DA13
Maryland Energy Administration – Capital

Capital Budget Summary

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

Program	*2014 Approp.*	*2015 Approp.*	*2016 Request*	*2017 Estimate*	*2018 Estimate*	*2019 Estimate*	*2020 Estimate*
Jane E. Lawton Conservation Loan Program	$1.750	$1.750	$1.750	$1.600	$1.600	$1.600	$1.600
State Agency Loan Program	1.900	1.200	2.400	1.200	2.200	1.000	2.000
Total	**$3.650**	**$2.950**	**$4.150**	**$2.800**	**$3.800**	**$2.600**	**$3.600**

Fund Source	*2014 Approp.*	*2015 Approp.*	*2016 Request*	*2017 Estimate*	*2018 Estimate*	*2019 Estimate*	*2020 Estimate*
PAYGO SF	$2.950	$2.950	$2.950	$2.800	$2.800	$2.600	$2.600
PAYGO FF	0.700	0.00	1.200	0.000	1.000	0.000	1.000
Total	**$3.650**	**$2.950**	**$4.150**	**$2.800**	**$3.800**	**$2.600**	**$3.600**

CIP: *Capital Improvement Program*

Note: The amounts listed for fiscal 2014 represent the level of the appropriation, not the level of actual loan activity. The fiscal 2014 appropriation does not include $7.2 million in general funds for programs which were determined not to be capital and were treated as operating programs and funded with special funds. The general funds were reverted.

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Summary of Issues

Proposed Transfer from the Jane E. Lawton Conservation Loan Program Fund Balance: The Budget Reconciliation and Financing Act of 2015 (BRFA) proposes to transfer $3.0 million of the fund balance from the Jane E. Lawton Conservation Loan Program (JELLP) to the general fund. Based on the current spending plan the JELLP fund balance at the close of fiscal 2015 would be $2.2 million following this transfer and still be approximately $775,000 in fiscal 2020.

Summary of Updates

Jane E. Lawton Conservation Loan Program Changes: Chapters 348 and 349 of 2014 made changes to the JELLP including to allow the program funds to be used for credit enhancements in addition to loans. The regulations to implement these changes were effective September 29, 2014. As of this writing, the Maryland Energy Administration (MEA) has not yet begun to offer credit enhancements.

Summary of Recommended PAYGO Actions

1. Concur with Governor's allowance for the Jane E. Lawton Conservation Loan Program.

2. Concur with Governor's allowance for the State Agency Loan Program.

Program Description

Program Description: MEA administers two revolving loan programs. Chapters 466 and 467 of 2008 created the JELLP, which consolidated two formerly separate programs (the Community Energy Loan Program and the Energy Efficiency and Economic Development Loan Program). The JELLP supports energy efficiency and conservation projects for nonprofits, local government agencies, and businesses through low-interest rate loans or credit enhancements. The second loan program, the State Agency Loan Program (SALP), provides zero-interest loans with a 1% administrative fee to State agencies for energy conservation projects, primarily in partnership with energy performance contracts.

