

# **Report on Capital Spending & Borrowing in the Commonwealth of Massachusetts 2019-2020**

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**House Committee on Bonding, Capital  
Expenditures and State Assets**

**Representative Antonio F. D. Cabral, Chairman**

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## A Message from the Chairman

The House Committee on Bonding, Capital Expenditures and State Assets is pleased to release this Report on Capital Planning and Spending, which details the capital spending and borrowing activities of the Commonwealth of Massachusetts during the 2019-2020 legislative session. In addition, the report provides a general overview of the capital budget spending executed by the Commonwealth in FY2018 and FY2019. While the state's operating budget is vetted annually, the capital budget process—from legislative authorization to administrative spending—is less transparent and lacks formal review processes. This report aims to provide a longitudinal analysis of the state's capital borrowing and spending, to ascertain trends.

The Massachusetts capital budget is an integral planning tool that operates as a long-term investment device to invest in our communities' economic and social fabric. While 2020 has upended many aspects of our daily routines here in the Commonwealth, the public health and economic crises have underscored the importance of prudent long-term capital planning. Budgets highlight a government's priorities, and at this critical point in our state's history, we must make numerous value-based decisions around the sustainability of our assets, including public transportation and climate change infrastructure. This report is a product of the research and analysis performed by the Committee pursuant to Rule 17G of the Rules of the Massachusetts House of Representatives. Our goal is to inform legislators and the public regarding the investment and borrowing choices that the Commonwealth must make annually. The Committee recommendations emphasize the importance of strong organizational methods to implement robust capital planning initiatives. The ongoing pandemic has also shed light on our collective reliance on information technology infrastructure, in which the Committee also recommends that the Commonwealth pursue data collection and information-sharing at an even larger and more granular scale.

I would like to thank the leadership and staff of each of the secretariats, agencies, and authorities, who provided the Committee with thoughtful, in-depth presentations and the data upon which this report is based. The Committee would like to specifically thank Assistant Secretary for Capital Finance, Kaitlyn Connors, at the Executive Office of Administration & Finance, Deputy Comptroller Jeffrey Shapiro at the Office of the Comptroller, and Assistant Treasurer for Debt Management Sue Perez at the Office of the State Treasurer, for their invaluable work and for making their knowledgeable staff available to us. I would also like to thank Speaker Ronald Mariano, former Speaker Robert DeLeo, and House Ways & Means Chairman Aaron Michlewitz and their staffs for their assistance and support. I offer my gratitude to Committee Vice Chair RoseLee Vincent and each member of our Committee for their active participation and contributions in fulfilling the Committee's oversight function. Finally, I'd like to thank my staff, Staff Director Dana DeBari, Committee Counsel Jamie Howell-Walton, and Research Director & Assistant Staff Director Kate Miller, for their dedication and insight throughout this legislative session.

If you have any questions about the information in this report, please do not hesitate to contact my office.

Thank you,

A handwritten signature in black ink that reads 'Tony Cabral'. The signature is fluid and cursive.

**Antonio F. D. Cabral**

*State Representative, 13<sup>th</sup> Bristol District*

*Chairman, House Committee on Bonding, Capital Expenditures and State Assets*

# House Committee on Bonding, Capital Expenditures and State Assets

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Jamie Howell-Walton, Committee Counsel

Kate Miller, Assistant Staff Director & Research Director

Rachael L. Scott, Administrative Assistant

# Executive Summary

During the two fiscal years that this report covers, the Commonwealth of Massachusetts spent approximately \$6.62 billion on capital projects and related spending—\$3.310 billion in FY2018 and \$3.316 billion in FY2019. These capital spending totals are inclusive of projects that receive reimbursement from the federal government and projects that fall outside of the administrative bond cap, such as the Accelerated Bridge Program. The Commonwealth’s annual capital spending is dictated largely by the administrative bond cap set annually by the Executive Branch, which must be restricted to 105% of the previous fiscal year’s limit. The overall cap, or the maximum amount of general obligation debt that may be issued by the state, influences each secretariat’s annual budgeted capital spending with some important exemptions. The administrative bond cap has grown modestly over Governor Charlie Baker’s tenure from \$2.125 billion in both FY2015 and FY2016, to \$2.43 billion in FY2020. Notably, the Capital Debt Affordability Committee (CDAC) recommended a cap of \$2.53 billion cap for FY2021, but the Baker Administration modified the cap to \$2.46 billion in response to the ongoing public health and economic crises associated with the COVID-19 coronavirus pandemic.<sup>1</sup> The debt service to budgeted revenues ratio remains below the 8% self-imposed cap.

This legislative session, the COVID-19 pandemic has created several unique dynamics in terms of statewide capital spending, particularly around investments in transportation infrastructure. State agencies’ operating budgets remain uncertain despite federal stimulus packages, while the current Administration’s focus has remained on steady capital investment in deferred maintenance needs. For example, the Massachusetts Bay Transportation Authority (MBTA) plans to dedicate \$178 million out of \$250 million in federal relief funds to reinfuse its capital budget, instead of reconsidering service cuts.<sup>2</sup>

At the conclusion of the 191<sup>st</sup> legislative session, a total of five bond bills were passed by the Legislature and signed into law.

<b>191<sup>st</sup> Legislative Session – Bond Bills Signed into Law</b>	<b>Chapter – Year</b>
<b>Chapter 90 “Roads and Bridges” – 2019</b>	<a href="#">Chapter 16 of the Acts of 2019</a>
<b>Chapter 90 “Roads and Bridges” – 2020</b>	<a href="#">Chapter 114 of the Acts of 2020</a>
<b>General Government Infrastructure Technology – 2020</b>	<a href="#">Chapter 151 of the Acts of 2020</a>
<b>Economic Development – 2020</b>	<a href="#">Chapter 358 of the Acts of 2020</a>
<b>Transportation – 2020</b>	<a href="#">Chapter 383 of the Acts of 2020</a>

<sup>1</sup> Commonwealth of Massachusetts (<https://www.mass.gov/doc/fy21-recommendation-to-the-governor/download>)

<sup>2</sup> Chris Lisinski, *Cash Infusion Not Stopping Most MBTA Service Cuts*, WBUR, (Jan. 12, 2021), <https://www.wbur.org/bostonmix/2021/01/12/mbta-stimulus-package-federal-funding-service-cuts>

As noted in several past reports, the Legislature has little control over how these bond authorizations are spent, which leads us to the Committee's three recommendations below.

This Committee makes the following recommendations, a detailed description follows in Chapter 5 (pg. 38):

- 1. The Commonwealth must prioritize the collection and use of data on the condition of all its capital assets across agencies, as well as all capital spending related to the maintenance or creation of these assets and use this data on a continuous basis to develop long-term projections for the capital spending needed to maintain or modernize existing state infrastructure.**
- 2. The Legislature should take a stronger role in managing the scope and priorities of the capital budget, utilizing the legislative tools accessible to members and developing additional transparency processes.**
- 3. The Legislature should restructure the membership, mandate, and resources of the Capital Debt Affordability Committee.**

# Chapter 1: Capital Spending & Borrowing Practices

This report provides an overview of the capital spending and long-term borrowing activity executed by the Commonwealth of Massachusetts over the course of two fiscal years, FY2018 and FY2019. This summary is designed to allow the members of the Legislature, as well as the general public, to develop a framework for understanding how state government approaches the process of financing its capital assets—assets that are used in operations with a useful life that exceeds one year<sup>3</sup>—and how state government chooses the capital assets it wishes to finance. Government budgets are inherently political. They are developed to implement overarching policy goals. Investments are planned and executed under the confines of several conflicting factors. This is important to note because while these budgets may be viewed as detailed accounting tools, there are limitations. Budgets outline what government leaders are willing to pay for and how leadership is seeking to execute said projects. As policy shifts take place with each change in administration, so do the budget priorities. The impacts of these transitions are explained further in Chapter 2 of this report.

The capital budget is the schedule used by the Commonwealth to itemize the long-term investments it chooses to make and the sources of financing for these assets. Here in Massachusetts, all bond authorizations are vetted through the legislative process. In other states, borrowing differs. For example, in Rhode Island, general obligation bonds that exceed the state’s constitutional debt limit of \$50,000 must be directly approved by the voters through referenda.<sup>4</sup> These differences in establishing capital budgets across the country highlight the political nature of government budgetary processes.

Debt service payments on the operating budget—the budget used to itemize revenues projected to be received in the next twelve months and spending scheduled to meet government priorities during the same period—is the annual spending used to finance the capital budget. In Massachusetts, the annual debt service (principal and interest) on the state’s general obligation debt is capped at 10% of total budgeted appropriations.<sup>5</sup> Both the Patrick and Baker Administrations have kept annual debt service payments under 8% of budgeted revenues as a matter of sound fiscal policy.<sup>6</sup>

This section describes the goals and processes used to execute capital budgeting and capital spending in Massachusetts. It will provide a general description of the uses of state government capital funds and the process of state government borrowing in the private capital markets.

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<sup>3</sup> Stephen J. Gautier, *Governmental Accounting, Auditing & Financial Reporting*, p. 439 (2012).

<sup>4</sup> “Strategies for Managing State Debt.” Pew Charitable Trusts. June 2017. [https://www.pewtrusts.org/-/media/assets/2017/06/sfh\\_strategies\\_for\\_managing\\_state\\_debt\\_final.pdf](https://www.pewtrusts.org/-/media/assets/2017/06/sfh_strategies_for_managing_state_debt_final.pdf)

<sup>5</sup> M.G.L. Chapter 29, Section 60B

<sup>6</sup> Commonwealth of Massachusetts  
(<http://budget.digital.mass.gov/bb/h1/fy10h1/prnt10/exec10/pbuddevdev.htm>)

## The Assets: What Does Capital Spending Buy?

Capital spending and capital financing are accounting concepts used to describe spending on assets that have a useful life exceeding one year and the means by which the cost associated with such assets can be allocated between the accounting periods during which said asset is used.<sup>7</sup> To the extent that the Commonwealth purchases an asset that will be in use for more than one fiscal year, the purchase may be placed on the capital budget and financed using sources of revenue that allow the Commonwealth to allocate payment for the asset over more than one fiscal year. The debt service associated with these bonds is then paid out of the state's annual operating budget.

While the annual state operating budget funds programs and vital services administered throughout the state, the capital budget covers a range of infrastructure projects, from roof repairs at a state university campus to the construction of a new courthouse. Transportation assets, like our highways and bridges, dominate the capital budget and require consistent maintenance. Because information technology assets, such as database management software, are typically used for more than one fiscal year, these projects are also incorporated into the capital budget.

During the two fiscal years that this report covers, the Commonwealth spent roughly \$6.62 billion in capital expenditures—\$3.310 billion in FY2018 and \$3.316 billion in FY2019. These spending totals exclude the Office of the State Treasurer's spending categorized under the object class, "SS" or "debt payment," which includes the costs associated with bond redemptions, bond swap payments, and operating transfers. In these two fiscal years, the Treasurer's spending administering bonds increased from \$3.42 billion in FY2018 to \$3.6 billion in FY2019.<sup>8</sup>

Neglect of public infrastructure often results in a dramatic shortening of the useful life of such infrastructure. Some experts estimate that deferred routine maintenance can compound the costs required to make repairs or result in the need to completely replace the deteriorating asset.<sup>9</sup> In contrast, when properly maintained, assets like buses and train cars can safely stay in service beyond their designated useful life. Scheduled maintenance of the Commonwealth's infrastructure is a more cost-effective practice than allowing large-scale facilities, like transit stations, to deteriorate beyond repair.

The issues associated with mounting deferred maintenance needs have become the focus of the Baker Administration, particularly as it relates to the Massachusetts Department of Transportation and the MBTA. As MassDOT and the MBTA make significant headway on various expansion projects, including the Green Line Extension (GLX) and South Coast Rail (SCR), it is critical for administrators to incorporate a deferred maintenance spending schedule that details costs well beyond design and construction.

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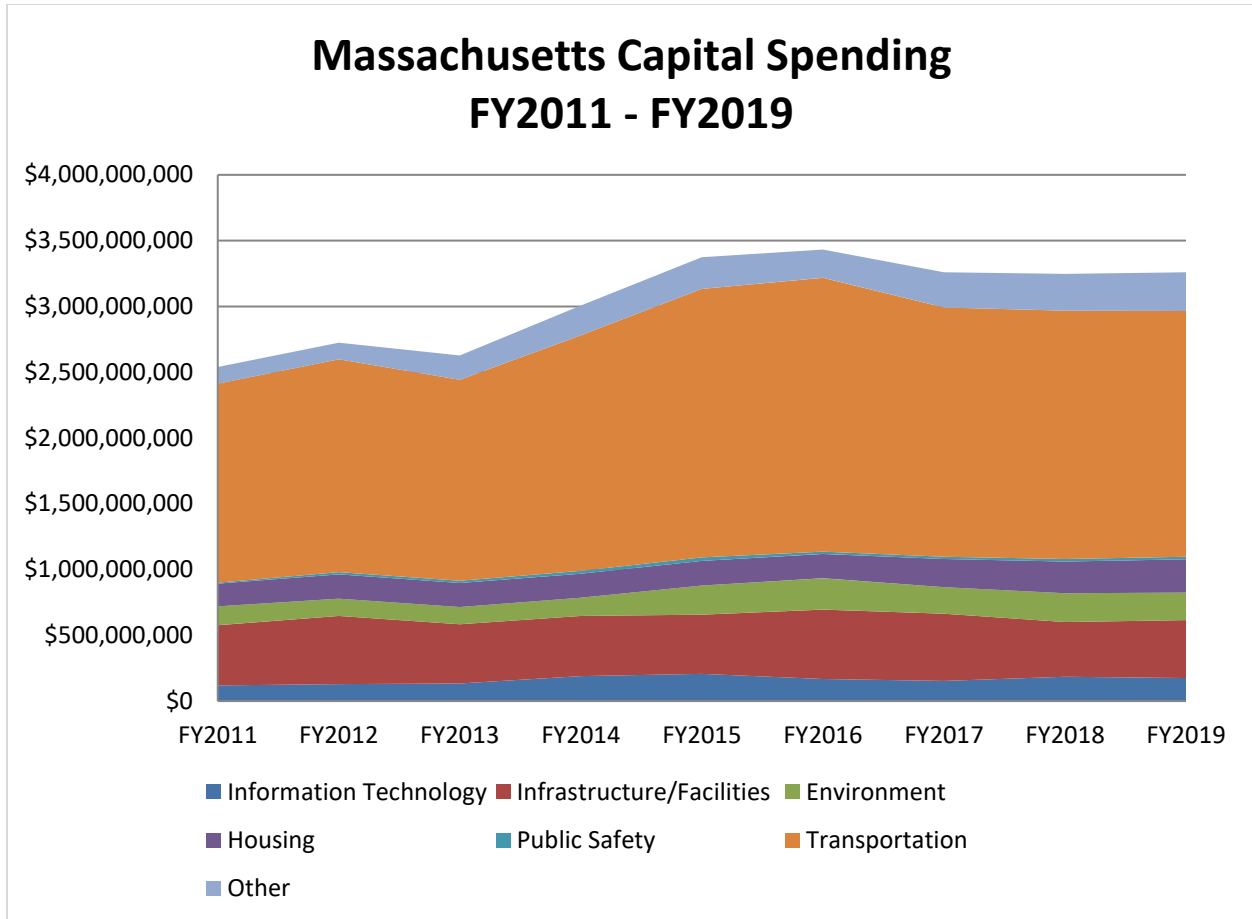
<sup>7</sup> Stephen J. Gautier, *Governmental Accounting, Auditing & Financial Reporting*, p. 439 (2012).

