

LA11
Department of Agriculture – Capital

Capital Budget Summary

Grant and Loan *Capital Improvement Program*
(\$ in Millions)

<i>Program</i>	<i>FY 2013 Approp.</i>	<i>FY 2014 Approp.</i>	<i>FY 2015 Request</i>	<i>FY 2016 Estimate</i>	<i>FY 2017 Estimate</i>	<i>FY 2018 Estimate</i>	<i>FY 2019 Estimate</i>
Maryland Agricultural Land Preservation Program ¹	\$17.456	\$34.296	\$24.785	\$41.226	\$37.654	\$38.708	\$52.871
Tobacco Transition Program	2.736	2.236	2.716	2.236	2.236	2.236	2.236
Maryland Agricultural Cost-Share Program	0.000	3.750	7.000	7.250	7.500	7.750	8.000
Total	\$20.192	\$40.282	\$34.501	\$50.712	\$47.390	\$48.694	\$63.107

¹ The fiscal 2013 appropriation amount includes \$8.7 million in general obligation (GO) bond authorization for the Maryland Agricultural Land Preservation Program (MALPP) that replaces prior year fund balance transferred to the general fund. The fiscal 2014 appropriation includes \$10.2 million in prior year replacement GO bond authorization. The fiscal 2015 request includes \$15.2 million in prior year replacement GO bond authorization and does not include \$17.3 million in special funds reduced contingent upon the Budget Reconciliation and Financing Act of 2014 transferring these funds to the general fund since under the Governor’s proposed budget, these funds are not available for program use.

<i>Fund Source</i>	<i>FY 2013 Approp.</i>	<i>FY 2014 Approp.</i>	<i>FY 2015 Request</i>	<i>FY 2016 Estimate</i>	<i>FY 2017 Estimate</i>	<i>FY 2018 Estimate</i>	<i>FY 2019 Estimate</i>
PAYGO SF	\$9.592	\$24.380	\$12.313	\$20.736	\$18.039	\$18.309	\$37.381
GO Bonds	10.600	15.902	22.188	29.976	29.351	30.385	25.726
Total	\$20.192	\$40.282	\$34.501	\$50.712	\$47.390	\$48.694	\$63.107

Note: The authorization table reflects more special funds in fiscal 2015 than are reflected in the 2014 *Capital Improvement Program* due to the inadvertent omission of \$9.6 million in special funds for MALPP. Pre-authorizations of GO bonds are reflected for MALPP in fiscal 2016 (\$22.7 million), 2017 (\$21.9 million), 2018 (\$22.6 million), 2019 (\$17.7 million), and 2020 (\$9.0 million).

Summary of Issues

Farm Bill and the Maryland Agricultural Cost-Share Program: President Barack H. Obama signed the 2012 Farm Bill on February 7, 2014. The previous iteration of the Farm Bill incorporated a provision called the Chesapeake Bay Watershed Initiative, which provided \$188 million to Chesapeake Bay states for agricultural conservation efforts. A similar competitive Regional Watershed Initiative targeted to priority watersheds nationally was included in an iteration of the most recent Farm Bill. **The Department of Legislative Services (DLS) recommends that the Maryland Department of Agriculture (MDA) comment on whether Maryland farmers stand to benefit from any additional cost-share funding from the Regional Watershed Initiative.**

New Value of Easement Bill for the Maryland Agricultural Land Preservation Foundation: SB 71 (Maryland Agricultural Land Preservation Foundation – Value of Easement) is a departmental bill that has been introduced in the 2014 legislative session. The bill prohibits the Maryland Agricultural Land Preservation Foundation (MALPF) from purchasing an easement for (1) more than 75%; or (2) less than 25% of the fair market value of the land. The bill authorizes MALPF to purchase an easement for less than 25% of the fair market value of the land only if the owner’s asking price is less than 25% of the fair market value of the land. **DLS recommends that MDA comment on the extent of properties benefitting from the 25% floor on the fair market value calculation.**

Summary of Updates

Maryland Agricultural Land Preservation Program Audit Finding: The Maryland Agricultural Land Preservation Program (MALPP) is audited annually by the Office of Legislative Audits. The most recent finding came out on April 30, 2013, and covers the period beginning July 1, 2011, and ending June 30, 2012. MALPP resolved the two repeat findings from the previous audit concerning the fact that MALPF had not tested the database of easement acquisitions for reliability nor reconciled it to the State’s records, and MALPF had not ensured that all counties properly filed an annual report or remitted unused agricultural land transfer taxes to the State as required. The one new audit finding concerns easement violations.

Request for Easement Termination Denied: MALPP has received three applications for easement termination, of which one has been addressed in separate MALPP and county hearings. The Mullinix Brothers Partnership in Howard County is the one request to be addressed in a public hearing so far and includes three properties; a fourth property has filed for termination, and a public meeting was held on Monday, January 13, 2014. As of January 15, 2014, the Howard County Commissioners denied the requests to terminate the easements on the three farms noted above, and the MALPF Board of Trustees has given preliminary denial. MALPP has indicated that the outcome of the requests for termination by the Mullinix Brothers Partnership likely will dictate the outcome of future termination requests.

Summary of Recommended PAYGO Actions

1. Capital Appropriation

Concur with the Governor’s proposed contingent reduction for the Maryland Agricultural Land Preservation Program capital appropriation.

