DA13
Maryland Energy Administration – Capital

Capital Budget Summary

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

Program	2016 Approp.	2017 Approp.	2018 Request	2019 Estimate	2020 Estimate	2021 Estimate	2022 Estimate
Jane E. Lawton Conservation Loan Program	$1.750	$1.500	$0.850	$0.850	$0.850	$0.850	$0.850
State Agency Loan Program	2.400	3.200	1.700	1.200	1.200	1.200	1.200
Total	**$4.150**	**$4.700**	**$2.550**	**$2.050**	**$2.050**	**$2.050**	**$2.050**

Fund Source	2016 Approp.	2017 Approp.	2018 Request	2019 Estimate	2020 Estimate	2021 Estimate	2022 Estimate
PAYGO GF	$0.000	$0.000	$0.000	$0.000	$0.000	$0.000	$0.000
PAYGO SF	2.950	3.700	2.550	2.050	2.050	2.050	2.050
PAYGO FF	1.200	$1.000	0.000	0.000	0.000	0.000	0.000
Total	**$4.150**	**$4.700**	**$2.550**	**$2.050**	**$2.050**	**$2.050**	**$2.050**

Note: Fiscal 2017 working appropriation figures include a proposed $1 million special fund deficiency appropriation for the State Agency Loan Program.

FF: federal funds
GF: general funds
PAYGO: pay-as-you-go
SF: special funds

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Summary of Updates

Credit Enhancements in the Jane E. Lawton Conservation Loan Program: Among other changes, Chapters 348 and 349 of 2014 expanded the eligible uses of funds in the Jane E. Lawton Conservation Loan Program (JELLP) to include credit enhancements. However, as of the 2016 session, no credit enhancements had been offered. The 2016 *Joint Chairmen's Report* (JCR) requested that the Maryland Energy Administration (MEA) provide an update on the implementation plan, timeline, and credit enhancement offering in the program. MEA indicated in its response that it does not plan to offer credit enhancements at this time but will continue to evaluate the opportunities annually.

Summary of Recommended PAYGO Actions

1. Adopt committee narrative requesting a report on the potential for merging the Jane E. Lawton Loan Program and 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 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 average interest rate for loans is expected to be 2% in fiscal 2017. 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.