<sup>8</sup> Information provided by the Office of the Treasurer Information Sheet. January 8, 2019.

<sup>9</sup> For a detailed discussion of this dynamic, see David Westerling & Steve Poftak, *Our Legacy of Neglect: The Longfellow Bridge and the Cost of Deferred Maintenance*, PIONEER INSTITUTE PUBLIC POLICY RESEARCH (July 2007).



The following chart outlines the changes in capital spending over the last nine fiscal years, broken down by “investment category.”<sup>10</sup>



Of the \$27.46 billion spent during this nine-year period, nearly 53% was spent on transportation related projects, while about 29% was spent on infrastructure projects. Spending in “Housing” has increased steadily with a more significant jump from 2016 to 2017 reflecting the critical need for more housing in the Commonwealth. Capital spending in FY2017 and FY2018 decreased slightly from FY2016, but overall, funding across these categories has been held level.

## The Liabilities: Why Does the Commonwealth Borrow?

Most of the Commonwealth’s capital spending is funded using long-term state debt, which ranges in maturity from one to thirty years. By borrowing to fund large, one-time expenditures and paying back the borrowing over the course of the life of the asset purchased, the state ensures that, as a matter of accounting, each Massachusetts taxpayer who benefits from an asset contributes to the cost of that asset.

<sup>10</sup> Information provided by the Office of the Treasurer Information Sheet. October 28, 2020.

Such “capitalization” of an asset smooths out the tax burden created by the construction of major public infrastructure.

Many types of capital spending contribute to growth in the economic capacity of the Commonwealth. This growth in capacity creates the potential for increased tax revenue that can contribute to or substantially pay for the initial cost of the asset. This kind of new investment through borrowing does not simply transfer the cost of such investment to future operating budgets supported by taxpayers using the asset over its useful life. Such investment also makes the Commonwealth better able to fund itself by growing the economy.

## The Process: How Does the Commonwealth Borrow?

There are three categories of rules that govern the borrowing activities of Massachusetts: (1) constitutional; (2) statutory; and (3) administrative.

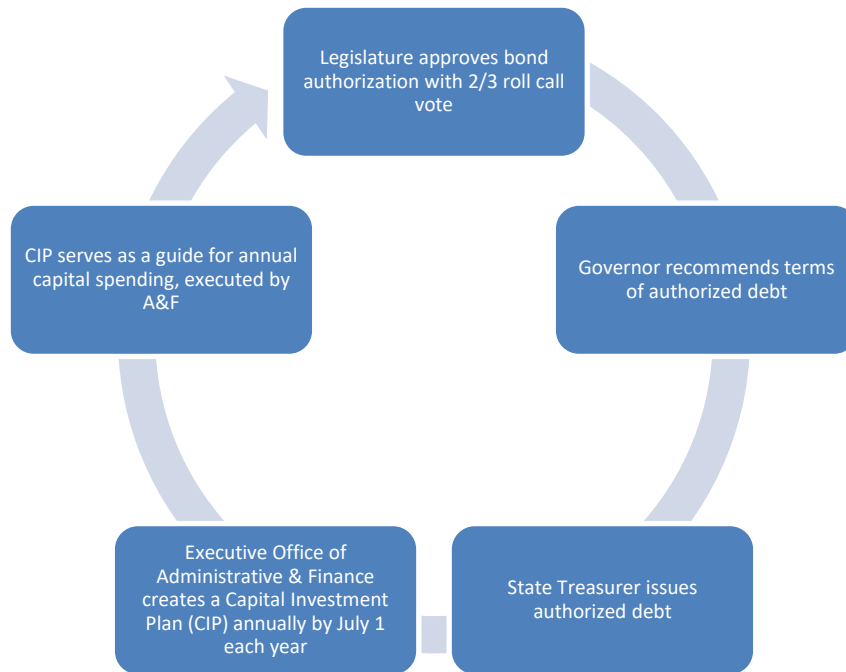
First, Article 62 of the Amendments to the Massachusetts Constitution requires that any borrowing for a term longer than one year receive approval from two-thirds of each chamber of the General Court. Additionally, Article 62 prohibits the Commonwealth from using borrowed funds to support the capital structure of private entities.

Second, Chapter 29 of the General Laws contains several sections that control the capital spending process. Section 9G of that Chapter provides general authority to the Governor to choose the extent to which bond authorizations are spent. Section 14 further provides that bond authorizations approved by the General Court may be used for a period of five years after such authorizations are passed into law. Read together, these provisions give the Governor control over capital spending but require the Governor to execute the capital spending chosen from the menu of authorizations approved by two-thirds of the Legislature within a period of five years, absent additional authority from the Legislature. In addition, Section 60A of Chapter 29 limits the annual growth of the direct debt of the Commonwealth to no more than 5% per year, with a starting level of debt of \$17,070,000,000 in 2011. In FY2019, the statutory debt limit was approximately \$24 billion.<sup>11</sup>

Third, the Baker Administration has kept capital spending growth far below the \$125 million annual increases during the second term of the previous Governor’s administration. From FY2015, when Governor Baker was sworn in, to FY2020, the *overall* general obligation bond cap has increased by \$305 million: \$0 from FY2015 to FY2016, \$65 million into FY2017, \$70 million to FY2018, \$80 million in FY2019, and \$90 million into FY2020. The following chart attempts to illustrate the annual process.

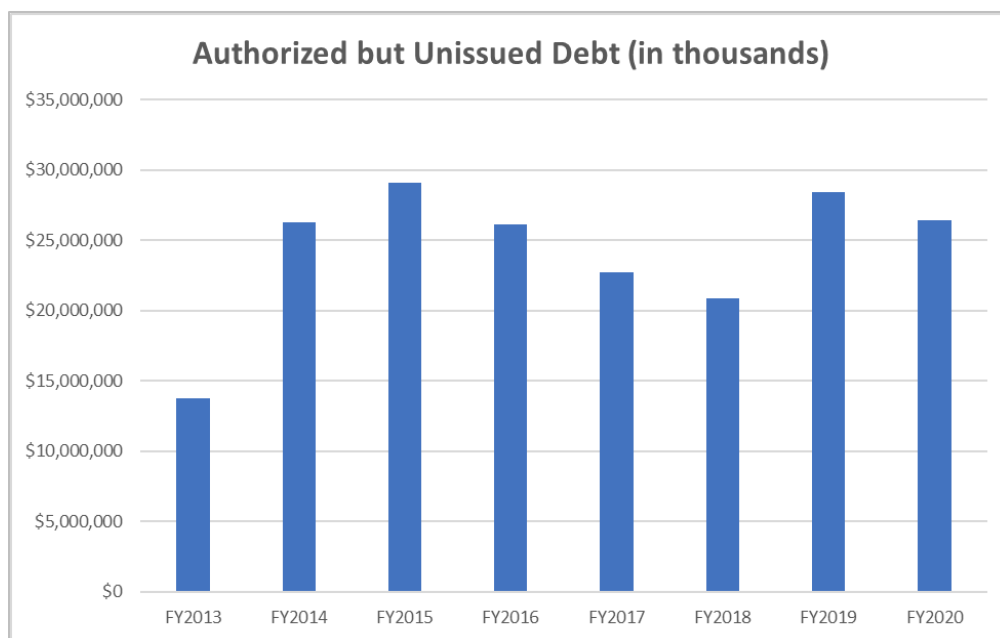
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<sup>11</sup> Information provided by the Office of the Treasurer Information Sheet. May 7, 2019.



On a cash basis, the Commonwealth’s practice has been, and remains, to spend first and borrow second. The state spends money authorized in capital budget accounts by borrowing on a short-term basis from the general fund. When the outstanding cash balance of these capital budget accounts reaches a level that makes issuing bonds economical, the Office of the State Treasurer sells bonds in an amount sufficient to eliminate the balance owed to the General Fund.

An important measure analyzed by the House Committee on Bonding is the extent to which existing bond authorizations are used by the administration. Between the years 2011-2020, authorized and unissued debt peaked in 2015 and again in 2019, likely due to a positive economic climate, prior to the COVID-19 pandemic. A more detailed chart related to uncommitted funds is included in Chapter 3 of this report.



### **The Market for Massachusetts Bonds**

Massachusetts bonds are marketed, bought, and sold to investors in the tax-exempt municipal bond market. This \$3.7 trillion market<sup>12</sup> is made up of all the liabilities of the municipalities and states located in the United States. Each of these entities, including the Commonwealth, benefit from an exemption from the federal income tax for interest paid to holders of their debt. This tax exemption has existed in various forms since the inception of the federal income tax and constitutes the largest single federal program subsidizing the construction and maintenance of public capital assets in the United States.

The subsidy benefits Massachusetts and other state and local entities because purchasers of its bonds will accept lower interest rates than the interest rate such purchasers charge for corporate debt or U.S. Treasury debt, both of which are taxable at the federal level. The cost of this subsidy to the federal government, arguably the value received from this subsidy by the several states and their political instrumentalities, will be \$147.1 billion between 2020 and 2024, according to Congress' Joint Committee on Taxation.<sup>13</sup>

Some argue the sweeping changes to the federal tax code in 2017 created interest in municipal bonds.<sup>14</sup> The \$10,000 cap on filer's claimed state and local tax deduction increases demand for tax-free investment—interest income on municipal bonds remain exempt from federal taxation—and the law's elimination

<sup>12</sup> Cooper Howard, *2021 Muni Bond Outlook: Storm Clouds Clearing*, CHARLES SCHWAB, (Nov. 24, 2020), <https://www.schwab.com/resource-center/insights/content/2021-muni-bond-outlook-storm-clouds-clearing>

<sup>13</sup> Joint Committee on Taxation, *Estimates of Federal Tax Expenditures For Fiscal Years 2020-2024*, (JCX-23-20), Nov. 5, 2020.

<sup>14</sup> Carla Fried, *The Tax Law Gives Municipal Bonds a New Allure*, N.Y. TIMES, (Feb. 23, 2018), [www.nytimes.com/2018/02/23/business/the-tax-law-gives-municipal-bonds-a-new-allure.html](http://www.nytimes.com/2018/02/23/business/the-tax-law-gives-municipal-bonds-a-new-allure.html).

of advance refunding issues (approximately 15 percent of issuances) will constrain supply. These and other changes, they argue, have the potential to drive bond prices higher and yields lower.

Over the last number of years, the price of borrowing for states, cities, and towns has continued to decrease. This change is part of an overall multi-decade trend related to the general decline in interest rates on all debt that has resulted from a long-term policy of near record low interest rates on short-term borrowing offered by the Federal Reserve Board.<sup>15</sup> The bond market may continue to decline as state and local governments navigate the ever-changing economic landscape during the COVID-19 pandemic and investors may be wary of purchasing bonds from state governments that are having difficulty balancing their budgets. Since March 2020, when the pandemic began to impact the United States' economy, the municipal federal funds interest rate ranged from 0% to .25% and will most likely not return to pre-pandemic rates until 2023.<sup>16</sup>

## Massachusetts Debt Affordability

When analyzing a state's capacity to take on debt, a myriad of different factors—assessed with varying levels of scrutiny—are considered. This lack of uniformity makes the process of evaluating an individual state's level of debt affordability, in comparison to other states, fairly subjective. In many instances, state-by-state debt-level comparative analyses sometimes fail to differentiate between a state's bond issuers. For example, Massachusetts has historically borrowed more at the state-level versus at the municipal or county levels, in contrast to other state's borrowing portfolios.<sup>17</sup>

According to research published by the Pew Charitable Trusts in June 2017 on the issue of state debt affordability, nine states, including Massachusetts, have adopted exemplary analytical debt management practices to make this process less arbitrary.<sup>18</sup> These practices are also viewed favorably by the credit rating agencies that dictate bond ratings. The Commonwealth's Capital Debt Affordability Committee (CDAC), established by state law in 2012, is a critical component of this ongoing analysis, which is discussed further in Chapter 4 of this report.

National trends indicate that states have assumed a larger role in financing large-scale infrastructure projects, particularly those related to transportation, as the federal government's investments have dramatically slowed. This means that the Commonwealth must borrow more to properly invest in its existing infrastructure and build new assets, in ways that bolster the economy and produce returns on those investments in the form of increased tax revenues. Mounting deferred maintenance needs throughout the state should serve as an important factor when discussing the state's level of debt

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<sup>15</sup> Elizabeth McNichol, *Its Time for States to Invest in Infrastructure*, CENTER ON BUDGET & POLICY PRIORITIES, (Feb. 23, 2016), <http://www.cbpp.org/research/state-budget-and-tax/its-time-for-states-to-invest-in-infrastructure>.

<sup>16</sup> Kimberly Amadeo, *Current Federal Reserve Interest Rates and Why They Change*, THE BALANCE, (Dec. 16, 2020), <https://www.thebalance.com/current-federal-reserve-interest-rates-4770718>

<sup>17</sup> For a review of the analysis commonly applied in reviewing the debt burden of several states, see Jennifer Weiner, *Research Report: Assessing the Affordability of State Debt*, NEW ENGLAND PUBLIC POLICY CENTER (December 2013).

<sup>18</sup> Pew Charitable Trust. p. 1, [https://www.pewtrusts.org/-/media/assets/2017/06/sfh\\_strategies\\_for\\_managing\\_state\\_debt\\_final.pdf](https://www.pewtrusts.org/-/media/assets/2017/06/sfh_strategies_for_managing_state_debt_final.pdf)

affordability. Lawmakers must decide whether state government's hesitancy to substantially increase capital borrowing and spending is putting the state economy's future financial health at risk.