Summary of Recommended Bond Actions

	<u>Funds</u>
1. Maryland Agricultural Land Preservation Program	
Approve the \$15,188,000 general obligation bond authorization for the Maryland Agricultural Land Preservation program.	
2. Maryland Agricultural Cost-Share Program	\$3,100,000 GO
Reduce the \$7,000,000 general obligation bond authorization for the Maryland Agricultural Cost-Share Program.	
3. Section 12 – Department of Agriculture – Maryland Agricultural Land Preservation Program	
Approve the pre-authorization of fiscal 2016 general obligation bond funding for the Maryland Agricultural Land Preservation Program.	
4. Section 13 – Department of Agriculture – Maryland Agricultural Land Preservation Program	
Approve the pre-authorization of fiscal 2017 general obligation bond funding for the Maryland Agricultural Land Preservation Program.	
5. Section 14 – Department of Agriculture – Maryland Agricultural Land Preservation Program	
Approve the pre-authorization of fiscal 2018 general obligation bond funding for the Maryland Agricultural Land Preservation Program.	

LA11 – Department of Agriculture – Capital

Funds

6. Section 15 – Department of Agriculture – Maryland Agricultural Land Preservation Program

Approve the pre-authorization of fiscal 2019 general obligation bond funding for the Maryland Agricultural Land Preservation Program.

7. Section 16 – Department of Agriculture Maryland Agricultural Land Preservation Program

Approve the pre-authorization of fiscal 2020 general obligation bond funding for the Maryland Agricultural Land Preservation Program.

Total Reductions

\$3,100,000

Program Description

The MDA capital program is comprised of MALPP, the Tobacco Transition Program, and the Maryland Agricultural Cost-Share (MACS) Program. The programs fit under MDA's goals to preserve adequate amounts of productive agricultural land and woodland in Maryland; promote profitable production, use, and sale of Maryland agricultural products; and provide and promote land stewardship. Descriptions of the three programs follow.

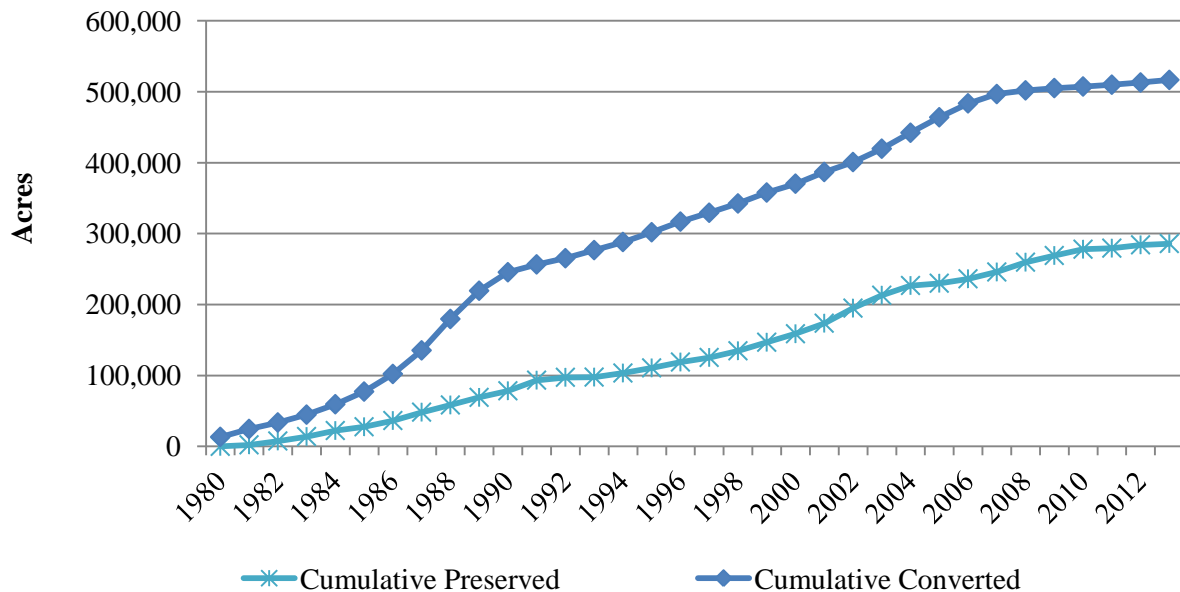
- **Maryland Agricultural Land Preservation Program** – The General Assembly created MALPP to preserve productive agricultural land and woodland which provides for the continued production of food and fiber; limit the extent of urban development; and protect agricultural land and woodland as open space. MALPP, with the assistance and cooperation of landowners and local governments, purchases development rights easements as a means of protecting agricultural land and woodland production activities. The maximum price MALPP may pay for an easement is the landowner's asking price or the easement value, whichever is lower. The easement value is determined by subtracting the agricultural value from the appraised fair market value of the property. Once the development rights have been sold, the property is perpetually protected from further development, with certain rights available only to the owners who originally sold the easement.
- **Tobacco Transition Program** – In 1999, the General Assembly created the Cigarette Restitution Fund (CRF). Under the legislation, one purpose of the CRF is to fund the implementation of the Southern Maryland Regional Strategy Action Plan for Agriculture adopted by the Tri-County Council (TCC) for Southern Maryland with an emphasis on alternative crop uses for agricultural land used for growing tobacco. Funds are appropriated to MDA, which then issues grants to TCC. TCC is a nonprofit, quasi-governmental body that works with the Southern Maryland Agricultural Development Commission to develop programs to stabilize the region's agricultural economy as Maryland growers transition away from tobacco production. TCC's Strategy Action Plan has three main components: the tobacco buyout (first priority), agricultural land preservation (second priority), and infrastructure/agricultural development (third priority). Final tobacco buyout funding was budgeted for fiscal 2014.
- **Maryland Agricultural Cost-Share Program** – The MACS Program provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized best management practices (BMP) that reduce soil and nutrient runoff from farmland. The program requires a minimum 12.5% cost-share match from grantees. Animal waste treatment and containment projects are funded up to \$200,000 per project, with a maximum of \$300,000 per farm for all animal waste management practices and up to \$450,000 per farm when combined with other BMPs, and up to \$200,000 per project under a pooling agreement to solve a pollution problem on two or more farms. All other BMPs are funded up to \$50,000 per project, with a maximum of \$150,000 per farm per person, and up to \$100,000 per project under a pooling agreement to solve a pollution problem on two or more farms.

