

LA.11.11
Maryland Department of Agriculture - PAYGO

Pay-As-You-Go Capital Budget Summary

(\$ in Thousands)

	<i>FY 2001 Approp.</i>	<i>FY 2002 Approp.</i>	<i>FY 2003 Allowance</i>	<i>Percent Change</i>	<i>DLS Recommd.</i>
Maryland Agricultural Land Preservation Program	\$21,652	\$28,396	\$27,008	-4.9%	\$18,949
Tobacco Transition Program			6,291	n/a	6,291
Total	\$21,652	\$28,396	\$33,299	17.3%	\$25,240
Fund Source					
Special	21,652	26,396	33,299	26.2%	25,240
Federal	0	2,000	0	n/a	0
Total	\$21,652	\$28,396	\$33,299	17.3%	\$25,240

Summary of Issues

MALPF Task Force Issues Final Report: In August of 2001, the Maryland Agricultural Land Preservation Foundation (MALPF) Task Force submitted its final report to the General Assembly. The task force made broad and sweeping recommendations for the Maryland Agricultural Land Preservation Program (MALPP) concerning various aspects of the program. **The Maryland Department of Agriculture (MDA) should brief the committees on which of the task force's recommendations MALPF will implement.**

Strategy Action Plan Not Updated: During the 2001 session, legislators and individuals from the Tri County Council for Southern Maryland (TCC) and Governor's Office had different understandings as to what the exact terms of the buyout were, especially concerning the obligations of tobacco farmers who owned the land they farmed. Much of the confusion stemmed from the fact that the Southern Maryland Regional Strategy-Action Plan for Agriculture, which is what the Cigarette Restitution Fund (CRF) is supposed to fund, had not been updated to reflect the current practices of TCC. **DLS recommends adopting budget bill language and committee narrative that require the regular and timely submission of updated Strategy-Action Plans for Agriculture.**

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Infrastructure and Agriculture Land Preservation Spending Ramps Up in Fiscal 2002 and 2003: TCC has started to implement its infrastructure and land preservation programs. The infrastructure program is divided into three sections: (1) Education, Entrepreneurship, and Leadership; (2) Economic Development; and (3) Outreach. **TCC should detail its infrastructure program, including project listings and funding amounts. TCC should also provide an indepth explanation of its agricultural land preservation program.**

Summary of Recommended Actions

	<u>Funds</u>	<u>Positions</u>
1. Reduce special funds by \$9,937,000 contingent on legislation.		
2. Add language to require updated submissions of the Strategy-Action Plan for Agriculture.		
3. Adopt narrative requiring TCC to provide an updated Strategy Action Plan for Agriculture with annual budget submission.		

Maryland Agricultural Land Preservation Program (Statewide)

PAYGO SF	\$27,008,000	Recommendation: Reduce \$8,059,000 contingent on legislation
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Program Description: The General Assembly created the Maryland Agricultural Land Preservation Program (MALPP) to preserve productive agricultural land and woodland which provides for the continued production of food and fiber, to limit the extent of urban development, and to protect agricultural land and woodland as open space. The Maryland Agricultural Land Preservation Foundation (MALPF), with the assistance and cooperation of landowners and local governments, promotes the creation of agricultural land preservation districts and purchases development rights easements as a means of protecting agricultural land and woodland production activities.

Participation in MALPP is voluntary on the part of landowners. To be eligible for district status, a property must have at least 100 contiguous acres with at least 50% of the total soils classified as U.S. Department of Agriculture (USDA) soil capability Class I, II, or III; or woodland group one or two. Landowners also agree to maintain the land in agricultural use for a minimum of five years. Landowners who include their land within a district become eligible to receive tax credits (if the county where the property is located has a tax credit program) and may submit an application to sell development rights to the State. There is no guarantee that an offer will be made by MALPF.

The maximum price MALPF 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 owner who originally sold the easement.

Year Program Began: 1977

Comments: The administration has proposed that the MALPP budget be reduced by \$1,914,000 contingent on legislation transferring a portion of the transfer tax to the general fund. The \$1.9 million represents MALPP's share of transfer tax revenues collected above the estimated collection amount for fiscal 2001. MALPP received 25% of the GreenPrint appropriation to purchase agricultural easement in the green infrastructure. The GreenPrint funds were not included in the MALPP analysis but will be included in the GreenPrint analysis.