There is no need to look any further than the condition of the state's transportation system to understand that failure to properly invest in capital infrastructure hinders economic growth. The Massachusetts private sector, with its highly skilled and well-educated workforce, agrees the state's public transportation woes negatively impact business and intervention is needed.<sup>19</sup>

Massachusetts' bond ratings remain high in recognition of a growing economy and a well-established record of responsible borrowing despite the economic impacts caused by the COVID-19 pandemic.<sup>20</sup> In March of 2020, Governor Baker issued an executive order for all non-essential businesses to cease in-person operation. Massachusetts, like many other parts of the world, found itself in the middle of a global pandemic and asked residents to self-isolate and abide by social distancing protocols to try to contain the novel virus.<sup>21</sup> The Commonwealth's revenue and unemployment rate took immediate hits due to COVID-19, but it may take years to fully understand the long-term effects of the virus on Massachusetts' economy. As of November 2020, Moody's maintained the Commonwealth's creditworthiness at Aa1 stable. Moody's commended Massachusetts because "the state was able to balance operations without draws on reserves, while still funding key health care response items" and further went on to state "we do not see any material immediate credit risks for Massachusetts. However, the situation surrounding the coronavirus is rapidly evolving and the longer-term impact will depend on both the severity and duration of the crisis."<sup>22</sup>

Meanwhile, the debt service to budgeted revenues and other financing sources ratio (another measure used by the CDAC to determine its recommendations on the annual GO bond cap) has hovered between 5-6% over the past eight fiscal years (as shown in the chart below).<sup>23</sup> These percentages are well under the 8% self-imposed ratio cap. With such favorable conditions, cost-benefit analyses that encompass these outside factors may yield less conservative borrowing and spending plans that are well within the scope of responsible fiscal policy even during a state and national emergency.

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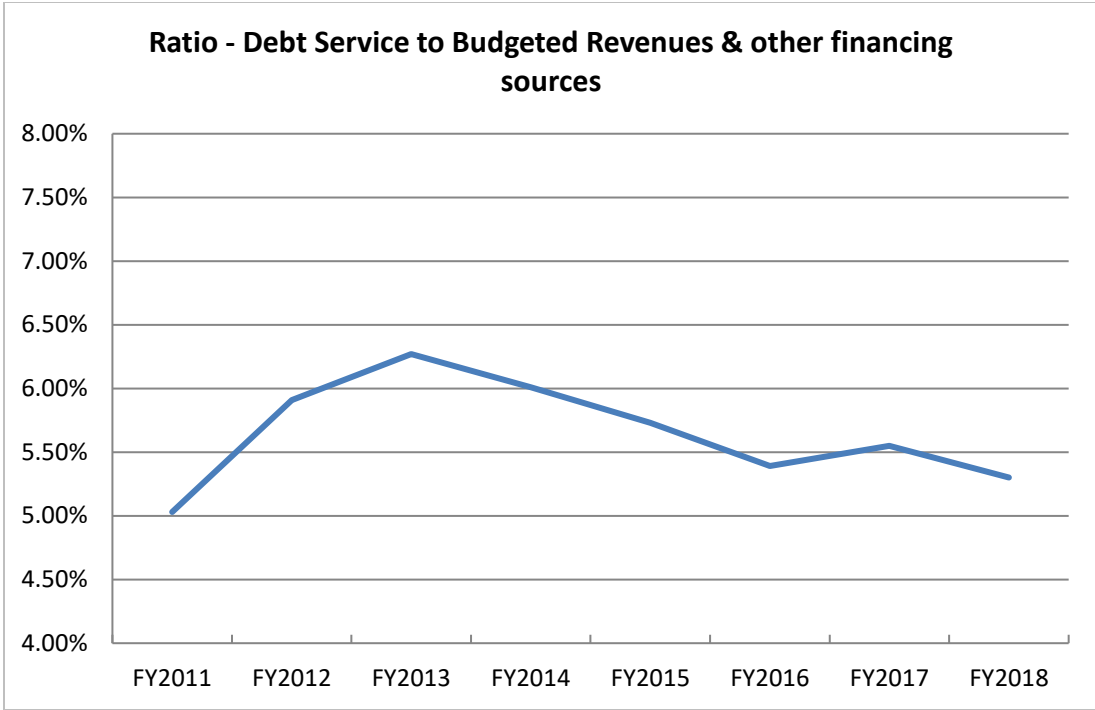
<sup>19</sup> Jon Chesto, *Business leaders set their sights on solving Mass. transportation problems*, THE BOSTON GLOBE, Oct. 23, 2018, <https://www.bostonglobe.com/business/2018/10/23/business-leaders-set-their-sights-solving-mass-transportation-problems/Rw4C8ueyDnnOtUE6d0FQDO/story.html>

<sup>20</sup> For recent examples of the Commonwealth credit rating reviews by Moody's or S&P, see Credit Opinion: Commonwealth of Massachusetts, Moody's Investor Services (June 1, 2016); Massachusetts Credit Profile, S&P Global Ratings Direct (June 7, 2016). Copies of the Commonwealth's rating can be accessed at <http://www.massbondholder.com/debt-investments/bonds/ratings/reports-archive>.

<sup>21</sup> Governor Baker's Press Office (<https://www.mass.gov/news/governor-charlie-baker-orders-all-non-essential-businesses-to-cess-in-person-operation>)

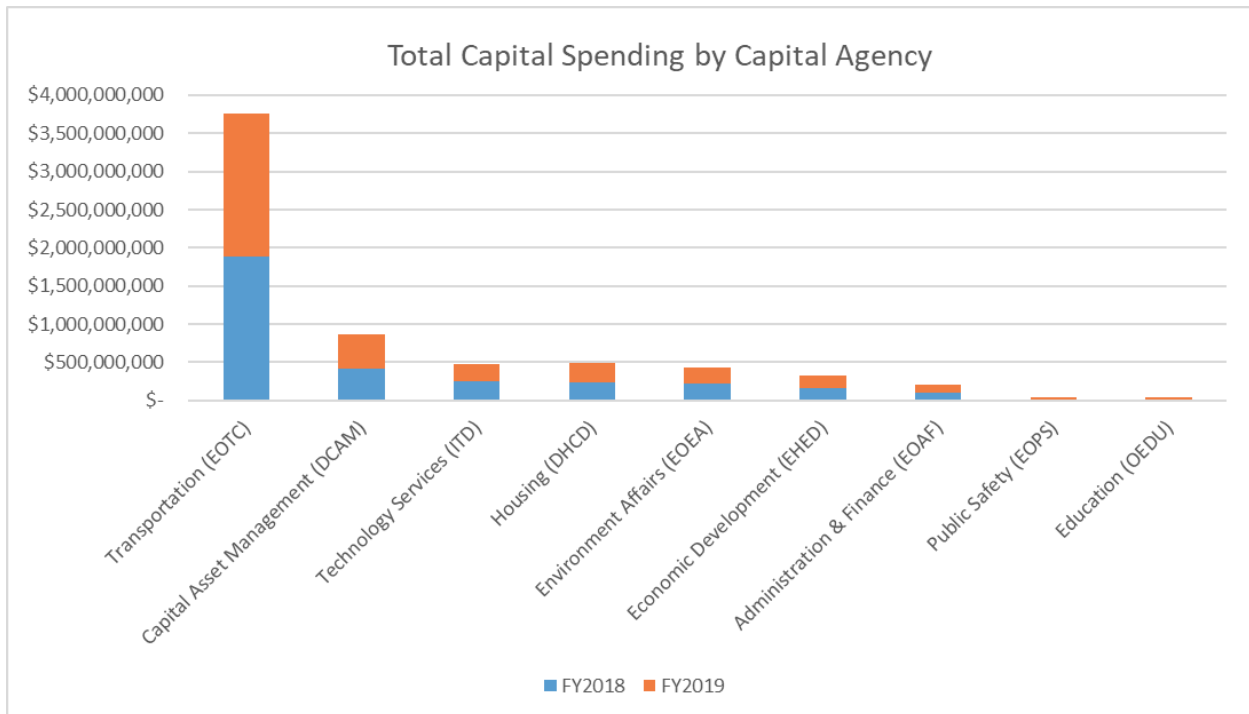
<sup>22</sup> Mass Bond Holder (<https://www.massbondholder.com/sites/default/files/2020-11/Credit%20Opinion%20-%20Massachusetts-Commonwealth-of%20-%2012Nov20.pdf>)

<sup>23</sup> The Office of the Comptroller's annual Statutory Basis Financial Reports (SBFR) are available online at: <https://www.macomptroller.org/sbfr>



# Chapter 2: Capital Needs and Issues by Agency

This section will review recent capital spending and projected future capital spending of eight state agencies. Most of the information contained in this chapter is a compilation of material provided during public oversight hearings on capital spending organized by the Committee during the 2019-2020 legislative session. Specific data that categorizes the type of capital spending executed by each “capital agency” was provided to the Committee by the Executive Office of Administration and Finance (A&F).



The capital budget differs from the operating budget in several ways. The Legislature designates money to the capital budget through bond legislation, which features authorizations to be spent over five years or longer. Unlike the state’s operating budget, in which funds are appropriated on an annual basis, the Legislature reviews and passes bond legislation less frequently based upon changing capital needs and the expiration of past accounts.

In FY2018, Massachusetts passed approximately \$444 million in bond authorizations with no de-authorizations and in FY2019, the state approved approximately \$10.251 billion in bond authorization and approximately \$344 million in de-authorizations of previously enacted bond bills.<sup>24</sup>

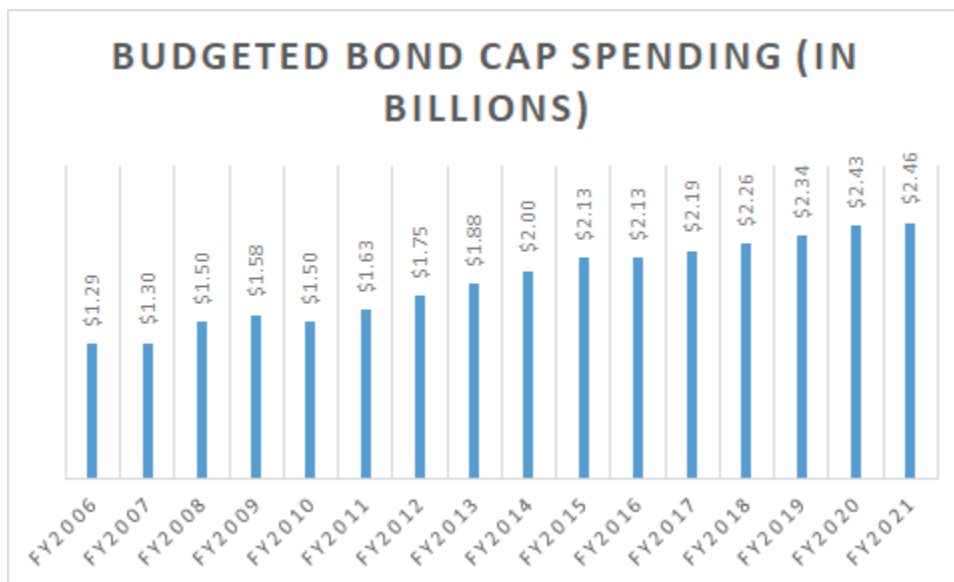
Another important difference between the operating and capital budgets is, that while the Executive Branch is legally bound to spend state dollars on the programs and projects specifically outlined in the

<sup>24</sup> Statutory Basis Financial Report. FY2018 & FY2019



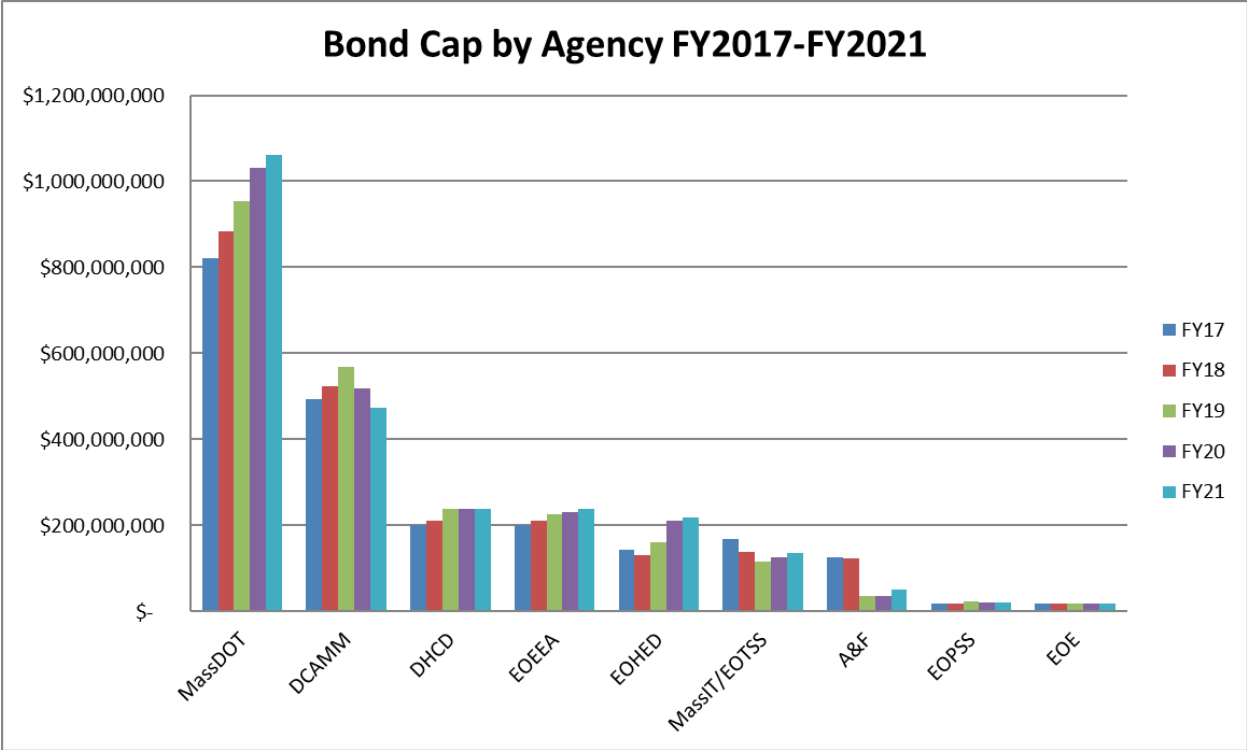
annual operating budget passed by the Legislature, the Governor is offered much more flexibility when deciding which capital projects to fund. The trend over the past several legislative sessions has involved the Administration filing its own bond legislation with language vague enough to facilitate unforeseen future projects that ultimately are not reviewed or debated by the Legislature.