Performance Measures and Outputs

Maryland Agricultural Land Preservation Program

Agricultural land is desirable for conversion to other uses, such as residential development. MALPP is one tool for keeping farmland in agriculture, as is the agricultural use assessment for taxation purposes. **Exhibit 1** reflects the cumulative agricultural land preserved by MALPP versus the agricultural land converted from fiscal 1980 to 2013. During this time period, the amount of cumulative agricultural land converted has exceeded the cumulative amount conserved. For example, from fiscal 1980 to 1990 and again from fiscal 2004 to 2007, the amount of farmland converted annually exceeded the amount of farmland preserved annually. Over the fiscal 2007 to 2013 time period, more land has been preserved (49,633 acres) than converted (33,069 acres). Although, in fiscal 2013, more land was converted (3,607 acres) than preserved (1,771 acres).

Exhibit 1
Cumulative Agricultural Land Preserved by MALPP versus Converted
Fiscal 1980-2012



MALPP: Maryland Agricultural Land Preservation Program

Note: Includes easements under the Maryland Agricultural Land Preservation Foundation and the now defunct GreenPrint Program.

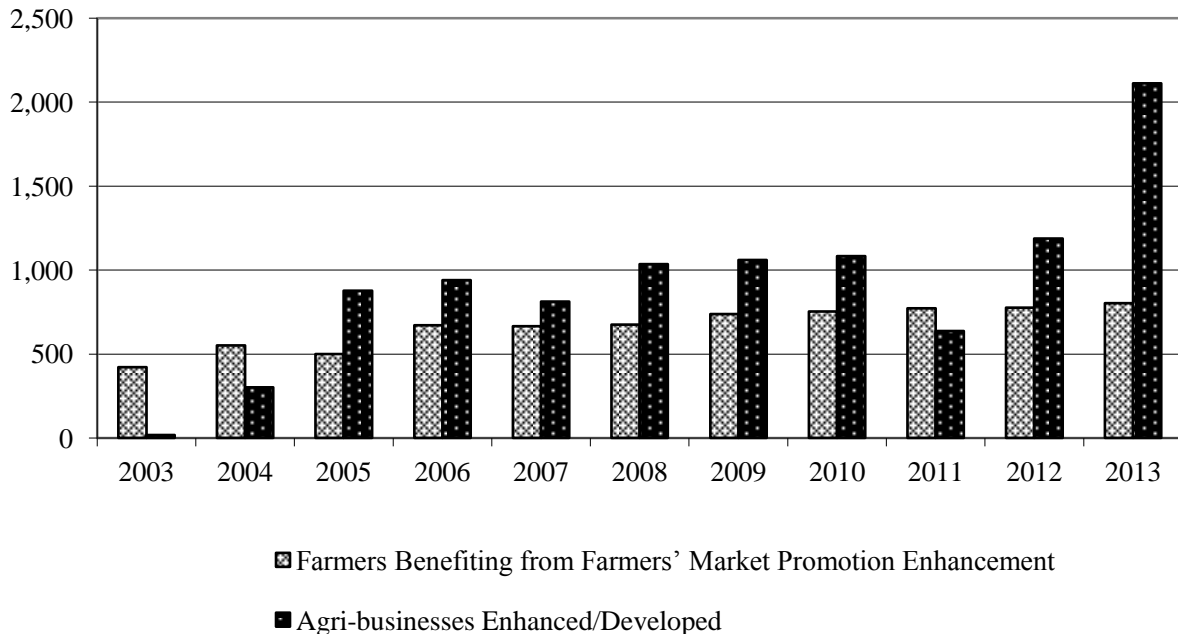
Source: Maryland Department of Agriculture; Department of Legislative Services

Tobacco Transition Program

The 10-year agricultural land preservation goal established in 2001 for the Tobacco Transition Program is to protect 35,000 acres. TCC indicates that as of fiscal 2013, 255 farms and 29,861 acres have been preserved using its own funding and leveraged funds from counties over the 12 years of the program. Of this amount, 144 farms and 14,766 acres have been preserved with solely TCC funding. TCC’s fiscal 2014 goal is to have a total of 266 farms preserved, with an estimated 31,300 cumulative acres. TCC’s fiscal 2015 goal is to preserve an estimated 31,850 acres on 272 farms.