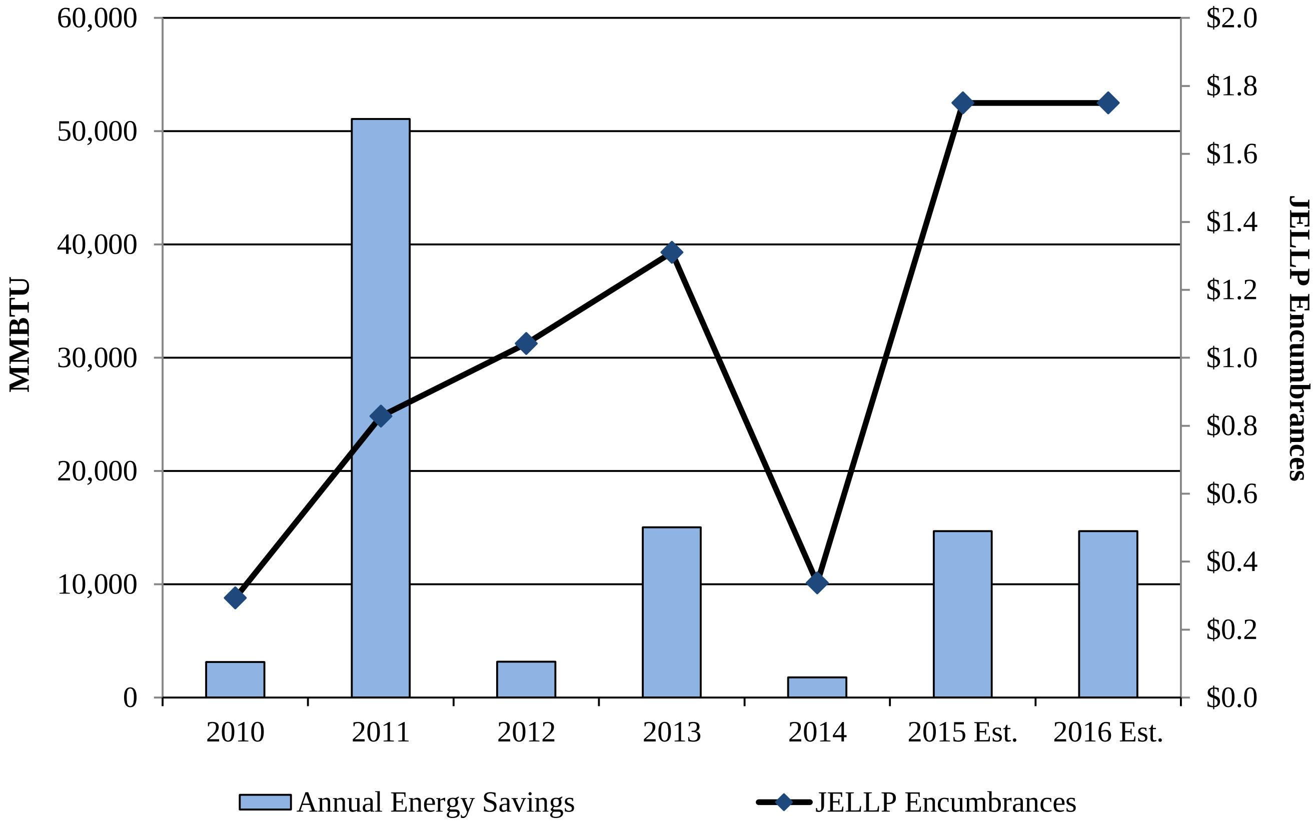
These programs were initially capitalized with funds from the Energy Overcharge Restitution Fund; the JELLP received these funds in 1989 and 1990 and the SALP in 1991 and 1997. The JELLP and the SALP also received an infusion of additional funds in fiscal 2009 from the Strategic Energy Investment Fund (SEIF), of $2.3 million and $800,000 respectively, which primarily receives revenue from the Regional Greenhouse Gas Initiative carbon dioxide emission allowance auctions. The SEIF was also available to the JELLP in fiscal 2010, a transfer of $1.0 million. The SALP also received additional capitalization in fiscal 2011 from the State Energy Program funds available from the American Recovery and Reinvestment Act of 2009 (ARRA), approximately $7.0 million.

Through fiscal 2014, MEA reports that the JELLP and its predecessor programs have made 76 loans totaling $21.1 million to 40 nonprofit organizations, 28 local governments, and 8 businesses. These loans have generated savings totaling $53.2 million. The Department of Budget and Management (DBM) reports that, through fiscal 2014, the SALP has made 86 loans totaling $31.6 million to State agencies. These loans have generated savings totaling $31.8 million.

Performance Measures and Outputs

MEA reports on measures related to encumbrances and annual energy savings in its Managing for Results submissions for the SALP and the JELLP. The trend of annual energy savings in these programs may not always follow the trend of the encumbrances because some energy projects may have unusually large savings. Energy savings in the JELLP and the SALP have generally followed the trend of encumbrances, as shown in **Exhibits 1** and **2**. However, unlike the SALP, in the JELLP, the increase or decrease in energy savings has not always been proportional to the change in encumbrances. For example, in fiscal 2013 while encumbrances increased by approximately 25%, annual energy savings more than tripled.