The growth of the state’s annual capital bond cap is also determined solely by the Administration, which greatly impacts which capital projects receive funding. As outlined in the graph below, the Baker Administration, in direct consultation with the Capital Debt Affordability Committee (which does not include voting members from the Legislature), has put forth a much more modest financing schedule. The Baker Administration continues to increase capital spending “in line with tax revenue growth” represented by a 3.2% increase in FY2018 and a 3.5% increase in FY2019.<sup>25</sup> Other than observing CDAC meetings held by A&F, the Legislature has little authority during this decision-making process.



In an effort to promote both transparency and sound policy-making, the Administration’s draft capital spending plans should undergo legislative review to ensure the capital budget receives scrutiny comparable to that of the operating budget. As stated in previous reports, the need to invest in our public infrastructure is growing, particularly in our transportation system and to address the omnipresent threat of climate change. The only state agency that has seen a consistent increase in its bond cap spending allotment from the Baker Administration is the Massachusetts Department of Transportation (MassDOT), as highlighted in the following graph. The Executive Office of Environmental Affairs and Energy (EOEEA) has experienced modest increases to its cap over the past five years. These secretariat-level bond caps are featured in the Administration’s annual Capital Investment Plan (CIP).

<sup>25</sup> Information provided by the Office of the Treasurer Information Sheet. April 10, 2019.



## Administration & Finance

The Executive Office of Administration & Finance (A&F) is the primary developer of the capital budget policy for the Commonwealth, both by setting the total annual capital budget and allocating that total among the various secretariats. A&F directly administers 16 state agencies, including the Division of Capital Asset Maintenance (DCAMM), the state agency responsible for construction and maintenance of most state buildings.

As shown in the “Bond Cap by Agency” figure above, the Executive Office of Administration and Finance’s bond cap dropped off significantly from \$123.9 million in FY2018 to \$35.2 million in FY2019, while DCAMM’s parceled-out bond cap peaked in FY2019. The FY2019-FY2023 CIP offered little explanation for the 72% drop in bond cap for A&F’s capital projects. In terms of spending, DCAMM and A&F collectively spent \$518.5 million in FY2018 and \$547.6 million in FY2019. Notable, large-scale projects in both fiscal years included improvements made to the Chelsea and Holyoke Soldiers’ Homes.

## Energy & Environmental Affairs

In FY2018 and FY2019, the Executive Office of Energy and Environmental Affairs (EOEEA) spent \$216.78 million and \$210.27 million respectively on capital projects. EOEEA’s bond cap increased by \$15 million from FY2018 to FY2019, the largest single-year increase over the past five fiscal years. During both fiscal years, over \$50 million was spent annually on the state’s recreational facilities.

On February 27, 2020, Secretary of the Executive Office of Energy and Environmental Affairs Kathleen Theoharides, testified before the Committee to discuss the agency’s spending and how the EOEEA plans to focus funds on maintaining existing assets and completing projects that are already underway.

Secretary Theoharides testified that the Administration’s strategy for the FY2020 Capital Investment Plan (CIP) is to protect against climate change, protect the Commonwealth’s resources, invest in communities, and increase access to recreational opportunities.<sup>26</sup> The Secretary expanded the capacity of the Community Investment Grants, which will go directly to communities to rehabilitate urban parks, conserve land, and protect drinking water. The FY2020 CIP also introduced a new program geared towards renovating and designing cranberry bogs to be more efficient.

## Health & Human Services

As the largest secretariat in state government, the Executive Office of Health & Human Services (EOHHS) oversees 12 departments, including MassHealth, which focuses on providing mental, emotional, and physical health services to Massachusetts residents.

In the data provided by A&F, all EOHHS capital projects were coded under the umbrella of the Executive Office of Technology Services and Security (EOTSS), which is labeled as “ITD” within the internal A&F data system. In FY2018 and FY2019, ITD spent approximately \$56.13 million and \$47.1 million on Health and Human Services IT projects, respectively. It is important to note that in FY2017, EOHHS spent \$31.75 million on capital projects directly under their authority and worked with the Executive Office of Technology Services and Security (EOTSS) to take over the day-to-day technological operations of the MassHealth program with an additional \$37.8 million.

On November 13, 2019, Assistant Secretary for Administration and Finance at EOHHS, Alda Rego, testified before the Committee to offer a description of current and planned capital spending projects and needs. Assistant Secretary Rego asserted that EOHHS was in its final year upgrading the Department of Children and Families’ Enterprise Mobility Project technology platform. The technology allows DCF staff, providers, social workers, and partners to access, view, enter and analyze information to aid decision-making for the well-being of the children.<sup>27</sup> Over the two fiscal years that this report covers, a total of \$7.96 million had been spent on the project. The second major EOHHS initiative is the Early Intervention (EI) Program. The program aims to provide a new cloud hosted web-based solution that will support EI client and service data management, EI claims, processing and adjudication, invoicing, programmatic oversight, and reporting.<sup>28</sup> In FY2018 and FY2019, a total of \$2.5 million had been spent on the EI program.

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<sup>26</sup> Testimony by Executive Office of Energy and Environmental Affairs at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on February 27, 2020

<sup>27</sup> Testimony by Executive Office of Health and Human Services at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on November 13, 2019

<sup>28</sup> *Id.*

## Housing & Economic Development

The Executive Office of Housing & Economic Development (EOHED), which oversees the Department of Housing and Community Development (DHCD), uses a variety of grant programs funded via the Commonwealth's capital budget to help support housing and economic development activities. In FY2018 and FY2019, the secretariat, inclusive of DHCD, spent \$405.6 million and \$418.84 million in capital funds, respectively. Spending on public housing exceeded \$80 million in each of the two fiscal years.

In his February 11, 2020 testimony before this Committee, EOHED Secretary Mike Kennealy spoke of spending plans and the four major focuses of the Baker Administration: (1) addressing the housing crisis, (2) creating vibrant communities, (3) enhancing business competitiveness, and (4) facilitating workforce development.<sup>29</sup> Below are several significant programs under the EOHED capital planning umbrella.

The Massachusetts Life Sciences Center (MLSC) Program will receive \$40 million in the FY2020 CIP, which is a substantial increase from the FY2019 CIP, which budgeted \$22 million for the Center. The MLSC Program was charged in the Life Sciences Bond Bill of 2008 with the implementation of a 10-year \$1 billion effort to invest in life science initiatives and the Baker Administration continued its commitment to this program by signing an additional Life Sciences Bond Bill into law on June 15, 2018. The bill:

- Authorized \$473 million in capital funding to enable the state to continue strengthening the ecosystem through targeted investments, and
- Extended and expanded the state tax incentive program's annual statutory cap to \$30 million, totaling \$150 million over five years<sup>30</sup>

In the 2020 CIP, MassWorks received \$100 million for their grant program for public infrastructure projects that leverage economic development and housing production. A total of \$121 million will go towards housing development capital programs. Specifically, \$35 million will be used to fund the Affordable Housing Trust Fund and \$21.2 million will go towards the Housing Stabilization Fund.<sup>31</sup>

## Public Safety

The Executive Office of Public Safety and Security (EOPSS) oversees 12 agencies and 100 facilities across the Commonwealth. EOPSS spent \$17.95 million in capital funds in FY2018 and \$19.23 million in FY2019. It is important to note that capital projects associated with improvements being made to the state's jail and correctional facilities fall under the purview of DCAMM. The largest expenditures during both fiscal years that this report covers was on EOPSS' "Cruiser Fleet Replacement Program."

On February 25, 2020, EOPSS Secretary Thomas Turco, described three categories: (1) upgrades to public safety information infrastructure, (2) updated public safety equipment, and (3) facility improvements as

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<sup>29</sup> Testimony by Executive Office of Housing and Economic Development at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on February 11, 2020

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

his agency's top capital spending priorities. The FY2020 CIP budgets \$28.1 million for EOPPS and that 95% of the budget is dedicated to maintaining existing capital assets, such as State Police cruisers, MEMA communication towers, and funding for municipal grant programs.<sup>32</sup> In addition to EOPSS's capital budget, there is \$43.3 million in DCAMM's capital budget for public safety facility projects and \$34.5 million within EOTSS's capital budget for public safety-related IT projects.<sup>33</sup>

The Department of State Police has 3,180 vehicles, in which 330 vehicles were replaced in FY2019 using capital bond funds.<sup>34</sup> Also, in FY2019, 198 mobile data terminals were purchased, which included hardware, system infrastructure, services, warranty, and installation costs.<sup>35</sup> The State Police also contracted with Geotab, a fleet management software company, for services related to the automated vehicle locators which will continue into FY2020.<sup>36</sup>

The FY2020 capital budget includes \$5 million for a new Protective Fire Equipment Local Grant Program.<sup>37</sup> The program will award municipal fire departments in the Commonwealth to acquire eligible equipment, such as turnout gear, washers-dryer units, communication devices, self-contained breathing apparatus, fit test equipment, thermal imaging devices, and other safety equipment.

## Education

The five University of Massachusetts campuses, nine state universities, and 15 community colleges of the Commonwealth's public higher education system receive capital funding through three entities: the Massachusetts Department of Higher Education, the University of Massachusetts, and the Massachusetts State College Building Authority.

The capital spending totals for the Executive Office of Education (EOE) was \$14.75 million in FY2018 and \$21.28 million in FY2019. In FY2019, EOE spent over \$6.2 million on the Early Education and Out-of-School Time Capital Fund to improve early education and care facilities throughout the state. The majority of the projects that received capital funding in FY2018 and FY2019 were projects under \$1 million with the purpose of addressing deferred maintenance needs, such as life safety upgrades and roof replacements at various campuses.

### Executive Office of Education

The Executive Office of Education's capital budget is set for \$182 million for public colleges and universities.<sup>38</sup> In his testimony, James Peyser, Secretary of the Executive Office of Education discussed the

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<sup>32</sup> FY2020-FY2024 Capital Investment Plan

<sup>33</sup> Testimony by Executive Office of Public Safety & Security at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on February 25, 2020

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Testimony by Executive Office of Education at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on July 25, 2019

Higher Education Strategic Capital Investment Framework, to tackle the capital infrastructure concerns at the state's institutions of higher education. The purpose of the Framework is to establish a capital allocation system that is data-driven, transparent, and strategic.<sup>39</sup>

The Framework has four main categories of investment: (1) critical repairs to address ongoing deferred building maintenance, (2) accelerated infrastructure for larger campus-wide projects affecting core operations, or health and safety, (3) readiness projects that require in-depth planning; and (4) major projects for renovation or replacement of deteriorated buildings.<sup>40</sup>

As Secretary Peyser stated in his testimony, EOE, in partnership with DCAMM, has placed a high priority on critical repairs and critical infrastructure. In FY2019, a total of 160 "Critical Repairs" projects worth \$51.6 million were approved.<sup>41</sup> \$59.7 million went toward "Accelerated Infrastructure" projects to accelerate the time from project award to completion.<sup>42</sup> \$2.9 million was allocated for "Readiness Projects," to provide information and analysis for potential future capital requests.<sup>43</sup> Finally, \$60.5 million will be to maintain construction projects that are just beginning or are already underway.<sup>44</sup>

### **University of Massachusetts**

The five campuses that make up the University of Massachusetts (UMass) system educate over 75,000 students each year with more than 18,000 graduates.<sup>45</sup> More than 70% of UMass graduates stay and work in Massachusetts after their studies, directly contributing to the state's economy.<sup>46</sup>

The capital assets of UMass include more than 27 million square feet of facility space, with over 300 buildings, ranging from historic to modern structures, which support the wide spectrum of programming available from UMass, from agricultural programs to state-of-the-art scientific research laboratories. Due to an extended period of limited capital investment in the 1980s and 1990s, over 70% of the infrastructure in the UMass system is over 30 years old. This is the root cause of their significant concern over deferred maintenance costs.

On July 25, 2019, UMass President Marty Meehan testified before the Committee to provide an update on the ongoing capital needs and the Five-Year Capital Plan for the University of Massachusetts.

UMass continues to work with Sightlines, a subsidiary of Gordian (a private company offering a construction cost database to clients), to quantify and address its deferred maintenance backlog. Their new policy defines "keep up" and "catch up" spending, while also establishing spending targets and

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Testimony by University of Massachusetts on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on July 25, 2019

<sup>46</sup> *Id.*

requirements to ensure that adequate resources are available to meet the capital renewal needs of each campus.<sup>47</sup> Every campus has developed a 10-year master plan to serve as a basis for the five-year plans that are used in developing the university's overall capital program.

As they have mentioned in previous years, UMass has a backlog of \$3 billion for education and general facilities and \$1 billion for auxiliary facilities that will come due in next 10 years. The bulk of funding for UMass capital projects comes from the University itself, approximately 83%, while the remaining 17% is provided by the state.<sup>48</sup>

The majority of the UMass campuses will reach their 8% debt limit in the near future, and will not have the capacity to continue borrowing.<sup>49</sup>

### **Massachusetts Community Colleges**

According to testimony provided to the Committee on July 25, 2019, by Dr. Patricia Gentile, President of the Massachusetts Association of Community Colleges, Massachusetts Community Colleges have a need of more than \$1.3 billion in deferred maintenance for the existing facilities among the 15 community colleges.<sup>50</sup>

Dr. Gentile testified that there is a growing gap in educational opportunities for Massachusetts residents who come from low-income families and communities of color. 52% of Massachusetts residents enrolled in an undergraduate degree program are at a community college.<sup>51</sup> The 15 state community colleges serve the largest portion of people of color and lower income individuals than any other sector, public or private.<sup>52</sup> Dr. Gentile concluded that community colleges in Massachusetts are “the engines of opportunity for underserved students.”<sup>53</sup>

Without significant investment, teaching spaces will continue to be outdated and of poor quality.

### **Massachusetts State College Building Authority**

The Massachusetts State College Building Authority (MSCBA) oversees 55 residential complexes, over 4.5 million square feet of property.<sup>54</sup> Edward Adelman, Executive Director of MSCBA, testified before the Committee on July 25, 2019, to provide insight on the status of capital projects overseen by this Authority.