Exhibit 2 shows the number of farmers benefiting from farmers’ market promotion and agri-businesses enhanced/developed as a result of tours, education, trade fairs, grants, and workshops. The number of agri-businesses enhanced/developed increased between fiscal 2012 (1,188) and 2013 (2,111). However, TCC notes that it will no longer be reporting these two measures going forward but will instead report on measures included in its new strategic plan (2011-2020). **The Department of Legislative Services (DLS) recommends that MDA comment on Managing for Results measures that are reflective of the TCC’s impact on the overall health of the local agricultural economy and whether these measures will be reported in the Governor’s budget books going forward.**

Exhibit 2
Tobacco Transition Program Performance Measures
Fiscal 2003-2013



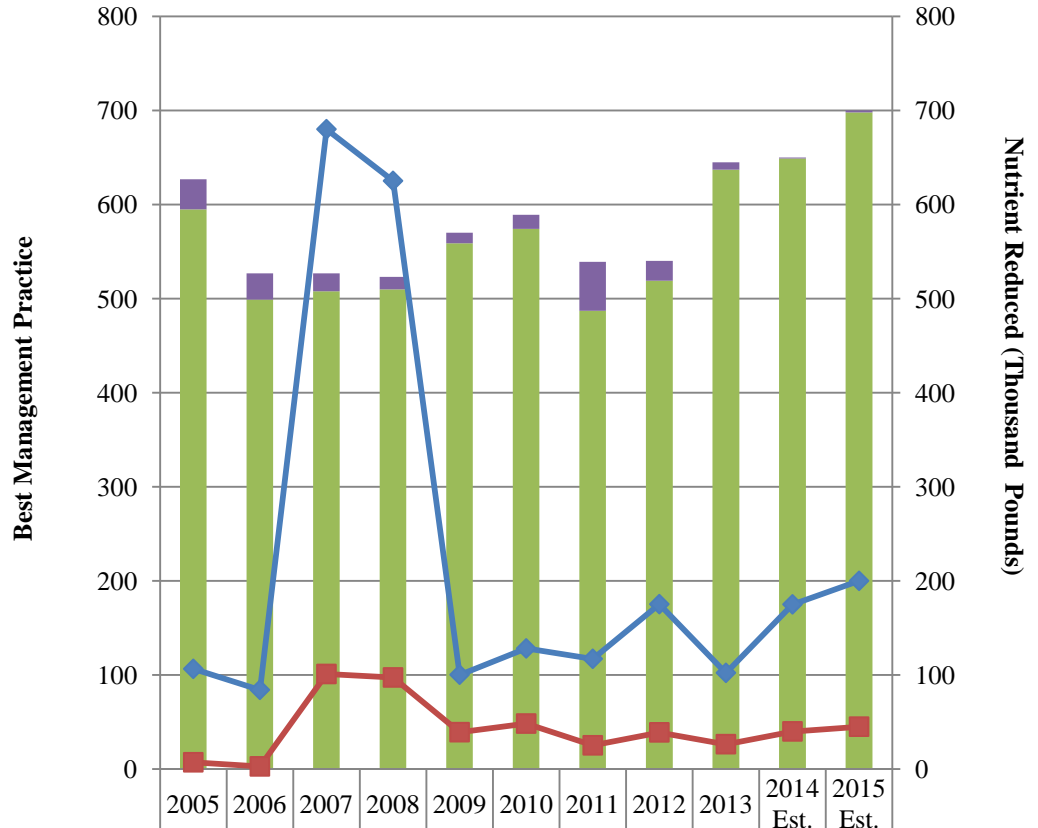
Source: Governor’s Budget Books, Fiscal 2006-2011; Southern Maryland Agricultural Development Commission

Maryland Agricultural Cost-Share Program

MDA's Resource Conservation Grants program has the goal of controlling and reducing agriculturally related water pollution through the implementation of BMPs. MDA recently implemented a tracking system that reflects both BMPs installed with State funding and federal financial assistance through the U.S. Environmental Protection Agency's Chesapeake Bay Implementation Grant and processed through MACS. In contrast, BMPs funded by the U.S. Department of Agriculture money are not tracked. MDA notes that it backfills funding with federal cost-share dollars when federal funding is available. Outside of the State budgeting process, the 2008 Farm Bill authorized additional funding through the Chesapeake Bay Watershed Initiative, which increased to \$20 million for the Environmental Quality Incentives Program in fiscal 2013.

Exhibit 3 reflects the new BMPs installed by MACS between fiscal 2005 and 2015. As can be seen, the majority of BMPs is installed with State funds and range between 100,000 and 200,000 pounds of nitrogen reduced per year, with the exception of anomalous data from fiscal 2007 and 2008, which MDA notes is due to a change in Chesapeake Bay model BMP efficiencies that appear to have been corrected in fiscal 2009. In terms of the maintenance of BMPs, MDA indicates that it inspects 10% of all contracts every year and that it has conducted over 500 inspections annually over the last three years. Unsatisfactory reviews occur in approximately 10% of its inspections. Common reasons for unsatisfactory reviews include the lack of maintenance of BMPs or the lack of transfer of responsibility when ownership changes. Since property transfers make up 50% of the unsatisfactory reviews, MDA has instituted a policy whereby BMPs, for which the State cost-share is \$5,000 or greater, are recorded as a lien on the property. If maintenance issues are not resolved within a certain period of time, then MDA may require payback of the State share.