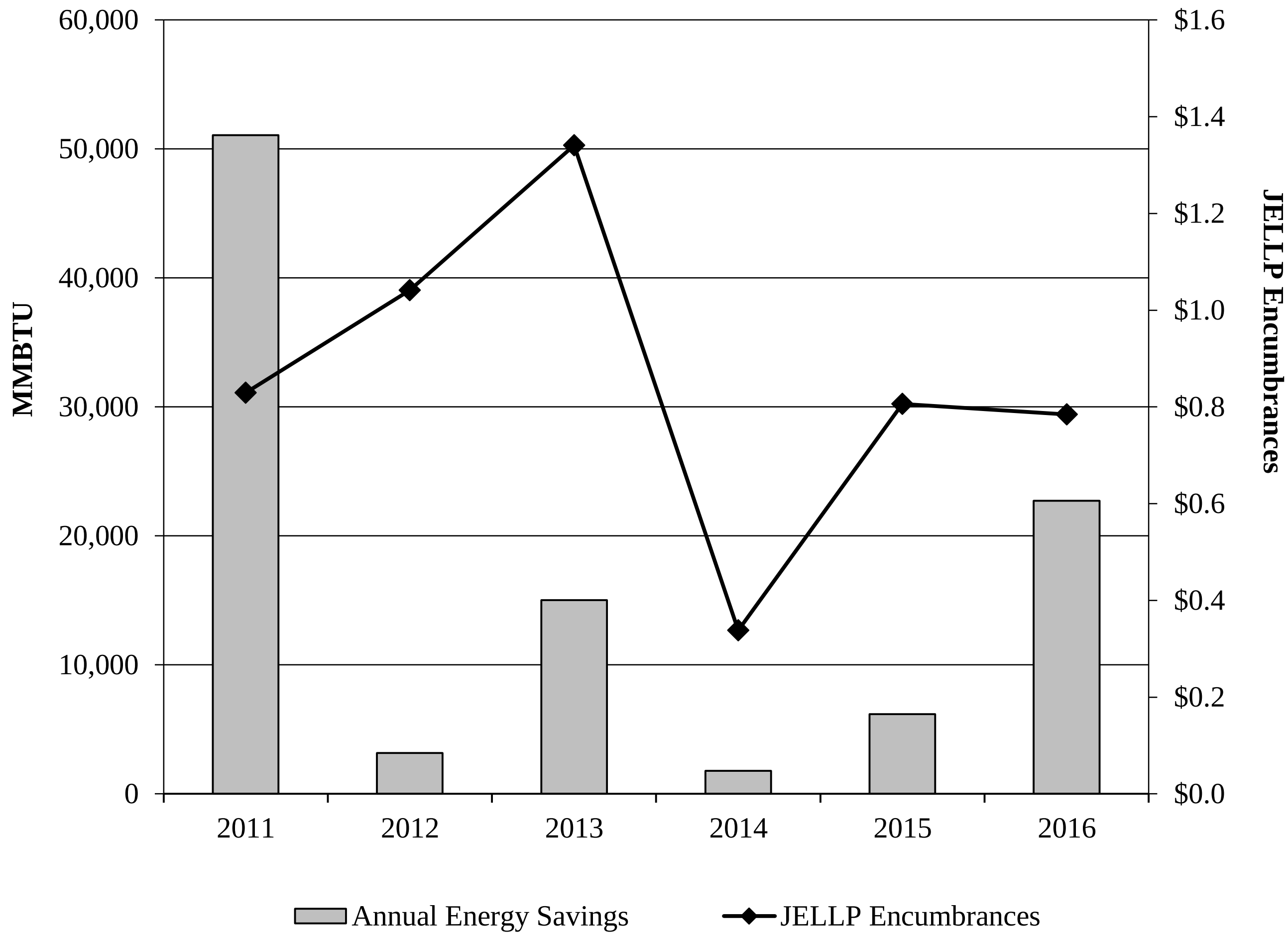
These programs were initially capitalized with funds from the Energy Overcharge Restitution Fund; the JELLP received these funds in 1989 and 1990 and the SALP in 1991 and 1997. Since that time, the programs have received additional capitalization from the Strategic Energy Investment Fund (SEIF) (both the JELLP and the SALP) and the State Energy Program funds available from the American Recovery and Reinvestment Act of 2009 (ARRA) (SALP only). A portion of the SEIF capitalization in the JELLP was removed in fiscal 2015 and transferred to the General Fund.

Through fiscal 2016, the Department of Budget and Management (DBM) reports that the JELLP and its predecessor programs have made 80 loans totaling $22.6 million to 28 local governments, 40 nonprofit organizations, and 12 private businesses. These loans have generated savings totaling $54.5 million. DBM reports that through fiscal 2016, the SALP has made 93 loans totaling $34.8 million. These loans have generated savings of $34.7 million.

Performance Measures and Outputs

MEA reports on measures related to annual energy savings for loans made through the SALP and the JELLP in its annual Managing for Results submission. The trend of annual encumbrances may not always follow the trend of encumbrances because some projects may have unusually large savings. As shown in **Exhibit 1**, the direction of change in the annual energy savings in the JELLP has generally been the same as the level of encumbrances, except in fiscal 2012 and 2016. In fiscal 2012, annual energy savings decreased even as encumbrances increased by approximately 25.6%. This occurred, in part, due to a project with unusually high energy savings in fiscal 2011, which skews the results in that year. In fiscal 2016, encumbrances slightly decreased while energy savings increased by 267.0% (from 6,193 to 22,731). MEA indicates that one of the loans funded that year included seven measures and was more extensive than is typical of the JELLP, resulting in an unusually high level of savings that year. In general, the scale of change in energy savings is much larger than the change in encumbrances.