MSCBA undertakes four types of capital projects:

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<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Testimony by Massachusetts Community Colleges at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on July 25, 2020

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> Testimony by Massachusetts State College Building Authority at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on July 25, 2019

- Residence Hall Construction - informed by the Authority's biennial Strategic Plan and financed through student fees.
- Renewal of Existing Facilities - informed by the Authority's Facility Renewal Plan and financed through the use of reserves and increases to rental fees.
- Student Activity Facilities - financed through student fees, campus contribution, and vendor support.
- Academic Facilities - issue debt to support projects authorized in Public Higher Education Capital Improvement Bond Bill of 2008<sup>55</sup>

All projects undertaken by the MSCBA are funded by room rents and other fees paid by students at Massachusetts state universities and community colleges.<sup>56</sup>

In FY2018 and FY2019, the MSCBA issued \$33.6 million in new money bonds, applied \$8.8 million in reserves for facility renewal and reinvestment on nine campuses, and issued refunding bonds of \$118.6 million.<sup>57</sup> For capital projects that were completed in FY2018 and FY2019, the MSCBA had budgeted approximately \$95 million and only spent about \$89 million, which is about a 5.8% savings for the Commonwealth.<sup>58</sup>

## Judiciary

The Massachusetts Trial Court, in coordination with the Division of Capital Asset Management & Maintenance (DCAMM), manages the 100 courthouses that currently make up the state's court system. In FY2018, the Trial Court spent approximately \$61.67 million on major projects and about \$49.7 million of that amount going towards the new Lowell Trial Courthouse. In FY2019, the Trial Court spent approximately \$67.17 million on capital projects, with \$48.96 million going towards the Lowell Trial Courthouse and the \$6.9 million towards the Edward J. Sullivan Courthouse in Cambridge. FY2019's capital spending total is well below the \$90.33 million bond cap for the "Courts" policy area established in the FY2019-FY2023 CIP.<sup>59</sup>

In April of 2019, the Trial Court provided an update on the implementation of Phase 1A, emphasizing the "need to do more with available resources, while maintaining priorities."<sup>60</sup> After the review, several of the recommendations included re-assessing solutions at each location, evaluating needs against resources, implementing technological transformations, and reevaluating operational expenses.<sup>61</sup> As part of the

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<sup>55</sup> *Id.*

<sup>56</sup> Testimony by Massachusetts State College Building Authority at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on January 25, 2019

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> <https://budget.digital.mass.gov/bb/cap/fy2019/dnld/fy19capitalplanma.pdf>

<sup>60</sup> Testimony by Executive Office of the Trial Court at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on June 6, 2019

<sup>61</sup> *Id.*



Deferred Maintenance projects in Phase 1A, there were 41 projects that finished in FY2019 and FY2020 and 9 projects involved in a study for certain upgrades.<sup>62</sup>

## Transportation

Transportation capital investments, large in scale and scope, dominate the Commonwealth's total capital spending portfolio. The Massachusetts Department of Transportation (MassDOT), inclusive of the Massachusetts Bay Transportation Authority (MBTA), has its own well-established capital planning process, unlike other state agencies. MassDOT typically develops its five-year Capital Investment Plan (MassDOT CIP), which is not to be confused with the Administration's five-year Capital Investment Plan (CIP). MassDOT's capital planning process also features a public comment period on its Draft Capital Investment Plan.<sup>63</sup> For FY2021, MassDOT opted to release a one-year Capital Investment Plan, citing uncertainty associated with the COVID-19 pandemic.<sup>64</sup>

### **Historical Context of MassDOT Capital Spending**

Over the past five fiscal years, MassDOT's capital spending and the associated long-term plans have been under additional scrutiny, with external stakeholders paying particular attention to the agency's "state of good repair" backlog. MassDOT's CIPs have been reflective of this shift towards maintenance versus expansion, but the results of these efforts are mixed. In 2015, the MBTA determined that it would take at least \$7.3 billion to modernize its assets to an acceptable condition. In May 2019, the projected financial need ballooned to \$10.1 billion.<sup>65</sup> Meanwhile, MassDOT's Highway Division has made little headway on decreasing its number of structurally deficient bridges. In FY2013, the number of state-owned bridges considered to be in "poor" condition was 460. Despite significant annual investment, the number of bridges in a state of disrepair increased in 2020 to 462.<sup>66</sup> MassDOT's goal was to bring that number down to 300 bridges in need of significant repair by 2020. It should be noted that the last time MassDOT's website was updated to reflect the current status of its Accelerated Bridge Repair program was September 2018.<sup>67</sup>

### **FY2018-FY2019 Capital Spending**

According to the capital spending data provided by A&F, MassDOT (labeled "EOTC") spent approximately \$1.889 billion in FY2018 and \$1.869 billion in FY2019. In FY2018 and FY2019, MassDOT's spending, as it

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<sup>62</sup> *Id.*

<sup>63</sup> Commonwealth of Massachusetts

([https://www.mass.gov/files/documents/2019/09/17//20\\_24CIPComments\\_AllDivisions.pdf](https://www.mass.gov/files/documents/2019/09/17//20_24CIPComments_AllDivisions.pdf))

<sup>64</sup> MassDOT (<https://www.mass.gov/doc/2021-capital-investment-program-cip-pdf/download>)

<sup>65</sup> Chris Linski, *MBTA now needs at least \$10.1 billion to modernize trains, new analysis finds*, WBUR, May 14, 2019, <https://www.wbur.org/news/2019/05/13/mbta-repair-costs-transit>

<sup>66</sup> Joe DiFazio, *State bridges in tough shape, no quick fixes in sight*, PATRIOT LEDGER, Oct. 21, 2020, <https://www.patriotledger.com/story/business/transportation/2020/10/21/state-bridges-in-tough-shape-no-quick-fixes-in-sight/42868079/>

<sup>67</sup> Commonwealth of Massachusetts (<https://www.mass.gov/service-details/accelerated-bridge-program-abp-update>)

relates to the MBTA, was \$239 million and \$251 million, respectively.<sup>68</sup> In its *Fiscal Year 2019 Year End Capital Spending Report*, MassDOT indicated that its FY2019 capital spending was lower than intended, due to various issues specifically related to the South Coast Rail commuter rail project. Only 39% of the project's \$107 million capital spending allotment had been spent.<sup>69</sup>

### **2019 Committee Oversight Hearing**

On July 23, 2019, MassDOT Secretary Stephanie Pollack and the MBTA's General Manager Steve Poftak testified before the Committee. Seeking new authorizations for both new and ongoing projects, Secretary Pollack alluded to the agency's plan to file a transportation bond bill for the 2019-2020 legislative session and coordinate the respective bond authorization requests with its then-draft FY2020-2024 MassDOT CIP. The transportation bond bill, that Secretary Pollack was referring to was passed by the Legislature in the early morning hours following a marathon of votes at the very end of the 191<sup>st</sup> session, but Governor Baker vetoed several key policies in the bill, such as increased fees on rideshares and a program for MBTA fares, based on income.

During the hearing, Secretary Pollack reiterated the agency's commitment to "system reliability and asset modernization" projects, with 74% of the FY2020-FY2024 CIP \$18.3 billion budget committed to deferred maintenance initiatives across all sectors of the agency.

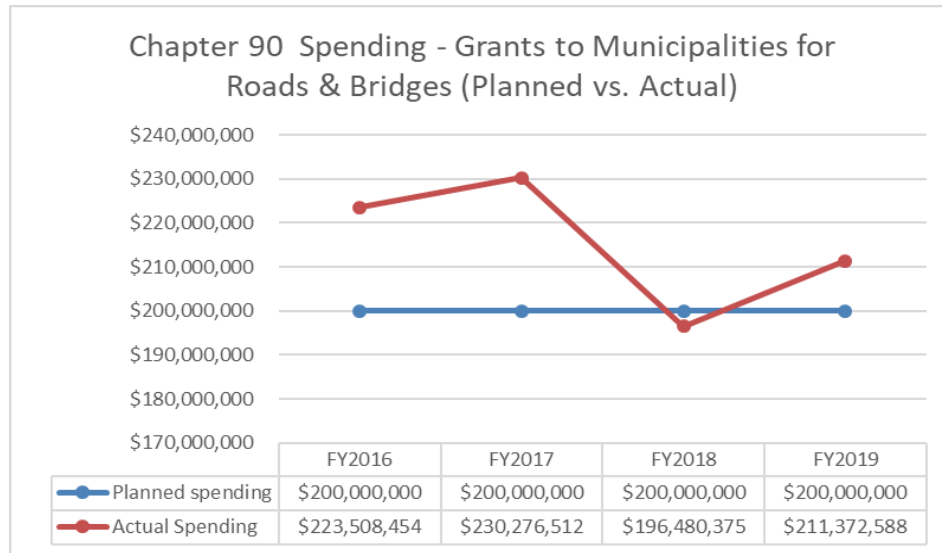
Secretary Pollack also touched upon MassDOT's Chapter 90 grant program, which is the state's reimbursable municipal grant program for cities and towns to pursue road and bridge projects. This program has been financed through 1-year, \$200 million general obligation bond authorizations, each fiscal year since 2012. Actual spending on the municipal reimbursement program surpassed the \$200 million authorization in FY2016, FY2017 and FY2019 (pictured below), presenting the potential need for a higher, multi-year authorization in consideration of municipal planning, increased deferred maintenance needs and higher construction costs.<sup>70</sup>

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<sup>68</sup> MassDOT Capital Spending Data provided by the Executive Office of Administration & Finance

<sup>69</sup> Testimony by MassDOT, October 24, 2019, p.3, <https://www.mass.gov/doc/capital-program-update-presented-to-cpc-on-102419/download>

<sup>70</sup> *Id.*



General Manager Steve Poftak discussed the MBTA’s capital program, highlighting that the MBTA’s total capital investment in FY2019 exceeded \$1 billion, “nearly double the FY11-FY15 average.” Out of the \$1.058 billion in FY2019 capital spending, \$851 million was spent on “reliability/modernization” projects.

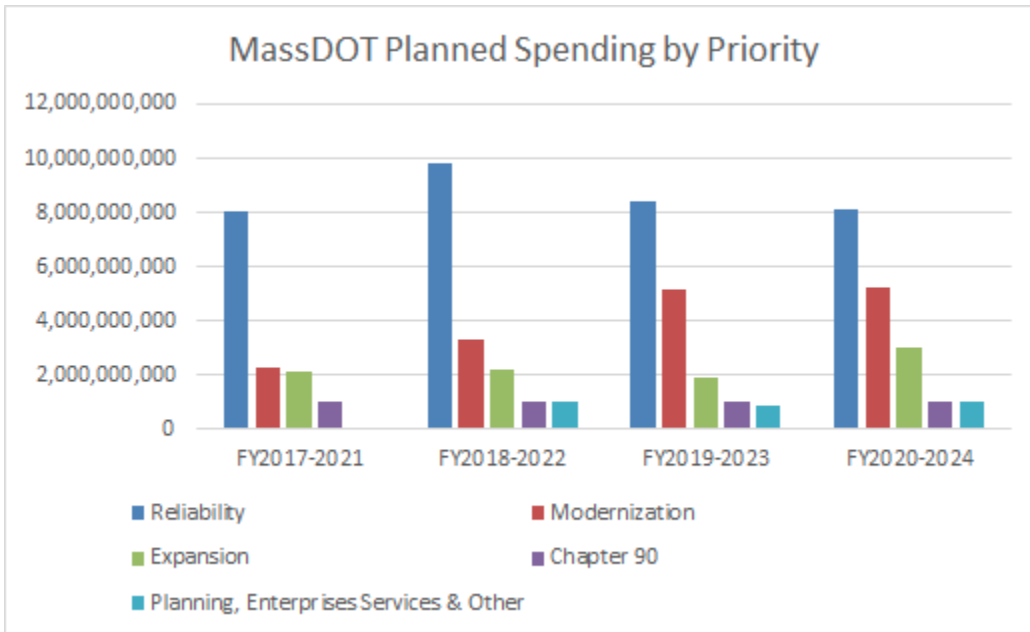
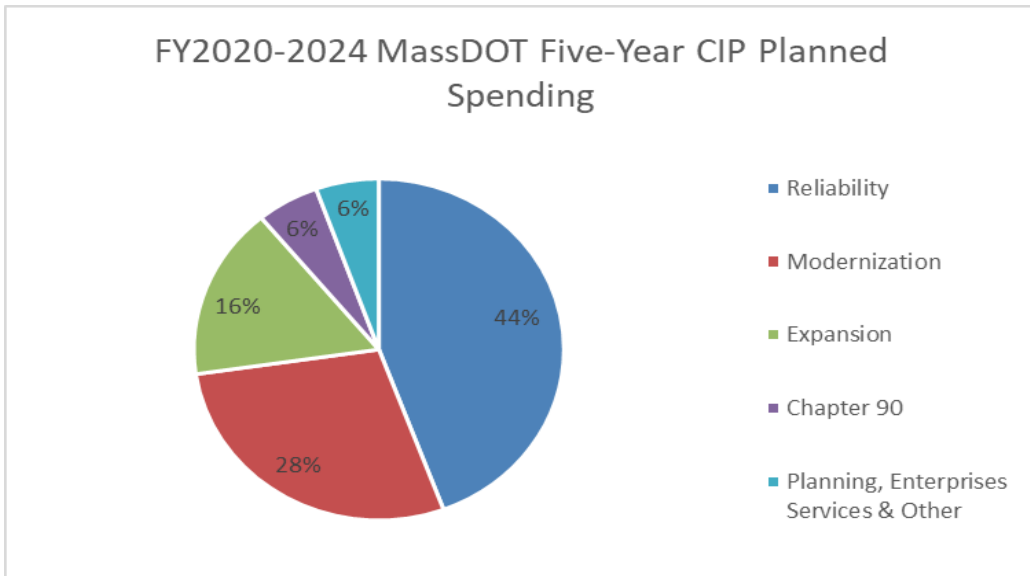
**FY2020-FY2024 MassDOT Capital Investment Plan Overview**

The FY2020-FY2024 MassDOT Capital Investment Plans continued to utilize project selection criteria, based on the following priorities:

- **Reliability:** Maintain and improve the overall condition and reliability of the transportation system.
- **Modernization:** Modernize the transportation system to make it safer and more accessible to accommodate growth.
- **Expansion:** Expand the transportation options available to communities throughout the Commonwealth.<sup>71</sup>

The FY2020-FY2024 capital plan consisted of \$18.3 billion in spending over the three categories discussed above, Chapter 90 expenditures, and other planning services.

<sup>71</sup> MassDOT Legislative Briefing (April 6, 2016).



In the FY2017-FY2021 CIP, 60% of new capital spending was directed toward projects that help maintain the overall condition of the Commonwealth’s current transit system, mirroring the consistent theme among members of the Baker Administration that state of good repair spending is a top priority. More recently, there appears to be more of a balance among the priorities with “Reliability” spending dropping to 44% of total planned capital spending in the FY2020-FY2024 MassDOT CIP.