**Exhibit 3
MACS New Best Management Practices Installed
Fiscal 2005-2015**



Federal (EPA grant) Funded BMPs	32	28	19	13	11	15	52	21	8	1	2
State-funded BMPs	595	499	508	510	559	574	487	519	637	649	698
Reduction in Nitrogen for New BMPs Installed (Thousand Pounds)	106.5	84.2	680.0	625.1	100.2	128.2	117.2	175.2	102.2	175.0	200.0
Reduction in Phosphorus for New BMPs Installed (Thousand Pounds)	7.2	2.8	101.0	97.3	39.2	48.3	25.2	39.0	26.4	40.0	45.0

BMP: best management practice
 EPA: Environmental Protection Agency
 MACS: Maryland Agricultural Water Quality Cost-Share Program

Note: The anomalous fiscal 2007 and 2008 nitrogen reductions are due to a change in Chesapeake Bay model best management practice efficiencies.

Source: Maryland Department of Agriculture

Budget Overview

The fiscal 2015 allowance includes \$12.3 million in special funds and \$22.2 million in general obligation (GO) bonds, which account for the reduction of \$17.3 million in special funds that are contingent on a Budget Reconciliation and Financing Act (BRFA) of 2014 provision to transfer this amount of special funds to the general fund is enacted.

Contingent Reductions and Multi-year GO Bond Replacement

As shown in **Exhibit 4**, the fiscal 2015 allowance reflects three interrelated calculations and actions as follows.

- **Fiscal 2015 Transfer Tax Revenue Diverted to General Fund** – The BRFA of 2014 diverts an additional \$17.3 million in estimated transfer tax revenue to the general fund in fiscal 2015.
- **Three-year GO Bond Replacement Plan** – The Governor has proposed a three-year replacement plan utilizing GO bond funds to replace all of the proposed transfers. The 2015 capital budget bill includes pre-authorizations that span three years – fiscal 2016 through 2018 – as shown in Exhibit 4.
- **Prior Year Transfers Replaced with GO Bonds** – The fiscal 2015 allowance includes \$67.1 million in GO bonds for replacement of prior year transfer taxes transferred to the general fund. This includes \$6.1 million for MALPF, which is not shown in Exhibit 4.

Exhibit 4
Governor’s Fiscal 2014 through 2020 Special Fund Transfers
General Obligation Bond Replacement Plan
(\$ in Millions)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Total</u>
<i>Transfer</i>								
BRFA of 2013	\$18.11	\$15.83	\$16.36	\$17.40	\$18.06	\$0.00	\$0.00	\$85.75
BRFA of 2014	0.00	17.28	0.00	0.00	0.00	0.00	0.00	17.28
Total	\$18.11	\$33.10	\$16.36	\$17.40	\$18.06	\$0.00	\$0.00	\$103.02
<i>Replacement</i>								
Fiscal 2014 Capital Budget	\$0.00	\$9.05	\$16.97	\$16.09	\$16.88	\$17.73	\$9.03	\$85.75
Fiscal 2015 Capital Budget	0.00	0.00	5.76	5.76	5.76	0.00	0.00	17.27
Total	\$0.00	\$9.05	\$22.73	\$21.85	\$22.64	\$17.73	\$9.03	\$103.02

BRFA: Budget Reconciliation and Financing Act

Note: The fiscal 2015 authorization includes \$6.13 million in general obligation bond funding to replacement prior year transfers, but this amount is not reflected in the exhibit because it is not part of the replacement of funding transferred in the fiscal 2014-2018 time period.

Source: Department of Legislative Services

New Funding in the Fiscal 2015 Allowance

Exhibit 5 shows the available fiscal 2015 funding for the three programs in the allowance. The figures are adjusted to account for the contingent reduction in the fiscal 2015 appropriation. After accounting for this adjustment, the proposed fiscal 2015 funding level is \$5.7 million lower than what was provided in fiscal 2014. This primarily reflects a lesser amount of MALPP special fund revenue being appropriated. Tobacco Transition Program funding for agricultural land preservation, which inadvertently was budgeted in MDA’s operating budget, increases in the fiscal 2015 allowance. Fiscal 2015 funding is provided for MACS at the level programmed in the 2013 *Capital Improvement Program*, which is greater than the amount provided in fiscal 2014.

Exhibit 5
Department of Agriculture Capital Budget Changes by Fund
Fiscal 2014-2015
(\$ in Millions)

<u>Program</u>	<u>Fund</u>	<u>2014</u>	<u>2015</u>	<u>Difference</u>
Maryland Agricultural Land Preservation Program	SF	\$24.2	\$9.6	-\$14.5
	GO	10.1	15.2	5.0
Subtotal		\$34.3	\$24.8	-\$9.5
Tobacco Transition Program	SF	\$0.3	\$2.7	\$2.4
	GO	1.9	0.0	-1.9
Subtotal		\$2.2	\$2.7	\$0.5
Maryland Agricultural Cost-Share Program	GO	\$3.8	\$7.0	\$3.3
Subtotal		\$3.8	\$7.0	\$3.3
Total		\$40.3	\$34.5	-\$5.7

GO: general obligation
 SF: special fund

Note: The exhibit includes the \$2.7 million in Tobacco Transition Program special funds for agricultural land preservation that are budgeted in the Department of Agriculture’s operating budget and does not include special funds that are contingently reduced.