Exhibit 1
JELLP Energy Savings versus Encumbrances
Fiscal 2011-2016
($ in Millions)



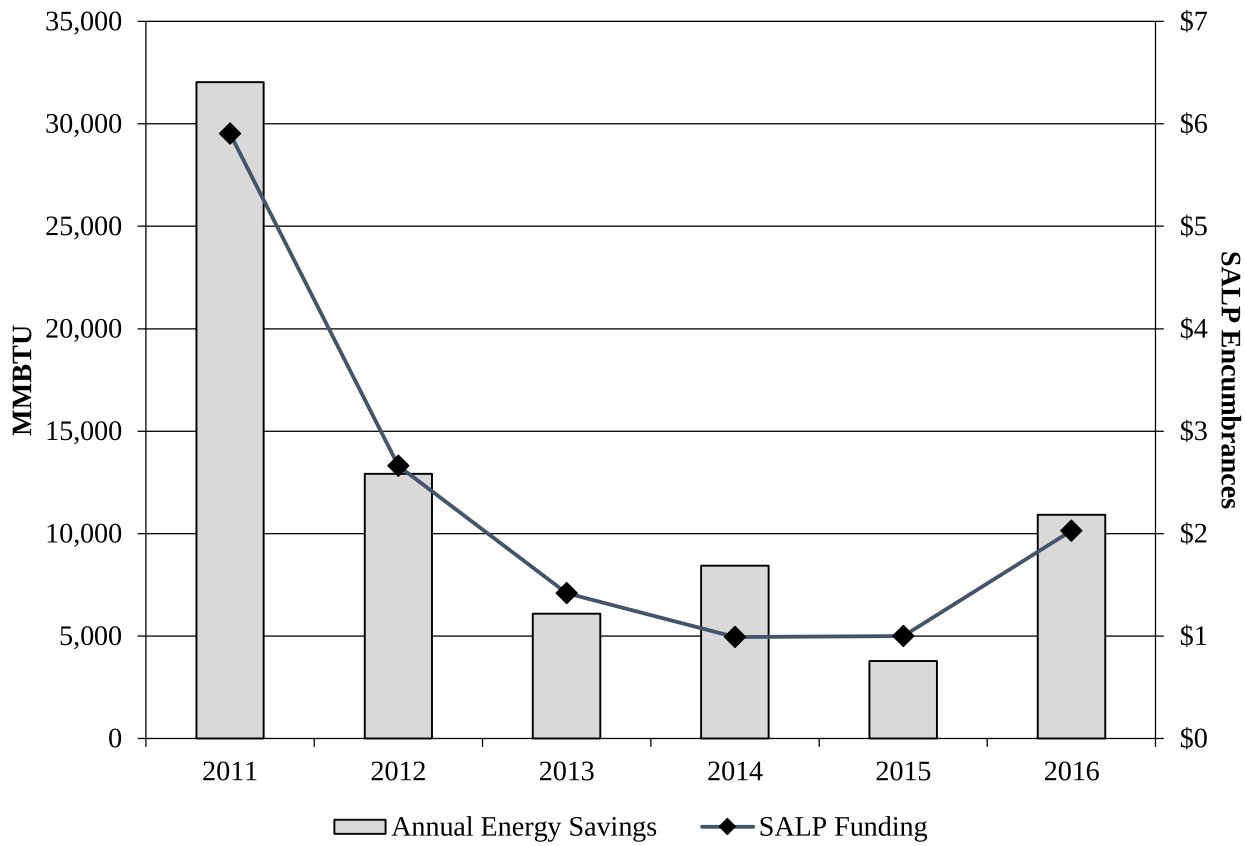
JELLP: Jane E. Lawton Conservation Loan Program
MMBTU: million British thermal units

Note: To the extent possible, encumbrances have been reduced based on canceled encumbrances. However, savings and encumbrances may not account for all canceled encumbrances potentially distorting both encumbrances and energy savings.

Source: Maryland Energy Administration; Governor's Budget Books; Department of Budget and Management

As shown in **Exhibit 2**, with the exception of fiscal 2014, the trend of annual energy savings in the SALP has tracked closely with the level of encumbrances. In fiscal 2016, SALP encumbrances increased by 102.9% (or $1 million), and energy savings increased by 189.2%.