Maryland Agricultural Land Preservation Fund Data

Fund History

	<i>FY 2001 Actual</i>	<i>FY 2002 Estimated</i>	<i>FY 2003 Estimated</i>
Beginning Balance	(\$5,137,364)	\$0	\$0
REVENUE			
Transfer Tax	16,811,710	18,295,723	16,119,000
Agricultural Transfer Tax	3,143,802	2,700,000	3,000,000
County Participation	12,780,869	5,400,000	7,000,000
Federal Grant	680,680	503,263	0
Other Income*	20,411	25,000	425,000
TOTAL REVENUE**	33,437,472	26,923,986	26,544,000
TOTAL AVAILABLE	28,300,108	26,923,986	26,544,000
ENCUMBRANCES			
Foundation Commitments***	27,106,736	25,662,347	25,094,000
Operating Expenses	1,045,384	1,113,651	1,299,201
Indirect Expenses	147,988	147,988	150,799
TOTAL ENCUMBRANCES	28,300,108	26,923,986	26,544,000
Ending Balance	\$0	\$0	\$0

* Other income includes various settlement adjustments and old revenue from counties.

** Does not include money from GreenPrint Program that is required to be used for agricultural easement purchases.

*** Foundation commitments represent pending agreements for the current fiscal year and usually result in easement purchases in future fiscal years.

Note: Fiscal 2003 assumes cost containment action of capturing the fiscal 2001 transfer tax overattainment.

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(\$ in Millions)

<i>Description</i>	<i>2001 Approp.</i>	<i>2002 Approp.</i>	<i>2003 Request</i>	<i>2004 Estimate</i>	<i>2005 Estimate</i>	<i>2006 Estimate</i>	<i>2007 Estimate</i>
PAYGO SF	21.652	26.396	25.094	25.250	26.700	27.600	28.450
PAYGO FF	0.000	2.000	0.000	2.000	0.000	2.000	0.000
Total	\$21.652	\$28.396	\$25.094	\$27.250	\$26.700	\$29.600	\$28.450

Note: Fiscal 2003 assumes cost containment action of capturing the fiscal 2001 transfer tax overattainment.

Issues

1. MALPF Task Force Issues Final Report

In August of 2001, the Maryland Agricultural Land Preservation Foundation Task Force submitted its final report to the General Assembly. The task force made broad and sweeping recommendations for MALPP which include:

- establishing statewide and county-specific goals for land preservation;
- increasing funding for the program to \$1 billion over the next twenty years;
- having counties establish priority preservation areas;
- revising the uses allowed and restricted on easement property;
- modifying procedures of the program to reduce the amount of time required to reach financial settlement with owners; and
- extending the charge of the task force.

Two controversial issues the task force touched on involve eliminating the prohibition against commercial activity on easement property and lot exclusions and land withheld prior to enrollment in MALPP.

Commercial Activity on Easement Property

According to the task force, the "economics of farming increasingly make it difficult for many farms to be consistently profitable." However, "commercial or industrial" operations are prohibited on easement property. The task force "believes that it would benefit farmers and the goals of agricultural land preservation if limited, non-agricultural commercial uses were allowed on MALPF easements and districts." The non-agricultural activities would supplement farmer income "without compromising production or the rural character of easement property." Some of the suggested land uses seem to run counter to "agricultural" uses.

For instance, the establishment of a "Large Animal Veterinary Hospital" or "Livestock Slaughtering" may seem counter to what people traditionally think of as farm land. The same can be said about the installation of communications antennae and gravel and sand extraction. How the "rural character" of the easement property is preserved with these proposed new uses is dubious. The task force does not consider looking into ways to make farming more profitable in Maryland. As 700 farmers are coming out of tobacco farming and a great many farmers are reaching retirement age, the number of farmers is decreasing. Instead of examining the farm industry, the task force seems resigned to the fact that farm income must be supplemented with income from commercial ventures such as communications towers and paint ball operations.

Lot Exclusions

According to the task force's report, MALPP's current lot exclusion policy, established through the program's enabling legislation, allows one owner's lot, plus lots for the owner's children, plus one lot around each existing dwelling on the property, up to a maximum density of one subdivided lot for each twenty acres and ten total lots on each property. There is concern that abuses of the current exclusion and subdivision policies undermines the program.