Source: Department of Legislative Services

Maryland Agricultural Land Preservation Program

MALPF’s fiscal 2015 allowance reflects \$9.6 million in special funds and \$15.2 million in GO bond authorization, which account for the \$17.3 million special fund reduction contingent on the BRFA of 2014 transferring the funding to the general fund. The entirety of the \$15.2 million in GO bond authorization replaces prior year funding. The remaining special fund appropriation reflects local subdivision participation, agricultural transfer tax revenues, and other income sources, such as various settlement adjustments and child or owner lot reimbursements. Due to funding reductions, the MALPF Board of Trustees voted to combine fiscal 2013 and 2014 funds into one easement cycle at the April 24, 2012 board meeting. MDA anticipates that it will have enough funding for a single-year cycle if it receives between \$20 million and \$25 million in total funding – both State and local funds – for fiscal 2015, which it has under the Governor’s plan. The estimated cost per acre for

MALPF easement is projected to be \$4,000 in fiscal 2015, which is down from the \$4,500 per acre for fiscal 2014.

Tobacco Transition Program

Funds in the fiscal 2015 allowance are all reflected in MDA's operating budget through a budgeting error. The \$7,039,000 in CRF special funds are budgeted as follows: tobacco bond repayment (\$3,323,000), agricultural land preservation (\$2,716,000), noncapital grants for infrastructure/agricultural development programs (\$500,000), and administrative expenses (\$500,000). It is anticipated that a supplemental budget will be submitted to move the \$2,716,000 in agricultural land preservation funding to a pay-as-you-go budget to reflect the capital nature of the intended use. **DLS has recommended a reduction of the \$2.7 million GO bond authorization for agricultural land preservation by \$799,000 in MDA's operating budget in order to level fund the appropriation with fiscal 2014.**

Authorization of GO bonds for the Tobacco Transition Program began in fiscal 2004 and ended with the \$5.0 million authorization in fiscal 2010; the funding was authorized by a provision in the Maryland Consolidated Capital Bond Loan of 2006, which altered the use of GO bonds for the tobacco buyout funding plan that were originally laid out in Chapter 103 of 2001. The payment schedule is \$1.8 million in fiscal 2011, \$3.3 million from fiscal 2012 through 2015, and payments of \$3.8 million from fiscal 2016 to 2018 to round out the \$26.6 million required payment.

Maryland Agricultural Water Quality Cost-Share Program

The fiscal 2015 allowance for MACS is \$7.0 million. MDA anticipates having \$3.7 million available at the end of fiscal 2014, which it will roll into fiscal 2015. Therefore, the total available funding for fiscal 2015 would be the \$7.0 million new authorization plus the \$3.7 million rolled over authorization or \$10.7 million. Of note, between fiscal 2009 and 2013, MDA only encumbered an average of \$6.1 million per year in MACS. **DLS recommends that the MACS authorization be reduced by \$3.1 million in order to fund the program at \$7.6 million, a 25% increase from the most recent five-year encumbrance level average, based on an estimated \$3.7 million to be rolled over from fiscal 2014 and the remainder of \$3.9 million after the recommended reduction.**

Issues

1. Farm Bill and the Maryland Agricultural Cost-Share Program

President Barack H. Obama signed the 2012 Farm Bill on February 7, 2014. The previous iteration of the Farm Bill incorporated a provision called the Chesapeake Bay Watershed Initiative, which provided \$188 million to Chesapeake Bay states for agricultural conservation efforts. A similar competitive Regional Watershed Initiative targeted to priority watersheds nationally was included in an iteration of the most recent Farm Bill. **DLS recommends that MDA comment on whether Maryland farmers stand to benefit from any additional cost-share funding from the Regional Watershed Initiative.**

2. New Value of Easement Bill for the Maryland Agricultural Land Preservation Foundation

SB 71 (Maryland Agricultural Land Preservation Foundation – Value of Easement) is a departmental bill that has been introduced in the 2014 legislative session. The bill prohibits MALPF from purchasing an easement for (1) more than 75%; or (2) less than 25% of the fair market value of the land. The bill authorizes MALPF to purchase an easement for less than 25% of the fair market value of the land only if the owner’s asking price is less than 25% of the fair market value of the land. **Exhibit 6** shows some hypothetical fair market value scenarios under SB 71.

Exhibit 6 SB 71 of 2014 Hypothetical Fair Market Value Scenarios

<u>Hypothetical Property</u>	<u>Fair Market Value</u>		<u>Scenario</u>	<u>Potential Impact</u>
	<u>Agricultural Value</u>	<u>Easement Value</u>		
Property 1	\$10,000 (10%)	\$90,000 (90%)	Easement value of 90% is greater than 75% of fair market value	Ceiling of \$75,000 and so possibly lose \$15,000 for selling the easement
Property 2	\$50,000 (50%)	\$50,000 (50%)	Easement value of 50% is between 25% and 75% of fair market value	Unaffected
Property 3	\$90,000 (90%)	\$10,000 (10%)	Easement value of 10% is less than 25% of fair market value	Floor of \$25,000 and so possibly gain \$15,000 for selling the easement

Source: Department of Legislative Services

MDA notes that in the fiscal 2011 easement offer cycle, it made offers on 66 of 197 applications and that 32 of the 66 offers were for more than 75.0% of the fair market value. In addition, MDA notes that DNR easement programs – Rural Legacy Program and Program Open Space – pay between 40.0 and 80.0% of the land’s fair market value and that 16 of the 20 Rural Legacy Areas have the maximum values set from 70.0 to 80.0% (averaging 75.4%). MDA further notes that lowering the easement values via the 75.0% threshold would extend the existing pool of money. For instance, MDA notes that capping fiscal 2011 offers at 75% would have made \$3.3 million available for offers on other properties. **DLS recommends that MDA comment on the extent of properties benefitting from the 25.0% floor on the fair market value calculation.**

Updates

1. Maryland Agricultural Land Preservation Program Audit Finding

MALPP is audited annually by the Office of Legislative Audits. The most recent finding came out on April 30, 2013, and covers the period beginning July 1, 2011, and ending June 30, 2012. MALPP resolved the two repeat findings from the previous audit concerning the fact that MALPF had not tested the database of easement acquisitions for reliability nor reconciled it to the State’s records, and MALPF had not ensured that all counties properly filed an annual report or remitted unused agricultural land transfer taxes to the State as required.