**Update on Large-scale projects**

In prior reports, the MBTA’s inability to efficiently procure and spend on capital projects was criticized. Limited personnel expertise, coupled with procurement and implementation issues, were cited as the reasons for the MBTA’s inability to fully execute its aggressive deferred maintenance schedule. With ridership down significantly, the MBTA has modified its deferred maintenance project delivery schedule

to make the most out of the unique situation. In June 2020, the MBTA spent \$1.511 billion on capital needs—exceeding the agency’s spending target for FY2020—compared to roughly \$450 million in FY2015. Institutions like the Pioneer Institute dubbed this capital spending development a “silver lining,”<sup>72</sup> while other media outlets focused on the MBTA’s months-long repair project delays.<sup>73</sup>

A \$60 million bond authorization for the Registry of Motor Vehicles’ software upgrade, from ALARS to ATLAS, was included as part of the Legislature’s annual legislation to provide municipalities with grants to repair roads and bridges, commonly labeled as “Chapter 90,” in 2017. The ATLAS modernization project was projected to cost roughly \$102.1 million, according to the FY2018-23 MassDOT CIP.

Expansion projects, including the Green Line Extension (GLX) and South Coast Rail (SCR), were modified to address budget and timing concerns. When the GLX project’s expected cost ballooned to almost \$3 billion, the MBTA was forced to review the scope of the project. It was ultimately decided to significantly pare down the scope of the project. GLX’s new cost estimate is roughly \$2.3 billion, which received approval from the federal government back in April 2017.<sup>74</sup> On June 25, 2018, construction on the 4.7-mile light rail expansion into Somerville and Medford broke ground.<sup>75</sup> According to the MBTA’s official Green Line Extension project page, the project will be complete in December 2021.<sup>76</sup>

The South Coast Rail project (SCR), which would bring commuter rail service to New Bedford, Fall River, and Taunton, was separated into two phases in an effort to bring service to the region sooner and offset some of the cost.<sup>77</sup> Phase 1 of the project is fully funded with \$1 billion in State revenues bonds,<sup>78</sup> with a \$134.1 million investment to be spent in FY2021.<sup>79</sup> Actual spending on SCR in FY2019 reached almost \$43 million.<sup>80</sup> Phase 1 broke ground in July 2019 and is expected to be completed in late 2023.

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<sup>72</sup> Editorial Staff, *Covid-19 Silver Lining: MBTA takes Advantages of Ridership Lull to Accelerate \$8.5 billion Modernization Program*, PIONEER INSTITUTE, July 30, 2020, [https://pioneerinstitute.org/better\\_government/covid-19-silver-lining-mbta-takes-advantage-of-ridership-lull-to-accelerate-8-5-billion-modernization-program/](https://pioneerinstitute.org/better_government/covid-19-silver-lining-mbta-takes-advantage-of-ridership-lull-to-accelerate-8-5-billion-modernization-program/)

<sup>73</sup> Chris Linski, *MBTA Repair Schedules Derailed by Pandemic*, WBUR, May 8, 2020, <https://www.wbur.org/news/2020/05/08/mbta-repair-delays-coronavirus>

<sup>74</sup> Nicole Dungca, *Feds ok Green Line Extension Costs, Securing Project’s Future*, THE BOSTON GLOBE, Apr. 4, 2017, <https://www.bostonglobe.com/metro/2017/04/04/feds-green-line-extension-costs-securing-project-future/6Nsiskpk14qQO43vBI9H1I/story.html>

<sup>75</sup> Massachusetts Bay Transportation Authority (<https://www.mbta.com/projects/green-line-extension-glx>)

<sup>76</sup> *Id.*

<sup>77</sup> WPRI, <https://www.wpri.com/news/local-news/se-mass/could-the-latest-south-coast-rail-plan-be-a-billion-dollar-bust-1/1391589046>

<sup>78</sup> Commonwealth of Massachusetts (<https://www.mass.gov/info-details/about-the-south-coast-rail-project#project-overview->)

<sup>79</sup> FY2021-FY2025 Five Year Capital Investment Plan

<sup>80</sup> Testimony by MassDOT, October 24, 2019, p.3, <https://www.mass.gov/doc/capital-program-update-presented-to-cpc-on-102419/download>

<b>MassDOT Spending by Source - Federal<sup>81</sup></b> <b>(Five-year totals from FY2020-FY2024 Capital Investment Plan)</b>	
<b>Federal sources of funds</b>	<b>Amount</b>
Federal Highway (FHWA) reimbursements	\$4.139 billion
Federal Aviation (FAA) reimbursements and grant draws	\$176.1 million
Federal Transit (FTA) reimbursements	\$30.2 million
Federal Rail (FRA) reimbursements and grant draws	\$13.1 million
<b>Total</b>	<b>\$4,358.4 billion</b>

<b>MassDOT Capital Funding Sources – Subtotal Federal<sup>82</sup></b> <b>(Five-year totals from FY2020-FY2024 Capital Investment Plan)</b>	
<b>Subtotal Federal sources</b>	<b>Amount</b>
Bond cap	\$4.315 billion
CARM	\$223.4 million
Western Turnpike (WT) pay-go	\$558.6 million
Accelerated Bridge bonds	\$7.2 million
Metropolitan Highway system (MHS) pay-go	\$423.4 million
Rail enhancement bonds	\$40.4 million
Tobin Bridge (Tobin) pay-go	\$103 million
Municipal and local funds	\$25.4 million
Other State Funds	\$4.6 million
Reimbursable and 3 <sup>rd</sup> parties	\$14.3 million
<b>Total</b>	<b>\$5,718,600,000</b>
<b>Total sources (Federal and subtotal federal)</b>	<b>\$5,715.4 billion</b>

## Executive Office of Technology Services & Security

In August of 2017, Governor Baker utilized his Article 87 authority to create the Executive Office of Technology Services & Security (EOTSS) to centralize technology organization, promote system-wide policies and standards, and increase cross-agency collaboration. EOTSS (labeled as “ITD” in the data provided by A&F) spent \$247.25 million on capital projects in FY2018 and \$230.42 million in FY2019. Over these two fiscal years, EOTSS spent \$62.87 million on Phase 1 of the Registry of Motor Vehicle’s ALARS

<sup>81</sup> MassDOT FY2020 Capital Investment Plan, Presentation to MassDOT Board (June 2019).

<sup>82</sup> *Id.*

Replacement project. As previously mentioned in this report, the RMV received a \$60 million bond authorization for this software replacement project in the 2017 “Chapter 90” legislation.<sup>83</sup>

On February 25, 2020, Secretary Curtis Wood testified before the Committee to provide capital spending updates on their major projects and programming.

In August 2020, Governor Baker signed a \$1.8 billion IT bond bill into law. Prior to the Governor signing the bill, EOTSS had to scale back their capital investment portfolio to \$72 million until the funding from the IT bond bill was finalized. Mr. Wood testified that “these investments are vital in our ongoing initiatives to enhance the state’s cybersecurity posture, modernize aging technology infrastructure, protect sensitive data assets, and provide best-in-class technology services.”<sup>84</sup>

The following are some of the office’s FY2020 investments:

- Background Record Checks infrastructure and interface enhancements (\$6.3M)
- Microsoft Modern Workplace Initiative (\$5M)
- EQE data collection standardization (\$5.1M)
- Prioritization of technologies that are a strategic fit for cloud migration (\$5M)<sup>85</sup>

## Quasi-Public Agencies

According to the Comptroller of the Commonwealth, a quasi-government (or quasi-public agency) is a corporation that is supported by the government to provide services to citizens but has certain budgetary, governing, and policy-making independence from the Executive and Legislative branches. There are currently 42 quasi-public entities operating on a state or regional level in Massachusetts, ranging in size from 6000+ employees to six.<sup>86</sup>

Recognizing the growing concerns over transparency and oversight of these quasi-public agencies, the Committee invited representatives from the Massachusetts Clean Energy Center, Massachusetts Clean Water Trust, Massachusetts School Building Authority, Massachusetts Technology Collaborative, and Massachusetts Water Resources Authority to report on their capital spending programs.

### **Massachusetts Clean Energy Center**

Established in 2009, the Massachusetts Clean Energy Center (MassCEC) is a quasi-public agency funded through the Renewable Energy Trust Fund (RET) which was created in 1997 through the utility deregulation process. MassCEC’s mission is to accelerate clean energy and climate innovation to reach the Commonwealth’s climate goals.<sup>87</sup>

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<sup>83</sup> M.G.L. Chapter 10

<sup>84</sup> Testimony by Executive Office of Technology Services & Security at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on February 25, 2020

<sup>85</sup> *Id.*

<sup>86</sup> MA Comptroller (<https://www.macomptroller.org/cthru-faq-quasi-government-agencies>)

<sup>87</sup> MA Clean Energy Center (<https://www.masscec.com/about-masscec>)

In testimony provided on February 27, 2020, MassCEC CEO Stephen Pike reported on two major clean energy capital investments: the New Bedford Marine Commerce Terminal and the Wind Technology Testing Center in Charlestown.

Massachusetts has invested \$113 million in the New Bedford Marine Commerce Terminal.<sup>88</sup> The Terminal has option agreements with several offshore wind developers. The Terminal's financial information reported that in FY2018 revenues were over \$1 million and operating expenses were at approximately \$600,000.<sup>89</sup> FY2020 is projected to also generate more revenue than operating expenses. The Wind Technology Testing Center (WTTC) generated more revenue than operating expenses in FY2019 but fell short in revenues in FY2018.<sup>90</sup> The WTTC is planning to expand the facility, with a projected cost estimate of \$25 million.<sup>91</sup>

### **Massachusetts Clean Water Trust**

On January 28, 2020, Sue Perez, Deputy Treasurer and Executive Director updated the Committee on the capital budget commitments of the Massachusetts Clean Water Trust.

The Trust administers two programs: The Clean Water Program and The Drinking Water Program. The Massachusetts Department of Environmental Protection manages project development and oversight, while the Trust manages the flow of funds to borrowers. The programs receive funding from the Environmental Protection Agency (EPA) in the form of annual capital grants, supplemented by state matching funds, and the repayment of loans. When loans to local governments are paid back, the funds are then loaned out again.<sup>92</sup>

Federal grants from the EPA to the Trust for clean water and drinking water have increased significantly from FY2018 to FY2020. The Clean Water Program has committed \$518 million to finance wastewater projects and The Drinking Water Program has committed \$163 million to finance drinking water projects, both programs receiving an increase in funding from prior years.<sup>93</sup>

The Trust also uses a "leveraged model" to provide excess funding. Bonds are issued in the capital markets and secured by borrower repayments and reserve funds. The proceeds from the bonds are used to provide capital for new below market rate loans to borrowers for water infrastructure.<sup>94</sup>

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<sup>88</sup> Testimony by Massachusetts Clean Energy Center at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on February 27, 2020

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> MA Clean Water Trust (<https://www.mass.gov/orgs/the-massachusetts-clean-water-trust>)

<sup>93</sup> Testimony by Massachusetts Clean Water Trust at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on January 28, 2020

<sup>94</sup> MA Clean Water Trust (<https://www.mass.gov/orgs/the-massachusetts-clean-water-trust>)



At the time of the oversight hearing, the Trust's total outstanding debt was \$2.42 billion, but the debt service is well below the \$326.69 million cap.<sup>95</sup>

### **Massachusetts School Building Authority**

Jim MacDonald, CEO of the Massachusetts School Building Authority (MSBA), testified before the Committee on January 28, 2020. MSBA's mission is to partner with communities to support the design and construction of educationally appropriate, flexible, sustainable, and cost-effective public school facilities.<sup>96</sup>

The Commonwealth has made a strong commitment to education facilities by providing the MSBA with a dedicated revenue stream. MSBA receives 1% of the 6.25% statewide sales tax and because of this, MSBA, is looked upon positively by bondholders and rating agencies. Currently, MSBA has an AA+/Aa2/AAA rating.<sup>97</sup>

As of January 1, 2020, MSBA has \$6.1 billion in bonds outstanding and has distributed \$14.2 billion of grant payments since creation of the program.<sup>98</sup> Currently, 312 projects are in MSBA's eligibility period and capital pipeline and, in FY2019, 14 schools were completed.<sup>99</sup>

### **Massachusetts Technology Collaborative: Mass Broadband Institute**

Under the auspices of the Mass Technology Collaborative (MassTech), the Mass Broadband Institute (MBI) was created by statute in 2008 to extend high-speed internet access across the Commonwealth. MBI constructed, and now owns and operates, the MassBroadband 123 program.

Carolyn Kirk, Executive Director of MassTech, testified before the Committee on February 11, 2020, to provide an overview of current programming and capital spending. The Last Mile Program which began in 2014 and brings broadband service to communities, will receive \$90 million to complete the project.<sup>100</sup> Additionally, the Last Mile Program supports 53 unserved towns in western Massachusetts, through municipal and private partnerships. 32 of the 53 communities are being serviced through MBI and the remaining 21 communities are being serviced through the Executive Office of Housing and Economic Development.<sup>101</sup>

### **Massachusetts Water Resources Authority**

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<sup>95</sup> Testimony by Massachusetts Clean Water Trust at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on January 28, 2020

<sup>96</sup> MA School Buildings (<https://www.massschoolbuildings.org/index.php/about>)

<sup>97</sup> Testimony by Massachusetts School Building Authority at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on January 28, 2020

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> Testimony by Massachusetts Technology Collaborative at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on February 11, 2020

<sup>101</sup> *Id.*

The Massachusetts Water Resources Authority (MWRA) was created by the Legislature in 1986. MWRA provides wholesale water and wastewater services to 61 communities.