Exhibit 2
SALP Energy Savings versus Encumbrances
Fiscal 2011-2016
($ in Millions)



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

Note: To the extent possible, encumbrances have been reduced based on canceled encumbrances. However, savings and encumbrances may not account for all canceled encumbrances potentially distorting both encumbrances and energy savings. 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; Department of Budget and Management

Budget Overview

The MEA fiscal 2018 pay-as-you go (PAYGO) allowance totals $2.55 million, a decrease of $1.15 million compared to the fiscal 2017 working appropriation. A decrease of $650,000 in special funds in the JELLP is partially offset by an increase of $500,000 in special funds for the SALP. In addition, there is a federal fund decrease of $1.0 million in the SALP. However, the decrease between fiscal 2017 and 2018 increases to $2.15 million once the proposed deficiency appropriation of $1.0 million of special funds from the SALP is factored.

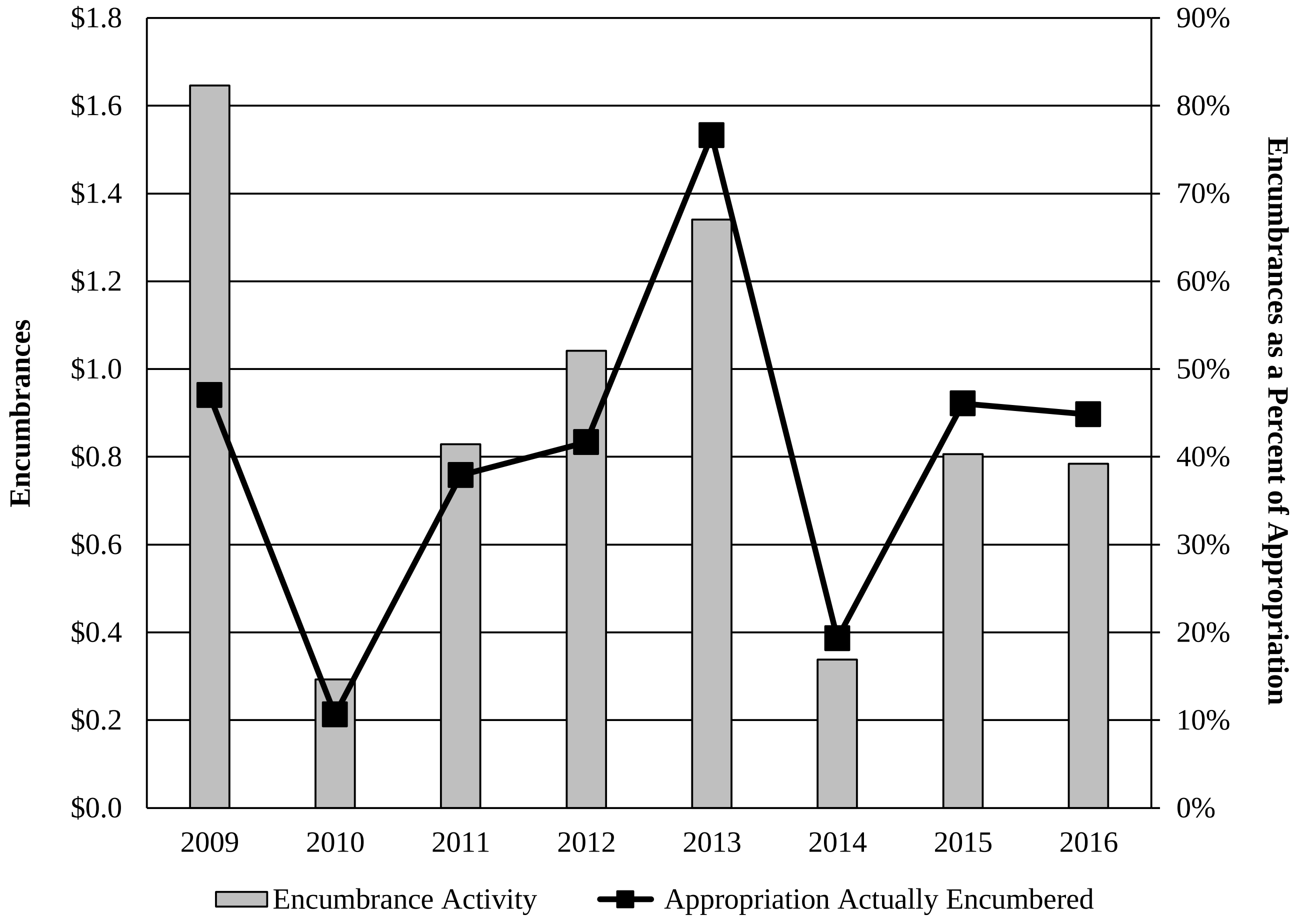
JELLP

The fiscal 2018 allowance includes $850,000 of special funds for the JELLP from the revolving loan fund. The fiscal 2018 allowance is $650,000 lower than the fiscal 2017 working appropriation and the amount that was expected for fiscal 2018 based on the 2016 *Capital Improvement Program* (CIP). The 2017 CIP plans funding for the JELLP at $850,000 annually through fiscal 2022. In total, the 2017 CIP reduces $2.6 million from the amount planned for the JELLP from fiscal 2018 through 2021 in the 2016 CIP. The fiscal 2018 allowance for the JELLP and the amount planned for the JELLP in the remaining years of the 2017 CIP more closely reflects recent encumbrance levels than the 2016 CIP.

Historically, the program has had difficulty encumbering funds to the level of its appropriation. **Exhibit 3** shows the level of encumbrances after accounting for cancellations compared to the level of appropriation from fiscal 2009 through 2016. After accounting for cancellations, encumbrances in the JELLP totaled more than $850,000 in only three years, from fiscal 2009 through 2016. Encumbrances in fiscal 2015 and 2016 were around $800,000, and in each of these years, the encumbrances were around 45% of the appropriation. To date in fiscal 2017, MEA has received requests totaling slightly less than $350,000 (approximately 23% of the appropriation) for two projects. Both projects are still under review.