The one new audit finding concerns easement violations. The audit found that MALPF did not ensure that all easement violations – such as an improper dwelling on the property, a subdivision problem, or debris issues – were resolved in a timely manner. For instance, MALPF management found 31 of 248 violations in its database to be either high (subdivision violations) or medium (such as debris issues) priority, and yet these violations have remained unresolved for periods of up to six years. In addition, the audit noted that State regulations allow MALPF to impose on landowners civil penalties of \$2,500 per day per violation up to \$50,000, as a result of uncorrected violations. No penalties were imposed during fiscal 2012.

Recommendations from the audit include that MALPF (1) perform appropriate and timely follow-up actions on outstanding easement violations to ensure that corrective actions are taken; and (2) determine the current status of the unresolved violations and impose penalties, if appropriate.

2. Request for Easement Termination Denied

Before September 30, 2004, MALPP easements approved for purchase by the Board of Public Works (BPW) allowed for landowners to request that the easement be reviewed for possible termination. MALPP has indicated that an easement may only be terminated if (1) the county governing body, after receiving the recommendation of the county agricultural preservation advisory board, approves it; (2) MALPP determines that profitable farming is no longer feasible on the land; and (3) BPW approves termination. Furthermore, MALPP has indicated that if an easement is terminated, then the current and any future landowner would have the ability to subdivide and

develop the land as provided under local zoning laws and regulations. Easements approved for purchase after September 30, 2004, are perpetual.

MALPP has received three applications for termination, of which one has been addressed in separate MALPP and county hearings. The Mullinix Brothers Partnership in Howard County is the one request to be addressed in a public hearing so far and includes three properties; a fourth property has filed for termination, and a public meeting was held on Monday, January 13, 2014. The easements on the three farms owned by the partnership that originally filed for termination were purchased over 25 years ago as follows:

- Murray Farm – Mt. Airy (166 acres);
- Home Farm – Dayton (123 acres); and
- Howard Farm – Dayton (201 acres).

As of January 15, 2014, the Howard County Commissioners denied the requests to terminate the easements on the three farms noted above, and the MALPF Board of Trustees has given preliminary denial. MALPP has indicated that the outcome of the requests for termination by the Mullinix Brothers Partnership likely will dictate the outcome of future termination requests.

Pre-authorizations and De-authorizations

The fiscal 2015 capital budget includes the de-authorization of fiscal 2014-2018 replacement funding in order to update the replacement amount to reflect the additional fiscal 2015 revenue being transferred to the general fund as shown in **Exhibit 7**.

Exhibit 7 Pre-authorizations

Program	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	Reason
MALPP	\$22.726	\$21.851	\$22.635	\$17.726	\$9.030	Replace fiscal 2014-2018 transfers to the general fund.

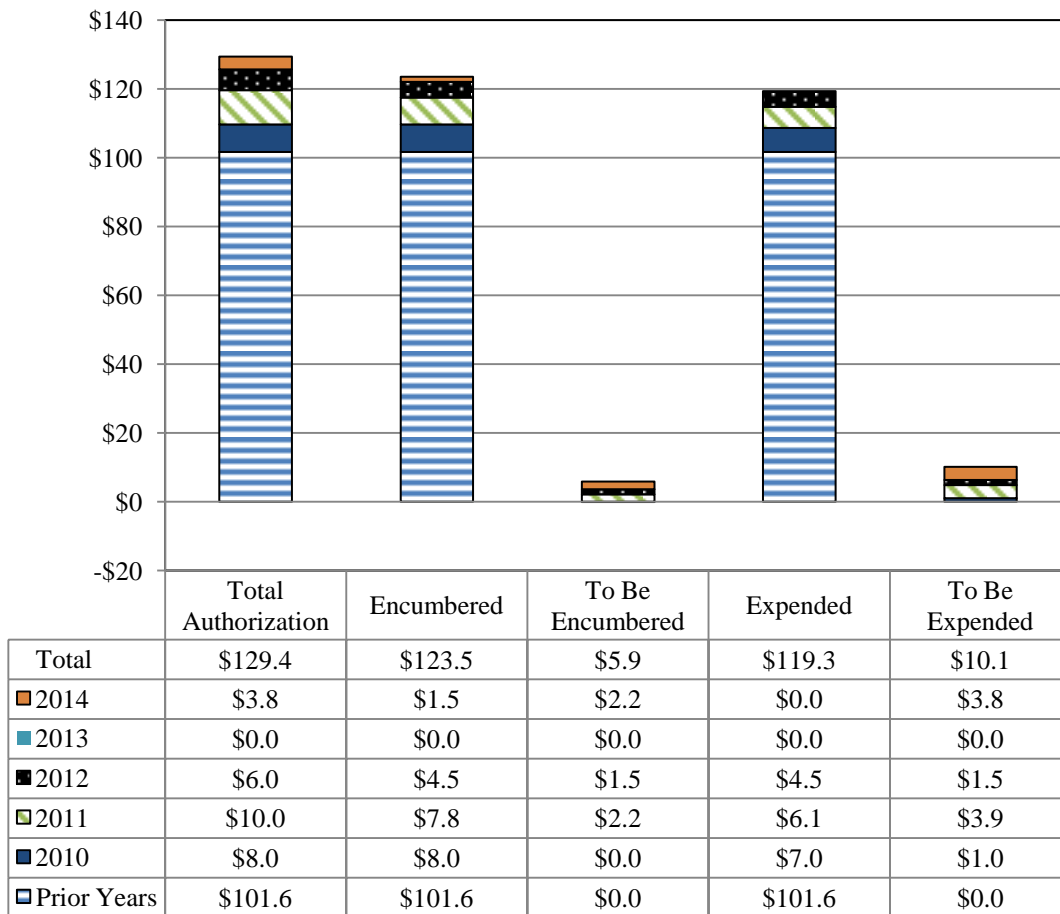
MALPP: Maryland Agricultural Land Preservation Program