Exhibit 1
Jane E. Lawton Conservation Loan Program Energy Savings vs. Encumbrances
Fiscal 2010-2016 Est.
($ in Millions)

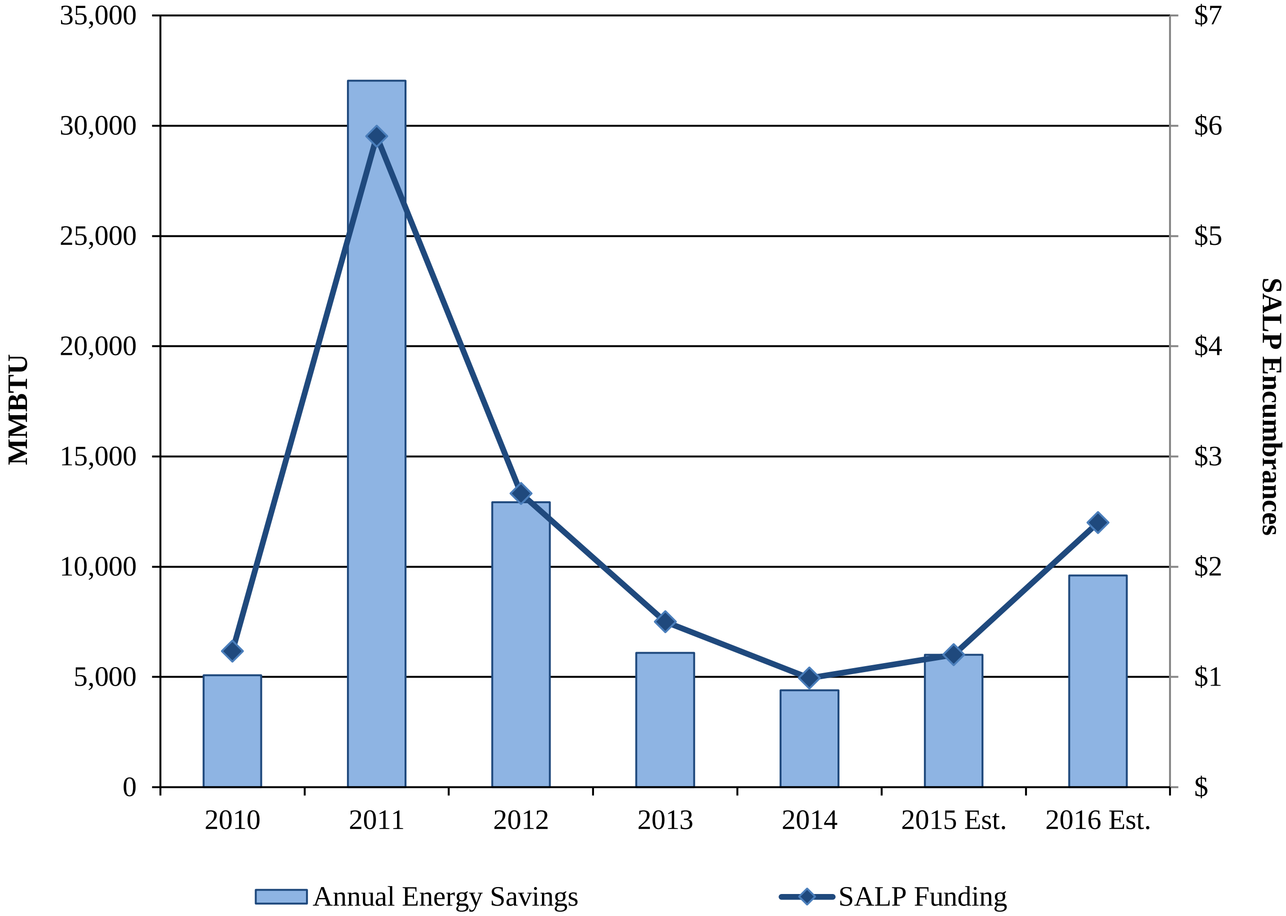


JELLP: Jane E. Lawton Conservation Loan Program
MMBTU: million British thermal units

Note: Savings and encumbrances may not account for all cancelled encumbrances, potentially distorting both encumbrances and energy savings. To the extent possible, encumbrances reflect cancelled encumbrances. Some figures were revised from those reported in the 2014 session to reflect cancelled encumbrances.