The JELLP fund balance was $4.3 million at the close of fiscal 2016. In fiscal 2017, the closing fund balance would be $3.6 million, even if the program were to encumber all of the appropriated funds, which is unlikely. Given the limited spending planned in the CIP, the fund balance should remain significant through the planning period.

Exhibit 3
JELLP Encumbrances
Fiscal 2009-2016
($ in Millions)



JELLP: Jane E. Lawton Conservation Loan Program

Source: Maryland Energy Administration; Governor's Budget Books; Department of Legislative Services

SALP

The fiscal 2018 allowance includes $1.7 million of special funds from the revolving loan fund for the SALP. This level of funding is $500,000 lower than the fiscal 2017 working appropriation but

$500,000 higher than what was expected for fiscal 2018 in the 2016 CIP. However, the fiscal 2018 budget bill includes a proposed deficiency appropriation of $1.0 million in special funds for the SALP. After accounting for this proposed deficiency appropriation, the fiscal 2018 allowance is $1.5 million less than fiscal 2017.

The fiscal 2017 working appropriation includes $2.2 million of special funds and $1.0 million of federal funds after accounting for the proposed deficiency appropriation. The fiscal 2017 appropriation was expected to include the last of the federal funds available in the SALP; therefore, no additional federal funds were expected in fiscal 2018.

Federal Funds in the SALP

MEA had planned a fund swap in fiscal 2017 in which approximately $5.0 million of special funds would replace $5.0 million in federal funds in the SALP loan fund. This fund replacement was expected to consist largely of replacing funds among outstanding loans. The federal funds in the SALP were from funds received by MEA in the ARRA. These funds carried a number of requirements that made them difficult to lend. The requirements continue to follow the funds as the loans are repaid and lent again. By replacing the federal funds with special funds, MEA and the loan recipients would no longer have to follow the strict requirements of ARRA funding both for current and future loans. The only federal funds that would have remained in the SALP after the fund swap ($2.2 million) were lent to the Motor Vehicle Administration in fiscal 2016 and 2017.

