within two years or were not needed to complete a project revert to the contingency fund. IAC, with the approval of BPW, may extend the time period if IAC determines that unusual circumstances exist. The IAC reports the balance of the contingency fund to the General Assembly in June and December of each year (this requirement was codified in the Public School Facilities Act of 2004).

The Public School Facilities Act also established an emergency repair fund at a minimum level of funding in the amount of \$2 million. Monies for this emergency fund are kept in the contingency fund.

Estimating Actual Contingency Fund Balance Difficult

As shown in **Exhibit 3**, the total reported in the contingency fund as of December 31 is not equal to the amount allocated towards school construction in the School Construction Capital Improvement Program (CIP) for the upcoming fiscal year. For example in fiscal 2005, the IAC reported a balance of \$8.9 million in the contingency fund on December 31, yet allocated \$10.9 million towards the CIP. This pattern is repeated for each fiscal year shown in the exhibit. In fiscal 2006, the IAC has recommended \$6 million in the initial allocations approved by the BPW January 19, 2005, yet the total fund balance available is approximately \$18 million. Additional funds will likely be in the final recommended allocation in May.

Exhibit 3
Comparison between Contingency Fund Total Reported by IAC and
Contingency Funds Allocated Towards the CIP 2002-2006
(\$ in Millions)



*Balance is reported December 31 of calendar year for allocation in the upcoming fiscal year.

Source: Public School Construction Program

Exhibit 3 shows that there is a discrepancy between the actual amount in the CIP and the contingency fund balance reported by IAC to the General Assembly. The IAC consistently reports the December 31 total from the prior year as the balance in the contingency fund. The reporting of this figure does not give an accurate portrayal of the balance in the contingency account prior to IAC’s final allocation in the CIP in May. Furthermore, funds continue to accumulate following the reported December total or remain in the fund balance and are not reported by the IAC.

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Contingency Fund Reporting and Use

The discussion thus far has shown that a considerable amount of contingency funds are not being captured in the reports by the IAC. **Exhibit 4** shows the difference between what was allocated in the CIP and the balance reported on December 31 for fiscal 2002–2006. The negative total for fiscal 2006 reflects the fact that the IAC intends to add additional contingency funds to the CIP in May. As shown in Exhibit 4, the difference between the December 31 balance and funds allocated to the CIP for fiscal 2002 and 2003 is significant. The figures for fiscal 2004 and 2005, while lower, are still a significant amount of funds that may become available in the contingency fund.

Exhibit 5 illustrates the potential magnitude of additional monies that could be available for allocation to projects in fiscal 2006. An estimate of available funds that could be available after December 31 is calculated by taking the average of the difference totals in fiscal 2002 through 2005 in Exhibit 4. After maintaining \$2 million for emergency repairs, \$21.6 million could be available for allocation. The IAC has recommended that \$6 million be allocated to projects and is likely to recommend an additional amount for the final allocations in May. **The IAC should comment on how much it anticipates will be available in the contingency account for the fiscal 2006 CIP, how much it will allocate toward the fiscal 2006 CIP, and how much it will maintain for emergencies.**

Exhibit 4
Difference between December 31 Balance and Funds Allocated to the CIP
Along with an Estimate on Funds Available in the
Contingency Account for Fiscal 2006

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Total Allocated to CIP in May	\$13,000,000	\$16,000,000	\$10,228,000	\$10,852,000	\$6,000,000*
Balance as of Dec 31**	<u>5,114,260</u>	<u>213,937</u>	<u>6,117,264</u>	<u>7,015,466</u>	<u>15,740,424</u>
Additional Balance Available	\$7,885,740	\$15,786,063	\$4,110,736	\$3,836,534	\$9,740,424

* Reflects initial allocation in January.

**Does not include monies for TIMS and relocatables.

Source: Department of Legislative Services

Exhibit 5
Contingency Fund Potential Additional Funds
Fiscal 2006

Balance as of Dec 31*	\$15,740,424
Estimated Additional Funds Available After Dec 31	7,904,768
Total	\$23,645,189
Emergency Repairs	-2,000,000
Potential Available for Allocation in CIP	\$21,645,189

*Does not include monies for TIMS/relocatables.