Source: Maryland Energy Administration; Governor's Budget Books

Exhibit 2
State Agency Loan Program Energy Savings vs. Encumbrances
Fiscal 2010-2016 Est.
($ in Millions)



MMBTU: million British thermal units
SALP: State Agency Loan Program

Note: Fiscal 2012 figures were revised from the 2013 session to reflect an agency review of the program. Fiscal 2013 encumbrances and savings do not account for loans paid in those years that were completed in previous years.

Source: Maryland Energy Administration; Governor's Budget Books

Budget Overview

MEA's fiscal 2016 pay-as-you-go (PAYGO) allowance totals $4.15 million, an increase of $1.2 million compared to the fiscal 2015 working appropriation. The increase occurs entirely in the SALP due to a federal fund appropriation not available in fiscal 2015.

The SALP

The SALP fiscal 2016 allowance totals $2.4 million ($1.2 million of special and $1.2 million of federal funds) from the revolving loan fund. The fiscal 2016 allowance for the SALP is consistent with the 2014 *Capital Improvement Program* (CIP).

In fiscal 2011, State Energy Program funds available from the ARRA, approximately $7.0 million, were transferred into the SALP. These funds were used for loans in fiscal 2011 ($5.4 million) and 2012 ($1.6 million). The ARRA requirements (such as Davis Bacon wage requirements and historical and environmental reviews) continue to follow the ARRA funds as the initial loans are repaid and the loan repayments are recycled into new loans. In recognition of the need to follow the ARRA requirements for loans made with the recycled ARRA, MEA tracks separate special and federal loan fund balances for the SALP and may have both special and federal fund appropriations. Due to the difficulties associated with meeting these requirements, MEA feels it is more appropriate to use the federal funds on larger loans. This has resulted in appropriating federal funds in alternate years to allow the federal fund balance to accumulate to certain levels before using the funds. This alternating of federal fund use results in the increase in fiscal 2016 funding for the program.

The 2015 CIP for the SALP adds $400,000 in special funds over what was programmed in the 2014 CIP. This includes $200,000 in fiscal 2017, which increases from $1.0 million to $1.2 million in the 2015 CIP and $200,000 in fiscal 2018, which increases in total from $2.0 million to $2.2 million. After accounting for cancelled encumbrances, SALP loan activity exceeded $1.0 million on an annual basis in each fiscal year since 2009 except 2014. With the increases in the CIP, the SALP's special fund balance is projected to be slightly less than $245,000 in fiscal 2020. No additional capitalization is planned for the program.

MEA traditionally partners the SALP with energy performance contracts. A current focus for the agency is to target small- and medium-sized State buildings for energy efficiency upgrades. A federal grant received by MEA (which expires in fiscal 2015) allowed the agency to undertake activities, including assistance with energy audits and training for facility managers for energy efficiency in State buildings, including small- and medium-sized buildings. MEA has memoranda of understanding with two agencies (the Department of Natural Resources (DNR) and the Maryland Department of Planning (MDP)). These two agencies have hired energy audit firms trained through MEA's federal grant. The audits for those agencies are ongoing. MEA has also audited 59 buildings, totaling 700,250 square feet in the following agencies:

- Military Department;

- DNR;
- Canal Place Preservation and Development Authority;
- MDP;
- University of Baltimore;
- Maryland School for the Deaf; and
- University of Maryland Eastern Shore.

MEA and the Department of General Services (DGS) are continuing to develop a final list of small buildings for energy upgrades, which will be finalized after the energy audits are complete. MEA, DGS, and the respective agencies will coordinate on plans to complete these upgrades after the list is finalized. **MEA should comment on the anticipated impact of these activities on the SALP.**

In total, from fiscal 2009 through 2014, after accounting for cancellations, the SALP's loan activity is slightly more than 75% of the appropriation. However, in fiscal 2014, the level of loan activity was the lowest level in recent history, less than $1 million and only 52.1% of the appropriation. Of note, the fiscal 2014 appropriation included $700,000 of federal funds none of which was loaned. Through January 15, 2015, MEA reports no SALP loans have been made in fiscal 2015. **MEA should comment on the reason for the lower loan activity level in fiscal 2014, and actions the agency plans to take to increase activity in fiscal 2016 given the higher appropriation level.**