The special funds that were to be used in the fund swap were the SEIF, which is composed primarily of revenue from the Regional Greenhouse Gas Initiative (RGGI) carbon dioxide emission allowance auctions. During the 2016 session, the SEIF had, and was expected to continue to have, significant fund balances. For example, during the 2016 session, the estimated closing fiscal 2016 fund balance of the SEIF from RGGI sources was $74.2 million, including $5.4 million in the general energy efficiency category (the portion of the balance that would have been used in the fund swap). Unexpectedly, however, RGGI allowance clearing prices began to fall in the March 2016 auction and in the December 2016 auction, prices were less than half the auction clearing price in the December 2015 auction. Because the decline in price and resulting revenue was not expected, the fiscal 2017 budget planned a much higher level of spending than could be supported by the revenue actually received, ultimately leading to significantly reduced fund balances. MEA has had to make some adjustments to spending and planned to realign the fund balance within the SEIF to limit the reductions in program spending. The estimated fiscal 2017 closing fund balance of the SEIF is $31.1 million, with $3.7 million of that balance in the general energy efficiency category. As a result, MEA has also put on hold the plan to swap the federal funds in the SALP with special funds from SEIF.

Fiscal 2018 Special Fund Increase

The increase to $1.7 million in special funds in the fiscal 2018 allowance (from the $1.2 million planned in the 2016 CIP) and the proposed fiscal 2017 deficiency appropriation ($1.0 million) are designed to assist the program to accommodate high demand in fiscal 2017. MEA has received requests totaling $3.3 million in fiscal 2017, $1.1 million higher than the fiscal 2017 working appropriation.

The proposed deficiency appropriation would assist MEA in meeting the excess demand by allowing MEA to fund one of the two projects for which it does not currently have sufficient appropriation to support. However, even with the deficiency appropriation, MEA would be unable to accommodate at least one fiscal 2017 request. The increased fiscal 2018 funding would allow MEA to fund the remaining fiscal 2017 request and allow for new projects in fiscal 2018. Outside of fiscal 2018, the 2017 CIP does not change the planned spending in the SALP compared to the 2016 CIP. The fiscal 2019 through 2022 budgets are expected to include $1.2 million in special funds from the revolving loan fund.

While demand has been unusually high in fiscal 2017, the SALP has been relatively successful in encumbering its appropriation historically. MEA has encumbered more than 80.0% of its appropriation three times since fiscal 2011, including in fiscal 2015 (83.3%) and 2016 (84.5%). MEA has also encumbered at least $1.2 million in three years from fiscal 2012 through 2016. However, the appropriation in the SALP in the out-years is somewhat limited by the fund balance. The projected special fund balance is expected to be below $1.0 million from fiscal 2017 through 2020 and less than $2.0 million through fiscal 2022, as shown in **Exhibit 4**. These projected balances assumed that the special fund and federal fund swap would occur in fiscal 2017. This assumption leads to expected higher special funds repayments. The lack of a fund swap negatively impacts the outlook as the repayments instead will be federal fund loan repayments. In fact, MEA indicates that the SALP fund cannot support the proposed deficiency appropriation and the funding included in the fiscal 2018 allowance without the fund swap. The ability to make new special fund loans out of the SALP is dependent on loan repayments. Therefore, even if demand were to remain high, it is unlikely that the SALP special fund appropriation could be increased beyond what is planned in the 2017 CIP to meet demand. The concerns with the ability to lend the federal funds remain. Therefore, it is questionable whether the additional demand could be met with the available federal funds.