Source: Department of Legislative Services

Recommended Changes to a Contingency Fund

The IAC, in its reporting on the total in the contingency fund, has continually quoted the December 31 balance for its June and December totals. The reporting of the balance does not provide an accurate portrait as to how much money is in the contingency fund throughout the year. **DLS recommends that language be added to the statute requiring the IAC to report the total in the contingency fund as of the required reporting date, i.e., as of June 1 and move the December due date to December 31. Furthermore, DLS recommends that capital budget language be adopted requiring the IAC provide a report during session that provides the balance as of March 1 in order to capture the balance in the fund prior to the final allocation of contingency funds to the CIP in May each year.**

The contingency fund is a significant source of funding for school construction that is currently maintained “off-budget” with no oversight by the General Assembly. Presently, the budget committees have very limited information on the contingency fund at the time budget decisions are made regarding the level of funding for school construction. As has been previously mentioned, a minimum of \$2 million is required to be maintained in the contingency fund for emergencies. DLS assumes that not only does the IAC maintain this minimum but also may hold funds above this minimum requirement in the contingency fund. Additional funds above the minimum \$2 million requirement could be used as additional funds available for public school construction for these reasons. **DLS recommends that any funds in the contingency fund above the \$2 million emergency reserve be appropriated through the operating budget each year as special fund PAYGO projects. DLS will recommend specific language that could be adopted in the budget reconciliation legislation to implement these recommendations.**

Recommended Actions

1. Concur with Governor's allowance.

Fiscal 2006 Project Status

See the fiscal 2006 Public School Construction *Capital Improvement Program* for a complete listing.

**Total State Allocation for Public School Construction
Fiscal 1972 through Initial 2006 Allocation**

<u>LEA</u>	<u>Allocation</u>	<u>% of Subtotal</u>
Allegany	\$70,640,871	1.8%
Anne Arundel	316,070,481	7.9%
Baltimore City	481,113,475	12.0%
Baltimore County	338,334,657	8.4%
Calvert	109,418,029	2.7%
Caroline	41,291,848	1.0%
Carroll	152,422,570	3.8%
Cecil	96,360,909	2.4%
Charles	148,197,581	3.7%
Dorchester	53,805,207	1.3%
Frederick	218,801,843	5.5%
Garrett	39,704,703	1.0%
Harford	189,198,597	4.7%
Howard	250,950,334	6.3%
Kent	14,684,471	0.4%
Montgomery	581,888,687	14.5%
Prince George's	417,723,744	10.4%
Queen Anne's	43,720,300	1.1%
St. Mary's	119,993,631	3.0%
Somerset	36,744,738	0.9%
Talbot	22,988,268	0.6%
Washington	89,835,709	2.2%
Wicomico	79,593,880	2.0%
Worcester	41,735,813	1.0%
State Projects	14,520,614	0.4%
Subtotal	\$3,969,740,960	100.0%
Statewide Contingency	38,091,040	
Total	\$4,007,832,000	

Source: Fiscal 2006 Public School Construction *Capital Improvement Plan*

**Summary of Fiscal 2006 CIP
December 31, 2004
(Appeals Heard on January 19, 2005
(\$ in Thousands)**

<u>LEA</u>	<u>FY 2006 Budget Request</u>	<u>FY 2006 Allocation</u>	<u>% of Request Funded</u>	<u># of Projects Requested*</u>	<u># of Projects Approved*</u>	<u>% of Requested Projects Approved</u>
Allegany	\$11,000	\$5,000	45.5%	1	1	100.0%
Anne Arundel	32,292	4,138	12.8%	20	4	20.0%
Baltimore City	33,145	4,673	14.1%	19	5	26.3%
Baltimore County	70,361	5,084	7.2%	41	6	14.6%
Calvert	3,438	2,924	85.0%	16	12	75.0%
Caroline	4,756	2,545	53.5%	3	2	66.7%
Carroll	9,887	4,726	47.8%	15	9	60.0%
Cecil	10,309	2,298	22.3%	19	17	89.5%
Charles	13,056	2,494	19.1%	17	4	23.5%
Dorchester	656	656	100.0%	2	2	100.0%
Frederick	41,214	3,970	9.6%	17	3	17.6%
Garrett	1,930	1,400	72.5%	4	3	75.0%
Harford	20,978	3,551	16.9%	7	2	28.6%
Howard	59,677	3,504	5.9%	53	11	20.8%
Kent	2,228	2,000	89.8%	2	2	100.0%
Montgomery	126,242	6,187	4.9%	57	5	8.8%
Prince George's	100,616	6,062	6.0%	40	4	10.0%
Queen Anne's	6,944	1,550	22.3%	1	1	100.0%
St. Mary's	3,282	1,867	56.9%	11	8	72.7%
Somerset	19,158	7,000	36.5%	2	2	100.0%
Talbot	3,600	1,250	34.7%	2	2	100.0%
Washington	8,822	2,506	28.4%	3	2	66.7%
Wicomico	8,894	4,259	47.9%	3	3	100.0%
Worcester	2,241	1,250	55.8%	4	2	50.0%
Total	\$594,726	\$80,894	13.6%	359	112	31.2%