The JELLP

The 2014 CIP anticipated spending of $2.0 million in each year of the program for the JELLP, including fiscal 2015. The General Assembly reduced the funding for the JELLP in fiscal 2015 based on loan activity history. The 2015 CIP maintains the fiscal 2016 funding at the fiscal 2015 level, which was also the same funding level as fiscal 2014. The remainder of the 2015 CIP is lowered to $1.6 million. This level ensures that sufficient fund balance is maintained in the program after the proposed transfer of funds from the JELLP, discussed in the Issues section of this analysis. If anticipated loan activity, which forms the basis for the funding level, had stayed at the 2014 CIP levels, the program would have required an infusion of funds in fiscal 2019 to accommodate the proposed transfer. **Exhibit 3** shows the change in planned program spending from the 2014 CIP to the 2015 CIP. In total, $1.45 million is removed from the program for the JELLP from fiscal 2016 to 2019.

Exhibit 3
Jane E. Lawton Conservation Loan Program *Capital Improvement Program* Comparison
($ in Thousands)

	2016	2017	2018	2019	2020	Total Planned Spending (2016-2019)
2014 *Capital Improvement Program*	$2,000	$2,000	$2,000	$2,000	n/a	$8,000
2015 *Capital Improvement Program*	1,750	1,600	1,600	1,600	1,600	6,550
Change in Planned Spending	**-$250**	**-$400**	**-$400**	**-$400**		**-$1,450**

Note: The 2014 *Capital Improvement Program* (CIP) covers fiscal 2014 through 2019 while the 2015 CIP covers fiscal 2016 through 2020.

Source: Governor's Budget Books

With the exception of fiscal 2013, the JELLP's level of loan activity since fiscal 2009 has been less than 50% of the appropriation in each year, after accounting for cancellations. In total, from fiscal 2009 to 2014, the JELLP's loan activity has been less than 40% of the appropriation after accounting for cancellations. Through January 17, 2015, MEA reports that one JELLP loan totaling $223,998 has been made in fiscal 2015. Legislation in the 2014 session was designed to provide more options to potential JELLP customers. The changes and the impact on the program is discussed in the Updates section of this analysis.

Issues

1. Proposed Transfer from the Jane E. Lawton Conservation Loan Program Fund Balance

On January 7, 2015, the Board of Public Works (BPW) approved a series of cost containment actions for fiscal 2015. Included in the budget balancing plan presented to BPW was a transfer of $3.0 million from the JELLP fund balance to the general fund. This transfer requires legislation, and the BRFA of 2015 includes the proposed fiscal 2015 transfer. MEA indicates that the proposed transfer would be from the SEIF monies used as additional capitalization in the program in fiscal 2009 and 2010, a total of $3.3 million.

As shown in **Exhibit 4**, after accounting for the proposed transfer, based on the current spending plan and given anticipated loan repayments, the fund balance could support this transfer without substantial risk of requiring an additional infusion of funds through fiscal 2020. At the close of fiscal 2014 the fund balance was $5.9 million. As shown in Exhibit 4, the JELLP fund balance is expected to be approximately $775,000 in fiscal 2020 even with the proposed transfer.

Exhibit 4
Jane E. Lawton Conservation Loan Program Fund Balance
Fiscal 2014-2020 Est.

	2014 Actual	2015 Working	2016 Est.	2017 Est.	2018 Est.	2019 Est.	2020 Est.
Beginning Balance	**$4,285,526**	**$5,916,031**	**$2,199,097**	**$1,561,495**	**$1,130,250**	**$1,225,368**	**$907,112**
Revenue							
General Funds	$0	$0	$0	$0	$0	$0	$0
Loan Repayment	1,393,766	1,069,450	1,149,150	1,205,878	1,732,617	1,319,622	1,506,953
Investment Interest	67,851	68,616	68,248	67,877	67,501	67,122	66,739
Transfer In (Out) Other Funds	0	0	0	0	0	0	0
Closing Fees Collected	0	0	0	0	0	0	0
Cancellation of Encumbrances	553,451	0	0	0	0	0	0
Total Revenue	**$2,015,068**	**$1,138,066**	**$1,217,398**	**$1,273,755**	**$1,800,118**	**$1,386,744**	**$1,573,692**
Total Available	**$6,300,594**	**$7,054,097**	**$3,416,495**	**$2,835,250**	**$2,930,368**	**$2,612,112**	**$2,480,804**
Expenditure and Encumbrances							
Loans	$337,713	$1,750,000	$1,750,000	$1,600,000	$1,600,000	$1,600,000	$1,600,000
Operating Expenses	46,850	105,000	105,000	105,000	105,000	105,000	105,000
Transfer to General Fund		3,000,000					
Total Expenditure and Encumbrances	**$384,563**	**$4,855,000**	**$1,855,000**	**$1,705,000**	**$1,705,000**	**$1,705,000**	**$1,705,000**
Ending Balance	**$5,916,031**	**$2,199,097**	**$1,561,495**	**$1,130,250**	**$1,225,368**	**$907,112**	**$775,804**