On January 28, 2020, Frederick Laskey, Executive Director of the MWRA testified that in 2018, the Authority updated its comprehensive master plans to span over a 40-year period (FY2019-FY2058) and identified 453 projects that would cost a total of \$5.8 billion dollars.<sup>102</sup> Approximately \$3.2 billion would be for wastewater projects and approximately \$2.6 billion would go towards water projects.<sup>103</sup>

In the next ten years, MWRA will pay off 54% of its current outstanding debt and 82.3% of the outstanding debt is at a fixed rate.<sup>104</sup> MWRA seeks grants and other low interest rate loans to reduce the cost of implementing the capital program.<sup>105</sup> Since MWRA actively manages its debt portfolio to achieve a low cost of borrowed funds, the MWRA's senior debt is rated Aa1 by Moody's, and as a result of a favorable market, there has been a significant reduction in the fixed interest rates.<sup>106</sup> Since 2016, due to the lower interest rates, MWRA refunded \$1.8 billion in debt for a \$257.3 million in savings.<sup>107</sup>

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<sup>102</sup> Testimony by Massachusetts Water Resources Authority at the Massachusetts House Committee on Bonding, State Assets, and Capital Expenditures Hearing, 191<sup>st</sup> General Session, on January 28, 2020

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

# Chapter 3: Borrowing Activity & Bond Bills

Capital expenditures are primarily financed through federal grants and state borrowing activity. This debt is issued to fund the Commonwealth's capital budget and its principal balance represents the Commonwealth's long-term commitment to infrastructure improvements and capital development projects in communities across the state. This debt is secured by the full faith and credit of the Commonwealth.

The State Treasurer issues authorized debt at the request of the Governor, and the Governor, through the Secretary of Administration and Finance, controls the amount of capital expenditures through the release of funding every year.

The State Treasurer's Office is statutorily responsible for all the borrowing needs of the Commonwealth of Massachusetts. Long-term borrowing (borrowing for a term of one year or longer) is conducted through two borrowing programs: (1) the General Obligation bond program, which involves a pledge of the state's general taxing power; and (2) the Special Obligation bond program, which involves a pledge of specific revenues.

As of March 2020, the Commonwealth had approximately \$24.1 billion in general obligation bonds outstanding, of which \$22.1 billion, or approximately 92%, was fixed rate debt and \$2.0 billion, or 8%, was variable rate debt. Approximately \$896.1 million, or 4%, of the variable interest debt is fixed in practice through the usage of swap agreements which allow the Commonwealth to hedge against the risk associated with a variable rate. The remaining \$1.1 billion of outstanding general obligation debt, or 5%, has a variable rate which floats with interest rates and is reset periodically.<sup>108</sup> The Commonwealth General Obligation bond program is rated Aa1 and AA by Moody's and Standard & Poor's, respectively.<sup>109</sup>

The Special Obligation bond is the second category of borrowing. This is borrowing secured by dedicated funding and designated for specific, defined purposes. These include the Convention Center Fund, established in 1997 and funded through hotel tax and parking surcharges in certain municipalities which benefit from the convention centers in Boston, Springfield, and Worcester. In July of 2014, Governor Patrick authorized an additional \$1.1 billion for the expansion of the Boston Convention Center. Initially put on hold by the Baker Administration, this project is now moving forward.

The Commonwealth Transportation Fund is the other major special obligation bond. This program has been used to finance the Accelerated Bridge Program and new bond issues will be dedicated to spending on rail enhancement projects to supplement the MBTA existing capital program. These bonds are secured by a portion of the tax on gasoline, as well as taxes on diesel fuel, LNG, and all fees received by the Registry

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<sup>108</sup> Commonwealth of Massachusetts Information Statement. June 22, 2020.

<sup>109</sup> Mass Bond Holder (<https://www.massbondholder.com/financial-documents/ratings-reports>)

of Motor Vehicles. As of March 2020, the Commonwealth Transportation Fund had about \$3.0 billion in special obligation Commonwealth Transportation Fund debt outstanding.

The chart below outlines the various types of debt owed by the Commonwealth and the extent to which the amount of principal outstanding for that type of debt has grown or declined since FY2016.<sup>110</sup>

Type of Debt (in thousands)	FY2016	FY2020 (as of March 30, 2020)	Percent Change
<b>Total Principal Balance</b>	\$25,079,591	\$28,414,585	13%
• <b>Special Obligation Debt</b>	\$768,365	\$585,185	-24%
• <b>Accelerated Bridge Program</b>	\$1,535,870	\$1,680,205	9%
• <b>Federal Grant Anticipation Notes</b>	\$657,040	\$725,645	10%
• <b>Transportation Infrastructure Fund</b>	\$1,150,296	\$945,574	-18%
• <b>School Building Assistance</b>	\$652,197	\$496,936	-24%
• <b>MBTA Forward Funding</b>	\$207	\$207	-
<b>Outstanding Direct Debt, Principle</b>	\$20,315,596	\$22,691,223	12%
<b>Statutory Debt Limit</b>	\$20,748,692	\$25,220,164	22%

<sup>110</sup> Commonwealth of Massachusetts Information Statement. June 22, 2020.

## Chapter 4: Debt Affordability Committee

Chapter 165 § 112, Acts of 2012 replaced a hard cap of 10% for the ratio between Commonwealth debt service and revenues with a recommendation from the Capital Debt Affordability Committee (CDAC). The CDAC is charged with recommending the “affordable” amount of borrowing for the Commonwealth for the next fiscal year. Since its creation by statute in 2012, the CDAC has made several recommendations to the Governor, the most recent of these on December 8, 2020.<sup>111</sup>

As in previous years, the Committee chose to define affordability as “the ability to sustainably meet projected debt service within the budget without raising taxes to uncompetitive levels or negatively impacting critical services.” Similarly, the CDAC used a three-part test to determine the extent to which debt to be issued in FY2021 and FY2022 could be considered affordable. This test consisted of the following criteria:

- (1) Over the next 10 years, does the proposed borrowing result in a level of overall debt service that falls within a 7% benchmark of debt service as a percent of budgetary revenue and does such proposed borrowing keep total debt service to within 8% of budgeted revenue in the next fiscal year?
- (2) Does the proposed borrowing meet the restriction imposed by the statutory debt cap such that total new debt outstanding for the Commonwealth from growing at a rate faster than 8% per year (\$26.48 billion in FY2021)?<sup>112</sup>
- (3) Is the additional amount of new general obligation borrowing below the \$125 million administrative debt cap?<sup>113</sup>

The CDAC applied these criteria to a variety of projected borrowing scenarios for FY2019 and concluded that the Commonwealth could prudently issue \$2.53 billion in general obligation bonds in FY2019. “This represents a 4.12 percent increase in the state bond cap,” the CDAC wrote in its recommendation to the Governor, “which allows for targeted investments in the Commonwealth’s Infrastructure while keeping growth in debt service and outstanding principal within long-term revenue projections.”<sup>114</sup> In making this recommendation, the CDAC found that the 4.12% increase to be roughly in line with the Committee’s revenue projections for FY2021.<sup>115</sup>

The recommendation recognizes the statutory debt limit on outstanding qualifying debt of \$24 billion for FY2019.<sup>116</sup> Since 1989, Massachusetts has had a statutory limit for total outstanding direct state debt,

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<sup>111</sup> Letter from Capital Debt Affordability Committee to the Governor (December 8, 2020), *available at* <https://www.mass.gov/doc/fy22-recommendation-to-the-governor/download>

<sup>112</sup> G.L. Chapter 29 § 60A.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *But see* CDAC Meeting Minutes for Oct. 11, 2017 (Howard Merkowitz (for the Comptroller of the Commonwealth of Massachusetts) questioning assumption of revenue growth, noting that the central assumption of 3.25% annual growth was below long term experience and future projections of wage and salary growth), *available at* <https://www.mass.gov/service-details/agendas-minutes-and-presentations>.

<sup>116</sup> *See* Letter from the CDAC, *supra*, note 12.

which increases by 5% each year. Not all state debt is subject to this statutory limit. Borrowing authorized by H4424 in the 189<sup>th</sup> General Court “created a new \$50 million program to finance small bridge repairs exempted from the debt ceiling of the Rail Enhancement Program -- \$1.86 billion in bonding through 2020 to finance the Green Line Extension project, the purchase of new Red and Orange Line trains, the Knowledge Corridor rail extension, South Station improvements, and the South Coast commuter rail extension -- which budget trackers pointed to as a main reason the state was fast approaching its debt ceiling.”<sup>117</sup>

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<sup>117</sup> Colin Young, State Panel Will Recommend \$70 Mil Increase in Capital Spending, SHNS, (Dec. 12, 2016) <https://www.statehousenews.com/news/20162690>

# Chapter 5: Committee Recommendations

Rule 17G of the Rules of the Massachusetts House of Representatives asks the Committee to analyze the Commonwealth's capital spending and borrowing activities to ensure such activities are performed in accordance with the General Court. This section responds to Rule 17G based on the information gathered by the Committee during the 2018-19 legislative session.

To continue to improve the capital budget process and the public's ability to understand the choices involved, the Committee makes the following recommendations:

- 1. The Commonwealth must prioritize the collection and use of data on the condition of all of its capital assets across agencies, as well as all capital spending related to the maintenance or creation of these assets, and use this data on a continuous basis to develop long-term projections for capital spending needed to maintain or modernize existing state infrastructure.**

The Baker Administration continues to improve the strong foundation set by the Patrick Administration regarding the Commonwealth's ability to monitor the condition of its infrastructure and plan for its improvement or maintenance. The regular and dedicated collection and analysis of such data allows the Commonwealth to begin to ration the capital budget based on the genuine needs of its various agencies and departments.

Under present circumstances, however, the division of capital resources between interests within state government remains unclear because neither the Legislature, nor the public, has comprehensive data regarding what state infrastructure is most in need of investment and how much it is likely to cost over a constant time horizon. As noted in the Committee's previous reports, the development and routine use of such a database would also relieve the burden on the Administration of filing regular reports on capital spending with the Legislature. Such reports are required to be filed, with the requirements appearing in nearly every bond bill as well as in the general laws. An interactive public dashboard that specifically highlights the status of capital projects would help legislative offices and the public better track projects that are of importance to their districts.

Continued efforts to streamline access to this data, while ensuring that it captures both capital spending over time and the condition of infrastructure will help state policy makers understand how to prioritize the various capital spending needs of the Commonwealth. It will also prevent Massachusetts from embarking on dramatic shifts in capital budget initiatives by ignoring the maintenance or modernization of the assets we currently require.

- 2. The Legislature should take a stronger role in managing the scope and priorities of the capital budget, utilizing the legislative tools accessible to members and developing additional transparency processes.**

Over the last several decades, the compartmentalization of data regarding capital spending needs and activities within various branches of state government has allowed the Legislature to defer most oversight, and nearly all control, over the capital budget to the executive branch. As discussed in previous sections, the best example of the Legislature's passive approach to capital budget management is the staggering difference between the amounts authorized to be spent for various capital accounts and the smaller amounts that are actually spent. While it may be expedient for the Legislature to allow the Governor to set capital budget priorities, such expediency has long-term consequences.

The funding for capital projects is specified in bond bills that must be authorized by the Legislature, but after the bills are passed, there is little legislative oversight on distribution of the funds for the capital projects. The Administration should be more transparent in how the funds are disbursed and the Legislature should use the data to hold the Administration accountable and ensure that these capital projects receive their authorizations. A formalized, standard process through which legislative offices can coordinate with A&F on the current status of their priority projects would increase engagement and provide additional opportunities for legislators to advocate for their communities. The submission of a draft capital plan for public review and comment could be a part of this process.

The fact that Administrations tend to change every four to eight years, coupled with the managerial fact that technocratic and institutional knowledge tends to concentrate where authority is most meaningful, has created a dynamic where new administrations can alter the contents of long-term capital plans for the sake of short-term policy goals. The Legislature has little ability to counter such moves because over the last three or four decades it has written bond authorizations so broadly and allowed information regarding the capital budget and the state of capital assets to become insulated from legislative review.

The Legislature lacks the staffing and infrastructure sufficient to match the role of the executive, a co-equal branch of government. In preparing this report, for instance, this Committee relied heavily on information provided from the executive branch and other constitutional offices. With additional resources—both in personnel and information technology—the General Court will be able to equalize the efforts of other capital budget stakeholders.

However, given that the Baker Administration has prioritized transparency regarding capital planning data, the Legislature now has an opportunity to become an equal partner in the capital budget process. The Legislature should use the increasing amount of data made available by the Administration to develop its own set of capital priorities and to reduce or eliminate capital spending authorizations that are not paired with a specific project or program or that have little likelihood of getting spent because of overall limits on the size of the capital budget. Such change might result in the Legislature reviewing more capital appropriations bills than it currently does. However, such change would almost certainly help Massachusetts state government take a more long-term and transparent approach to capital spending.

### **3. The Legislature should restructure the membership, mandate, and resources of the Capital Debt Affordability Committee.**

The Capital Debt Affordability Committee (CDAC) has proved to be a useful forum for comparing perspectives on the capital budget. In addition, it has helped Massachusetts maintain continuity and



transparency regarding administrative approaches to measuring appropriate levels of state debt. To build upon these successes, the Legislature should consider (a) providing the CDAC with a permanent staff, outside of the Executive Office of Administration & Finance, dedicated to analyzing the conditions of the Commonwealth's capital assets and its long-term liabilities; and (b) reorganizing the membership of the CDAC to enhance its ability to make recommendations on the affordability of the Commonwealth's borrowing, independently from any specific branch of government. These recommendations were made in this report two years ago and the Committee repeats them here.

Since 2012, the CDAC has conducted research using staff resources provided by the Executive Office of Administration & Finance and the Treasurer's Office. These professionals have done heroic work in providing useful data and thoughtful analysis to the CDAC. However, this work has taxed the already limited and overly burdened resources of these offices. In addition, the ability of the CDAC to provide independent oversight of the choices made at the Executive Office of Administration & Finance or the Treasurer's Office is limited by the extent to which the analysis of the CDAC is performed by staff from these offices. To improve the capacity of the CDAC to conduct deep research and analysis of the Commonwealth's long-term obligations, and to be able to conduct such research in a manner that is independent of the chief decision makers for the borrowing and spending of the capital budget, the CDAC should be allowed a small, dedicated, and independent staff.

In addition, a reorganization of the CDAC's membership such that it includes other voices from both inside and outside state government would allow for increased perspective and independence in rendering an opinion of affordability to the Governor. Adopting membership from these branches of state government, along with a rotating chair to ensure no single branch controls the agenda, will likely be considered a strong sign of the Commonwealth's commitment to meeting its debt service by both the public and the capital markets.

# Appendix 1: Rule 17G of the Massachusetts House of Representatives, 2019-2020 Legislative Session

17G. The committee on Bonding, Capital Expenditures and State Assets shall review all legislation providing for the giving, loaning, or pledging of the credit of the Commonwealth (see Article LXII of the Amendments to the Constitution, as amended by Article LXXXIV). Said committee shall be responsible for evaluating such legislation and determining the appropriateness of enacting legislation containing increased bond authorizations for the Commonwealth. The committee shall periodically review and hold open public hearings, accepting oral and written testimony on the status of the bonds and notes of the Commonwealth, including (1) general obligation debt; (2) dedicated income tax debt; and (3) special obligation debt. The committee shall also, in its continuing study of the state's bonding practices, review the Commonwealth's liabilities relative to (a) state-supported debt; (b) state-guaranteed debt; and (3) indirect obligations.