Exhibit 4
SALP Special Fund Summary
Fiscal 2016-2022

	2016 Actual	2017 Working	2018 Est.	2019 Est.	2020 Est.	2021 Est.	2022 Est.
Beginning Special Fund Balance	**$797.2**	**$856.8**	**$456.5**	**$351.8**	**$485.6**	**$710.6**	**$1,031.6**
Revenue							
Special Fund Loan Repayment	$1,094.5	$1,747.6	$1,542.7	$1,280.7	$1,371.3	$1,466.9	$1,356.1
Special Fund Investment Interest	30.0	52.1	52.6	53.1	53.6	54.2	54.7
Closing Fees	0.0	0.0	0.0	0.0	0.0	0.0	0.0

	2016 Actual	2017 Working	2018 Est.	2019 Est.	2020 Est.	2021 Est.	2022 Est.
Special Fund Cancellation of Encumbrances	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Special Fund Revenue	1,124.5	1,799.7	1,595.3	1,333.8	1,425.0	1,521.1	1,410.8
Special Funds Available	**$1,921.7**	**$2,656.5**	**$2,051.8**	**$1,685.6**	**$1,910.6**	**$2,231.6**	**$2,442.4**
Expenditures and Encumbrances							
Special Fund Loans	$1,064.9	$2,200.0	$1,700.0	$1,200.0	$1,200.0	$1,200.0	$1,200.0
Special Fund Ending Balance	**$856.8**	**$456.5**	**$351.8**	**$485.6**	**$710.6**	**$1,031.6**	**$1,242.4**
Special Fund Swap		**$5,032.0**					
Federal Fund Swap		**-$5,032.0**					

SALP: State Agency Loan Program

Note: Assumes the planned fund swap occurs, which also impacts estimated loan repayments and interest calculations. Federal fund balance summary information is not included for illustrative purposes but will be maintained by the Maryland Energy Administration.

Source: Maryland Energy Administration; Department of Budget and Management

MEA requires an infusion of funds to support the funding levels proposed in the fiscal 2018 budget bill. Given the high demand but low fund balance in the SALP and the low demand but high fund balance in the JELLP, the funds in the JELLP could be an option for overcoming the SALP funding challenges in the near term. Section 9-20A-07(e) of the State Government Article, which prescribes the uses for the Jane E. Lawton Loan Fund, currently allows the funds to be used to pay the expenses of the program, to provide loans to eligible borrowers and projects, and to enhance the credit of a financing offered by eligible banks and other financial institutions. Since use of these funds for the SALP would not otherwise be allowed under statute, any transfer of funds from that fund to the SALP would require an Act of the General Assembly. **The Department of Legislative Services (DLS) recommends an amendment to the Budget Reconciliation and Financing Act of 2017 to authorize a transfer of $2 million from the JELLP fund to the SALP in fiscal 2017.** Over the long term, a potential merger of the programs would address the efficiency and sustainability of both programs by maintaining eligibility for businesses, nonprofits, and local governments under a merged program but providing an overall higher level of funding that could be used for State agency projects if demand remains high. **As a result, DLS also recommends that MEA, in conjunction with DBM, consider and report on options for merging the programs to improve the efficiency of the programs.**

Updates

1. Credit Enhancements in the Jane E. Lawton Conservation Loan Program

Chapters 348 and 349 of 2014 made a number of changes to the JELLP including to allow the program to be used for credit enhancements. Under the chapters, any credit enhancements offered must carry out the purpose of the JELLP in a manner that MEA considers appropriate, facilitate the financing of at least one project, and be offered only to a bank or other financial institution in good standing with the State Department of Assessments and Taxation that is incorporated or registered to do business in the State. MEA was authorized to assess a reasonable fee to the participating bank or financial institution. Credit enhancements include a loan loss reserve or loan guarantee.

Regulations to implement the legislation became effective on September 29, 2014. However, as of the 2016 session, no credit enhancements had been offered through the program. The 2016 JCR requested that MEA submit an update on the implementation plan, timeline, and credit enhancement offerings in the program. MEA submitted the response in October 2016.

No Planned Offerings

In its response, MEA indicated that the expansion of the program to allow for credit enhancements was an effort to broaden the offerings of the JELLP in an attempt to increase loan activity. As discussed earlier, the program has been underutilized since the program was consolidated into the JELLP in fiscal 2009. MEA indicates that the most logical and advantageous credit enhancements offerings for the JELLP would be a loan loss reserve or a loan guarantee.