Source: Maryland Energy Administration; Department of Budget and Management

Updates

1. Jane E. Lawton Conservation Loan Program Changes

Chapters 348 and 349 of 2014 alter the JELLP. The changes:

- clarifies that an eligible business is one that is in good standing with the State Department of Assessments and Taxation and is either incorporated in or registered to do business in Maryland;

- removes renewable energy generation projects from the definition of projects and promotion of these resources from the program purpose;

- removes start-up opportunities for new businesses, installation of equipment to make buildings self-sustaining and of emergency generating units that use renewable energy resources, and implementation of methane removal at landfills from the definition of projects in the program;

- clarifies the requirement to demonstrate energy savings that are greater than the cost of the project;

- removes certain requirements for funds provided to county governments through the program;

- clarifies that the funds reserved for nonprofits for the program are only reserved for at least 90 days; and

- expands the eligible use of program funds to add credit enhancement and sets out requirements for credit enhancements.

MEA published proposed regulations to implement the legislation in the July 25, 2014 issue of the *Maryland Register*. At the same time, MEA published a notice of emergency action to implement the proposed regulations as emergency regulations. The notice of final approval of the regulations was published in the September 19, 2014 issue of the *Maryland Register*. The final regulations became effective September 29, 2014.

In addition to implementing the legislation, the regulation changes clarified requirements related to collateral, and defined the loan document requirements including minimum information to be provided in the loan agreements, security agreement, and note.

MEA has also begun efforts to acquire legal support necessary to implement the credit enhancement options. MEA has not yet begun to offer credit enhancements. However, MEA expects significant interest in these new options when available.

Consolidated Administrative Expenses – All Programs

	FY 2014 Actual	FY 2015 Est.	FY 2016 Est.
Sources:			
Special Funds			
Jane E. Lawton Conservation Loan Program	$80,413	$105,000	$105,471
State Agency Loan Program	34,075	30,000	30,000
Subtotal – Special Funds	***$114,488***	***$135,000***	***$135,471***
Total Funds	**$114,488**	**$135,000**	**$135,471**
Uses:			
Direct Expenses	$59,298	$56,455	$58,120
Indirect Expenses (legal, marketing, asset management)	55,190	79,045	77,351
Total Direct and Indirect Expenses	**$114,488**	**$135,500**	**$135,471**

MEA has spent and plans to spend more funds to support the JELLP than the SALP. For the JELLP, in addition to staffing resources (of approximately $30,000) for program management, MEA has provided legal resources to assist in the loan closing process and filing of documents related to collateral and other technical support (totaling approximately $75,000 in fiscal 2015 and 2016). A limited amount of travel expenses are available for the JELLP.

For the SALP, the administrative expenditures are primarily for staffing and related expenses for program management (approximately $28,000 in fiscal 2016). MEA also spent a limited amount of funds for technical support for the SALP in fiscal 2014. MEA plans to spend some funds for travel related to the SALP in fiscal 2015 ($2,946) and 2016 ($1,968).

The Governor's Budget Books for the fiscal 2016 allowance shows no funding as being spent from the SALP for administrative expenses. DBM and MEA advise that these funds were not included in the budget in error and that administrative expenses will occur in the fund in fiscal 2016. The planned expenditures are reflected in the exhibit.

PAYGO Recommended Actions

1. Concur with Governor's allowance for the Jane E. Lawton Conservation Loan Program.

2. Concur with Governor's allowance for the State Agency Loan Program.