Source: Department of Budget and Management, 2014 *Capital Improvement Program*

Authorization Encumbrance and Expenditure Data

Exhibit 8 reflects the encumbrance and expenditure history for MACS. The total authorization through fiscal 2014 is \$129.4 million, of which \$5.9 million remains to be encumbered. If MDA’s spending plan holds, then there will be \$3.7 million available for fiscal 2015.

Exhibit 8
Maryland Agricultural Cost-Share Program
Encumbrances and Expenditures
Program Inception through January 2013
(\$ in Millions)



GO: general obligation

Note: For fiscal 2010, \$980,000 of the \$8 million appropriation are special funds.

Source: Maryland Department of Agriculture; Department of Budget and Management

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Explanations for some of MDA’s prior year authorizations are as follows.

- **MACS** – As noted above, MDA has \$5.9 million in MACS funding to be encumbered in fiscal 2014. In terms of fiscal 2014 funding, MDA indicates that \$2.1 million of the \$3.8 million authorization has been encumbered as of January 2014. MDA notes that it encumbers funding using the oldest GO bonds first and that its average expenditure activity over the past three years has been \$4.8 million per year.
- **MALPP** – MDA notes that all of fiscal 2012 available funding has been encumbered for pending purchases as has all of fiscal 2013 and 2014 bond funding, which means that MDA is on track to encumber the \$49,346,800 programmed for fiscal 2014.

PAYGO Recommended Actions

1. Concur with the following language on the special fund appropriation:

, provided that this appropriation shall be reduced by \$17,275,034 contingent upon the enactment of legislation crediting transfer tax revenues to the General Fund.

Explanation: This action concurs with the Governor’s proposed contingent reduction to the transfer tax portion of the Maryland Agricultural Land Preservation Program’s special fund appropriation.

GO Bond Recommended Actions

1. Approve the \$15,188,000 general obligation bond authorization for the Maryland Agricultural Land Preservation Program. This funding represents transfer tax replacement funding of \$717,000 from fiscal 2011, \$5,417,000 from fiscal 2013, and \$9,054,000 from fiscal 2014.
2. Reduce the \$7,000,000 general obligation bond authorization for the Maryland Agricultural Cost-Share Program.

LA15A Maryland Agricultural Cost-Share Program \$ 3,900,000

<u>Allowance</u>	<u>Change</u>	<u>Authorization</u>
7,000,000	-3,100,000	3,900,000

Explanation: Reduce the \$7,000,000 general obligation bond authorization for the Maryland Agricultural Cost-Share Program to reflect the availability of \$3,700,000 in unencumbered funding from fiscal 2014. This would fund the program at \$7,600,000, which is 25% more than the most recent five-year average of funding encumbered between fiscal 2009 and 2013.

3. Approve the pre-authorization of \$22,726,000 in fiscal 2016 general obligation bond funding for the Maryland Agricultural Land Preservation Program. This funding represents transfer tax replacement funding of \$9,053,000 from fiscal 2014 and \$13,673,000 from fiscal 2015.
4. Approve the pre-authorization of \$21,851,000 in fiscal 2017 general obligation bond funding for the Maryland Agricultural Land Preservation Program. This funding represents transfer tax replacement funding of \$13,672,000 from fiscal 2015 and \$8,179,000 from fiscal 2015.
5. Approve the pre-authorization of \$22,635,000 in fiscal 2018 general obligation bond funding for the Maryland Agricultural Land Preservation Program. This funding represents transfer tax replacement funding of \$5,758,000 from fiscal 2015, \$8,179,000 from fiscal 2016, and \$8,698,000 from fiscal 2017.
6. Approve the pre-authorization of \$17,726,000 in fiscal 2019 general obligation bond funding for the Maryland Agricultural Land Preservation Program. This funding represents transfer tax replacement funding of \$8,697,000 from fiscal 2017 and \$9,029,000 from fiscal 2018.

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7. Approve the pre-authorization of \$9,030,000 in fiscal 2020 general obligation bond funding for the Maryland Agricultural Land Preservation Program. This funding represents transfer tax replacement funding of \$9,030,000 from fiscal 2018.

Total General Obligation Bonds Reduction **\$3,100,000**