The task force suggested the following:

- prohibiting subdivision in MALPF districts and on easement property except for agricultural or forestry use;
- allowing landowners to reserve development rights for residential lots by excluding land with limited development potential prior to enrolling in MALPP;
- allowing MALPF to evaluate the potential impact of development on the land withheld from the agricultural easement before the property is accepted into MALPP; and
- prohibiting residences existing on the easement property at the time of easement purchases, including principal and tenant houses from subdividing from the farm. Furthermore, rights for additional tenant houses for legitimate agricultural purposes, not to exceed one per 100 acres, should be reserved in the terms of the easement.

The Maryland Department of Agriculture (MDA) should brief the committees on which of the

task force's recommendations MALPF will implement. Specifically, MALPF should be prepared to address the controversy surrounding lot exclusions and child lots. MDA also should be prepared to address the proposed expansion of activities acceptable on MALPP easement properties.

Recommended Actions

1. Reduce special funds by \$8,059,000 contingent on legislation transferring half the fiscal 2003 transfer tax revenues, after administrative expenses are deducted and the overattainment of fiscal 2001 revenues to the general fund. Current general fund revenue forecasts indicate little if any revenue growth for fiscal 2002 and 2003. The transfer tax revenues would supplement the general fund. General obligation bonds could be used to offset the loss of transfer tax revenues available to the MALPP.

Add the following language to the special fund appropriation:

. provided that this appropriation shall be reduced by ~~\$1,914,000~~ \$8,059,000 contingent upon the enactment of legislation to alter the allocation of property transfer tax revenue.

Explanation: This language would alter the current budget bill language and reduce special funds by \$8,059,000 contingent on legislation transferring half of the fiscal 2003 transfer tax revenues, after administration expenses are deducted, to the general fund. This reduction is being proposed as a cost containment measure.

Tobacco Transition Program (Statewide)

PAYGO SF **\$6,291,000** **Recommendation: Add language and adopt narrative**

Program Description: In 1999, the General Assembly created the Cigarette Restitution Fund (CRF). Part of this fund is to be earmarked to end tobacco growing in Maryland. Under the legislation, the CRF is to fund the "Implementation of the Southern Maryland Regional Strategy-Action Plan for Agriculture adopted by the Tri-County Council for Southern Maryland (TCC) with an emphasis on alternative crop uses for agricultural land now used for growing tobacco." Funds are appropriated to the Maryland Department of Agriculture (MDA), which issues grants to TCC. The Strategy Action Plan has four components: tobacco buyout, infrastructure development, agricultural land preservation, and administrative expenses. Since inception, the tobacco buyout program has been extremely successful. 66% of Maryland’s tobacco farmers participate in the buyout program.

Year Program Began: 2000

Comments: From fiscal 2000 through 2002, the tobacco transition program was budgeted through MDA’s operating budget. Fiscal 2003 will be the first year the program appears in the PAYGO budget.

Tobacco Transition Fund Data

Fund History

	<i>FY 2002 Estimated</i>	<i>FY 2003 Estimated</i>
Beginning Balance	\$4,391,500	\$1,806,494
REVENUE CRF Funds	6,291,500	6,291,000
TOTAL REVENUE	6,291,500	6,291,000
TOTAL AVAILABLE	10,683,000	8,097,494

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ENCUMBRANCES		
Encumbrances	8,465,506	7,767,000
Operating Expenses	411,000	330,494
TOTAL ENCUMBRANCES	8,876,506	8,097,494
Ending Balance	\$1,806,494	\$0

(\$ in Millions)*

<i>Description</i>	<i>2001 Approp.</i>	<i>2002 Approp.</i>	<i>2003 Request</i>	<i>2004 Estimate</i>	<i>2005 Estimate</i>	<i>2006 Estimate</i>	<i>2007 Estimate</i>
PAYGO SF	0.000	0.000	6.291	7.650	6.200	6.000	6.050
GO Bonds	0.000	0.000	0.000	4.000	4.000	4.000	4.000
Total	\$0.000	\$0.000	\$6.291	\$11.650	\$10.200	\$10.000	\$10.050