Under a loan loss reserve, MEA would agree to cover a certain percent of loan losses in the program pool, while the lender would agree to cover a certain percent of each default. MEA explains that a loan loss reserve is typical for small loans. MEA notes that its loans are typically between $40,000 and $500,000 and that such a loan loss reserve would exceed the capability of the program.

Under a loan guarantee, the JELLP would cover all of a loan default. The funds would not be set aside, and the loss would be paid through the full faith and credit of the program. MEA notes that this is typical of large loan pools. MEA explains that the Department of Commerce, through the Maryland Industrial Development Financing Authority (MIDFA), already offers this type of enhancement, which is backed by the full faith and credit of MIDFA. As a result, MEA does not see enough market need to justify the risk.

MEA concludes that current market conditions lead the agency to not offer credit enhancements in fiscal 2017 but that the agency will reevaluate this determination annually.

Statement

Consolidated Administrative Expenses – All Programs

	FY 2016 Actual	FY 2017 Estimated	FY 2018 Estimated
Sources			
Special Funds			
Strategic Energy Investment Fund	$72,730	$0	$25,000
Subtotal – Special Funds	***$72,730***	***$0***	***$25,000***
Total Funds	**$72,730**	**$0**	**$25,000**
Uses			
Direct Expense	$0	$0	$0
Indirect Expenses (legal, marketing, asset management)	$72,730	$0	$25,000
Total Direct and Indirect Expenses	**$72,730**	**$0**	**$25,000**

MEA indicates that it no longer pays operating expenses related to either the JELLP or the SALP out of the revolving loan funds. The programs are managed by staff who also manage other programs or work on other activities. These programs are only part of the responsibilities of the positions. MEA does not separately identify the portion of the salaries associated with its PAYGO programs. Therefore, no direct salary expenses are identified by MEA for either program. MEA does fund legal and technical support for the JELLP with funds from the SEIF. While no expenses are budgeted for this purpose in fiscal 2017, MEA spent $72,730 for this purpose in fiscal 2016. In the fiscal 2018 allowance, MEA has budgeted some funds for this purpose. No similar expenditures are anticipated in the SALP.

PAYGO Recommended Actions

1. Adopt the following narrative:

Potential for Merging the Jane E. Lawton Conservation Loan Program and State Agency Loan Program: Since the creation of the Jane E. Lawton Conservation Loan Program (JELLP) from the merger of prior programs, the JELLP has experienced difficulties in encumbering funds. The State Agency Loan Program (SALP) has been more successful in encumbering funds and, in fiscal 2017, received requests totaling more than its appropriation. Despite the high demand, the funds planned in the 2017 Capital Improvement Program for the SALP are limited by the fund balance. The committees are interested in improving the efficiency of both programs by considering the options for merging the programs. The committees request that the Maryland Energy Administration (MEA), in conjunction with the Department of Budget and Management (DBM) review the potential for merging the programs and report on legislation that would be required and any program changes that would be necessary to complete such a merger.

Information Request	Author	Due Date
Report on potential for merging the JELLP and the SALP	MEA DBM	December 15, 2017

Proposed Use of Available Funds

SALP: Includes projects for which the loan has been executed or is near execution:

- University of Maryland, College Park – Jeong H. Kim Engineering Building;
- Motor Vehicle Administration – Glen Burnie Complex and multiple service centers;
- Department of Health and Mental Hygiene (DHMH) Springfield Hospital; and
- University of Maryland, College Park – motor upgrades.

Additional funds have been requested for two projects at DHMH, but these projects exceed the available fiscal 2017 appropriation and require additional funding (including the deficiency appropriation or funds from the fiscal 2018 allowance to be executed) totaling $1.2 million. A third potential project is awaiting an updated expression of interest before further consideration.

JELLP: No loans have been executed through January 17, 2017. Two projects are currently under review for funding.

Fiscal 2018 Projects

Fiscal 2018 projects will be determined at a later date as applications are received. Currently, requested loans from the SALP for which funds are not currently available may be shifted into fiscal 2018.