* Includes both planning and funding requests

Source: Fiscal 2006 Public School Construction *Capital Improvement Program*

**Summary of Capital Program Requests
Fiscal 2006 through 2011
(\$ in Thousands)**

<u>LEA</u>	<u>Fiscal 2006</u>	<u>Fiscal 2007</u>	<u>Fiscal 2008</u>	<u>Fiscal 2009</u>	<u>Fiscal 2010</u>	<u>Fiscal 2011</u>	<u>Total</u>	<u>% of Total</u>
Allegany	\$11,000	\$14,000	\$1,551	\$1,379	\$1,217	\$0	\$29,147	1.2%
Anne Arundel	32,292	26,637	16,262	17,178	19,694	14,678	126,741	5.2%
Baltimore City	33,145	47,466	24,080	10,299	14,711	24,428	154,129	6.3%
Baltimore County	70,361	22,500	22,500	22,500	22,500	22,500	182,861	7.5%
Calvert	3,438	10,488	11,286	24,178	22,298	9,702	81,390	3.3%
Caroline	4,756	4,433	12,285	0	6,039	9,350	36,863	1.5%
Carroll	9,887	40,480	6,712	33,103	9,730	2,120	102,032	4.2%
Cecil	10,309	5,730	14,180	5,180	17,938	13,806	67,143	2.7%
Charles	13,056	17,386	10,307	16,563	26,269	37,041	120,622	4.9%
Dorchester	656	991	9,132	4,579	10,071	7,071	32,500	1.3%
Frederick	41,214	41,764	28,684	46,703	24,446	36,666	219,477	8.9%
Garrett	1,930	95	3,675	5,376	1,981	1,402	14,459	0.6%
Harford	20,978	13,901	17,080	21,536	13,679	876	88,050	3.6%
Howard	59,677	17,829	35,629	28,702	32,661	29,324	203,822	8.3%
Kent	2,228	3,534	400	450	300	1,030	7,942	0.3%
Montgomery	126,242	38,396	32,098	45,067	12,835	7,563	262,201	10.7%
Prince George's	100,616	100,803	67,497	85,885	42,184	12,076	409,061	16.7%
Queen Anne's	6,944	6,804	0	0	6,636	13,953	34,337	1.4%
St. Mary's	3,282	8,320	6,737	8,787	7,870	6,971	41,967	1.7%
Somerset	19,158	4,802	970	1,455	1,164	776	28,325	1.2%
Talbot	3,600	3,600	2,578	0	0	0	9,778	0.4%
Washington	8,822	22,760	26,495	14,494	1,907	5,111	79,589	3.2%
Wicomico	8,894	7,276	20,845	24,715	11,530	15,528	88,788	3.6%
Worcester	2,241	10,984	11,038	3,477	4,261	229	32,230	1.3%
Total	\$594,726	\$470,979	\$382,021	\$421,606	\$311,921	\$272,201	\$2,453,414	100.0%
Total Adjusted	\$618,515	\$509,368	\$429,722	\$493,219	\$379,500	\$344,421	\$2,774,745	

Note: The adjustment for inflation is set at 4.0% per year compounded from July 2005.

Numbers may not sum to total due to rounding.

Cost Estimate to Bring Facilities Up to Current Standards for New Construction

<u>School System</u>	<u>Original Estimate</u>	<u>Current Estimate</u>
Allegheny County	\$71,426	\$79,997
Anne Arundel County	336,458	376,833
Baltimore City	570,599	639,071
Baltimore County	408,845	457,906
Calvert County	102,911	115,260
Caroline County	5,435	6,087
Carroll County	135,297	151,533
Cecil County	46,873	52,498
Charles County	178,419	199,829
Dorchester County	33,816	37,874
Frederick County	203,625	228,060
Garrett County	20,142	22,559
Harford County	204,666	229,226
Howard County	168,727	188,974
Kent County	1,180	1,322
Montgomery County	279,307	312,824
Prince George's County	778,225	871,612
Queen Anne's County	9,666	10,826
St. Mary's County	52,530	58,834
Somerset County	9,030	10,114
Talbot County	18,989	21,268
Washington County	93,827	105,086
Wicomico County	69,993	78,392
Worcester County	54,122	60,617
Total State and Local Cost	\$3,854,108	\$4,316,601

Source: Public School Construction Program