Any bill providing for borrowing for new projects and requiring the Commonwealth to issue bonds for such purpose, shall, prior to its reference to the committee on Ways and Means, be referred to the committee on Bonding, Capital Expenditures and State Assets for report on its relationship to the finances of the Commonwealth. A measure may initially be referred to a joint committee with jurisdiction over the subject matter before being referred to the committee on Bonding, Capital Expenditures and State Assets.

The committee on Bonding, Capital Expenditures and State Assets shall consult with the various agencies of the executive branch and the office of the Treasurer and Receiver-General relative to project expenditures, availability of funds, the sale of new bonds and the resultant debt obligations, federal reimbursements and other related funding and bonding issues.

The committee on Bonding, Capital Expenditures and State Assets shall be authorized to conduct hearings relative to the statutory authority of the Executive Branch and the Treasurer and Receiver-General in the issuance and sale of bonds and notes and the expenditure of capital funds by the various agencies and authorities of the Commonwealth. The committee shall determine whether such laws, administrative regulations and programs are being implemented in accordance with the intent of the General Court. The committee shall be authorized to make recommendations for statutory changes and changes in the Constitution which would grant discretion to the General Court over the allotment and expenditure of funds authorized by capital appropriations.

The committee on Bonding, Capital Expenditures and State Assets shall be authorized to report to the General Court from time to time on the results of its hearings and to file drafts of legislation and proposals for amendments to the Constitution necessary to carry its recommendations into effect.

Messages from the Governor setting terms of bonds and notes, or for the de-authorization or authorization of bonds and notes shall be referred to the committee on Bonding, Capital Expenditures and State Assets.

## Appendix 2: Explanation of Terms

There are many terms, concepts and procedures related to state borrowing that may be unfamiliar to those who may read this report. For this reason, the following seeks to define and explain these terms in a readily understandable way.

### ***What is a bond?***

A bond is a security that a government or corporation issues to borrow money. The bond represents a debt owed by the bond issuer to the purchaser of the bond and the obligation to repay the debt. The state issues bonds through an underwriter who will sell the bonds to investors. Investors buy the bonds, and the purchase money goes to the state, which then uses the money for authorized capital projects. The state must repay the purchasers the principal (the face amount of the bond) by the maturity date of the bond. The issuer also must make interest payments to bondholders, generally twice each year.

### ***What is the difference between a “general obligation bond” and a “special obligation bond” (also known as a “revenue bond”)?***

A general obligation bond is backed by the “full faith and credit” of the state. This means that all the revenues and assets of the state are available for repayment. General obligation bonds are repaid by debt service appropriations from the General Fund. Each budget contains a line item appropriating the amount of the debt service due in that fiscal year.

A special obligation bond (SOB), also known as a revenue bond, is repaid from a specific revenue source. It is not backed by the full faith and credit of the state and is not paid from general revenues. For example, bonds issued to pay for the construction of the Boston Convention and Exhibition Center are revenue bonds. These bonds are paid *solely* from special “Boston Convention and Exhibition Center” revenues, including tourism-related hotel, sales and meals taxes and surcharges on car rentals and tour tickets. These special surtaxes and surcharges are deposited to a separate fund, which is then used to pay the principal and interest on the bonds.

### ***What is a note?***

A note differs from a bond in that it is generally issued for a shorter term. A “bond anticipation note” (BAN) is one example. BANs are commonly issued before the longer-term bonds are sold. BANs are issued for a one-year term but may be renewed for additional one year term. Once the state is ready to issue the bonds, the BANs will be paid off from the proceeds of the bond sale.

### ***What is a grant anticipation note?***

Another type of note is a “grant anticipation note” or GAN. GANs were first issued to finance the Central Artery and Third Harbor Tunnel project, the “Big Dig.” GANs were needed to bridge the funding gap between immediate construction costs and future federal highway reimbursements. During certain years of the project, those costs exceeded the rate at which federal grants were being received. Thus, the GANs were issued in anticipation of future federal highway grants.

GANs differ from other notes because their terms can extend beyond a year. In addition, the GANs are secured by a pledge of future federal highway reimbursements. Once federal grants are received, funding is deposited into a trust fund first used to pay debt service on GANs.

***What is debt service?***

The term “debt service” refers to required payments on borrowing, including state bonds and notes. Debt service consists of repayments of the principal amount of the bonds plus accrued interest.

***What is a bond rating?***

Certain companies, such as Moody’s Investor Service, issue ratings of the governments and companies that issue bonds. The ratings are an assessment of the creditworthiness of bond issuers. The ratings tell an investor, using a letter/number designation (“AAA” being Moody’s best rating) how likely the issuer will be able to pay the principal and interest on its bonds in full and on time. Other major companies that rate government debt are Standard & Poor’s and Fitch Ratings.

***What is the administrative bond-cap?***

The administrative bond-cap limits the amount of money that the Governor can spend annually from bond funds. The bond-cap was first instituted in 1991. This limit is not provided for by statute but is established by the Executive Office for Administration and Finance. The Executive Branch has increased the bond-cap from time to time. The overall capital spending limit in some periods is higher than the bond-funded spending cap. Some investment categories, particularly transportation, receive money for capital projects from third party sources. These federal or other outside reimbursements are included overall spending.

***What is the capital spending plan?***

The capital spending plan is a budget established by the Executive Branch that specifies how bond funds and other money for capital projects will be spent during a particular period. The Administration annually develops and publishes a five-year capital investment plan (CIP) that shows how much money will be allocated to the various capital investment categories in each year. The spending plan divides up the amount of money in the annual bond or capital spending cap.

The capital budget, as set forth in the CIP, differs from the operating budget in that it is paid for by borrowing money through the issuance of bonds – while the operating budget is funded by the state’s general revenues. The capital budget pays for items and projects, such as roads and buildings that have sufficiently long useful life to justify paying for them over a period of years.

***How are bonds authorized?***

Bonds and other kinds of debt obligations must be authorized by legislation. Bond bills include a section(s) that authorize the State Treasurer to issue and sell bonds. These sections are known as “bond authorizations.”

***What is a bond authorization?***

A bond authorization is a section in a bond bill that authorizes the State Treasurer, at the request of the Governor, to issue and sell bonds of the Commonwealth. The authorization specifies the kind of bond - whether general or special obligation - the total amount of bonds authorized, and the maximum term of the bonds. The authorization states that the Governor shall recommend the term of the bonds as required under Article 62 of the amendments to the state constitution.

***What is a capital spending authorization?***

Capital spending authorizations are particular spending items authorized in bond bills and funded from the bonds authorized in the corresponding bond authorization section. Capital spending authorizations are for specific capital projects or programs (much like earmarks) and are funded from bond proceeds.

***For how long is a capital spending authorization valid?***

Capital spending authorization is valid for a period of five years. Unless the authorization is then extended by legislation, it will expire and can no longer be used. Each year, the state enacts legislation to extend the term of unused capital spending authorizations that are due to expire but are still needed.

***What is authorized and unissued debt?***

This refers to bond-funded spending authorizations that have not been used. Once bond-funded accounts are authorized, money can be spent from these accounts at any time until the account expires or is de-authorized. The part of a bond-funded authorization that has not been spent at any given time is referred to as “authorized and unissued.” The state comptroller issues regular, periodic reports on the amount of unused bond authorizations.

***Are there any legal limits on the amount of money the state can borrow?***

Yes. While the administrative bond-cap is not required or set by law, there are also statutory limits on the amount of debt the state can have at any one time and the percentage of the budget that may be used for debt service payments. Mass. Gen. Laws, chapter 29, section 60A establishes a limit on the total amount of direct debt the state may have outstanding at one time. The statute established an initial limit in 1989 and provides for an annual 5% increase in the amount of the limit. Thus, debt outstanding for a fiscal year cannot exceed 105% of the amount of debt outstanding during the previous fiscal year. As mentioned, the limit applies only to direct debt of the Commonwealth and, therefore, does not cover such indirect obligations as contract assistance (state payments to a separate entity to pay debt service on bonds issued by that entity). Refunding bonds, which are used to refinance existing higher interest bonds, are also excluded from the debt limit.

# Appendix 3: Capital Budget Transparency

## Data

The Administration is required to track and report to the Legislature projected and actual capital spending. Specifically, section 62 of chapter 7 of the General Laws states:

*The executive office for administration and finance shall report annually to the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means, not later than November 1, a list of all capital projects, the legislation and line-item authorizing such funding, the municipalities and senate and house legislative districts in which such projects are located, the total estimated cost of each project and the total amount expended on each project in the immediately preceding fiscal year.*

During the Patrick Administration, the agencies responsible for reporting this data stated that existing capital budget tracking software did not allow for tracking of the capital budget at the project level. In 2014, after the publication of the Committee's report for the 2013-2014 legislative session, the Executive Office of Administration & Finance reported to Committee staff that the Administration was in the process of attempting to gather the data necessary to track and report on project level capital spending. In December 2015, the Baker Administration provided the first set of data containing capital budget project level information that has been provided to the Legislature since November of 2011.

The data provided by the Executive Office of Administration & Finance for this report does not fully comply with the statutory capital spending reporting requirements contained in Chapter 7 of the General Laws. In some instances, project or program descriptions are too vague to understand the purpose or nature of the spending. The Committee looks forward to working with the Administration to continue to improve the transparency of capital budget project level spending.

# Appendix 4: Schedule of Testimony

Hearing Date	Testimony Provided by:
June 6, 2019	<p><b><u>Executive Office of the Trial Court:</u></b></p> <ul style="list-style-type: none"> <li>Jonathan Williams, Court Administrator</li> <li>Carol Gladstone, Commissioner, DCAMM</li> </ul>
June 20, 2019	<p><b><u>Executive Office of Administration &amp; Finance (ANF):</u></b></p> <ul style="list-style-type: none"> <li>Michael Heffernan, Secretary of Administration &amp; Finance</li> <li>Catharine Hornby, Assistant Secretary and Budget Director</li> <li>Maya Jonas-Silver, Director of Capital</li> </ul>
July 23, 2019	<p><b><u>Massachusetts Department of Transportation (MassDOT):</u></b></p> <ul style="list-style-type: none"> <li>Stephanie Pollack, Secretary of Transportation</li> </ul> <p><b><u>Massachusetts Bay Transit Authority (MBTA):</u></b></p> <ul style="list-style-type: none"> <li>Steven Poftak, General Manager</li> </ul>
July 25, 2019	<p><b><u>Massachusetts Executive Office of Education (EOE):</u></b></p> <ul style="list-style-type: none"> <li>Jim Peyser, Secretary of Education</li> <li>Elayne Campos, Director of Office of Planning, DCAMM</li> </ul> <p><b><u>University of Massachusetts:</u></b></p> <ul style="list-style-type: none"> <li>Martin Meehan, President, University of Massachusetts</li> <li>Lisa Calise, Senior Vice President &amp; Treasurer for Administration &amp; Finance</li> </ul> <p><b><u>North Shore Community College:</u></b></p> <ul style="list-style-type: none"> <li>Dr. Patricia Gentile, President</li> </ul> <p><b><u>Massachusetts State College Building Authority:</u></b></p> <ul style="list-style-type: none"> <li>Edward Adelman, Executive Director</li> <li>Janet Chrisos, Deputy Director</li> <li>Karol Ostberg, Chief Financial Officer</li> <li>Ellen Bell, Chief Administrative Officer</li> </ul>
November 12, 2019	<p><b><u>Executive Office of Health and Human Services (EOHHS):</u></b></p> <ul style="list-style-type: none"> <li>Alda Rego, Assistant Secretary for Administration and Finance</li> </ul>
January 28, 2020	<p><b><u>Massachusetts Water Resources Authority (MWRA):</u></b></p> <ul style="list-style-type: none"> <li>Frederick Laskey, Executive Director</li> <li>Thomas Durkin, Director of Finance</li> <li>Matt Horan, Treasurer</li> </ul> <p><b><u>Massachusetts Clean Water Trust:</u></b></p> <ul style="list-style-type: none"> <li>Sue Perez, Executive Director &amp; Deputy Treasurer, Clean Water Trust</li> </ul>

	<ul style="list-style-type: none"> <li>• Nate Keenan, Deputy Director, Clean Water Trust</li> </ul> <p><b><u>Massachusetts School Building Authority (MSBA):</u></b></p> <ul style="list-style-type: none"> <li>• James McDonald, Chief Executive Officer, MSBA</li> <li>• Jack McCarthy, Executive Director, MSBA</li> </ul>
February 11, 2020	<p><b><u>Executive Office of Housing and Economic Development (EOHED):</u></b></p> <ul style="list-style-type: none"> <li>• Michael Kennealy, Secretary of Housing &amp; Economic Development</li> <li>• Jennifer Maddox, Acting Undersecretary, Department of Housing and Economic Development</li> </ul> <p><b><u>Massachusetts Technology Collaborative (MassTech):</u></b></p> <ul style="list-style-type: none"> <li>• Carolyn Kirk, Executive Director</li> <li>• Lisa Erlandson, Chief Financial Officer</li> </ul>
February 25, 2020	<p><b><u>Executive Office of Public Safety &amp; Security (EOPSS)</u></b></p> <ul style="list-style-type: none"> <li>• Thomas Turco, Secretary of Public Safety &amp; Security</li> <li>• Emi Joy, Chief Financial Officer</li> <li>• Detective Lieutenant Karl Brenner, Massachusetts State Police</li> </ul> <p><b><u>Executive Office of Technology Services &amp; Security (EOTSS)</u></b></p> <ul style="list-style-type: none"> <li>• Curtis Wood, Secretary of Technology Services &amp; Security</li> </ul> <p><b><u>Real Cost of Prisons Project:</u></b></p> <ul style="list-style-type: none"> <li>• Lois Aherns, Director</li> </ul> <p><b><u>Families for Justice as Healing:</u></b></p> <ul style="list-style-type: none"> <li>• Mallory Hanora, Executive Director</li> </ul>
February 27, 2020	<p><b><u>Executive Office of Energy and Environmental Affairs (EEA):</u></b></p> <ul style="list-style-type: none"> <li>• Kathleen Theoharides, Secretary of Energy &amp; Environmental Affairs</li> </ul> <p><b><u>Massachusetts Clean Energy Center (MassCEC):</u></b></p> <ul style="list-style-type: none"> <li>• Stephen Pike, Chief Executive Officer</li> </ul>