*Note: The Department of Legislative Services (DLS) estimates are different from the funding stream. If there is no settlement of the attorney's fees issues, DLS projects the following funding:

	<u>Fiscal 2004 Estimate</u>	<u>Fiscal 2005 Estimate</u>	<u>Fiscal 2006 Estimate</u>	<u>Fiscal 2007 Estimate</u>
PAYGO SF	\$5.511	\$5.820	\$5.620	\$5.676
GO Bonds	4.000	4.000	4.000	4.000
Total	\$9.511	\$9.820	\$9.620	\$10.050

Issues

1. Strategy Action Plan Not Updated

During the 2001 session, legislators and individuals from TCC and Governor's Office had different understandings as to what the exact terms of the buyout were, especially concerning the obligations of tobacco farmers who also owned the land they farmed. Much of the confusion stemmed from the fact that the Strategy Action Plan for Agriculture, which is what the CRF is supposed to fund, had not been updated to reflect the current practices of TCC.

DLS has made numerous requests, since February 2001 for an updated copy of the plan. TCC submitted a revised plan on January 22, 2002. The plan, however, understates TCC's work in Southern

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Maryland and does not give enough detail to illustrate the mechanics of any of the programs. Furthermore, much of the confusion about the tobacco transition program is that the information provided by TCC lacks specifics. For instance, there is a land preservation component to the plan, but the updated version does not state how funds will be distributed for land preservation. According to the plan, infrastructure and agricultural development will be gained through "economic development and education." TCC's grant program, criteria for grants, goals for grants, etc., are not mentioned. Lastly, the Strategy Action Plan does not detail the buyout program sufficiently. The plan fails to state what the conditions are on the farmers that participate in the buyout, the compensation plan for farmers participating in the buyout, or the penalties for non compliance with the terms of the buyout.

DLS recommends that language be added to the special fund appropriation restricting expenditures of funds until complete strategy action plan has been submitted to the budget committees for review and comment. Committee narrative requesting the submission of an updated plan with every budget is also recommended.

2. Infrastructure and Agriculture Land Preservation Spending Ramps Up in Fiscal 2002 and 2003

With the buyout program underway, TCC has begun to implement its infrastructure program. The program is divided into three sections: (1) Education, Entrepreneurship, and Leadership; (2) Economic Development; and (3) Outreach. As mentioned above, concrete details for infrastructure and land preservation programs have not been forthcoming, especially in the early years of the program.

Projects in the Education, Entrepreneurship, and Leadership section include a farm viability program, educational tours, continuing education classes through the College of Southern Maryland, and the development of a resource library and reference site. In the Economic Development section, TCC plans to spend \$80,000 over fiscal 2002 and 2003 on a Southern Maryland retail storefront and restaurant that promotes tourism and showcases products grown and processed in Southern Maryland. Economic Development will also promote "agri-tourism" (packaged tours to promote farms, farming, and natural resource based operations) and support grants for certain agricultural sectors. The Outreach component involves partnerships with other entities (MDA, Southern Maryland Agriculture Commission, etc.) to develop a website, trade fairs/conferences and mapping.

TCC is also beginning to fund county agricultural land preservation programs. **TCC should detail its infrastructure program, including project listings and funding amounts. TCC should also provide an indepth explanation of its agricultural land preservation program.**

Recommended Actions

1. Add the following language to the special fund appropriation:

, provided that these funds may not be expended until the Maryland Department of Agriculture and the Tri County Council for Southern Maryland submit a revised Southern Maryland Regional Strategy-Action Plan for Agriculture to the budget committees. The budget committees will have 45 days to review and comment on the plan.

Explanation: The Tri County Council for Southern Maryland submitted an updated version of the Southern Maryland Regional Strategy-Action Plan for Agriculture on January 22, 2002. However, the updated version lacks specific and detailed information about the tobacco transition program to make any judgement about the quality and effectiveness of the program. This language requires a revised plan to be submitted to the budget committees for review and comment before special funds may be spent by the program.

Information Request	Authors	Due Date
Southern Maryland Regional Strategy-Action Plan for Agriculture	MDA Tri County Council for Southern Maryland	As needed

2. Adopt the following narrative:

Southern Maryland Regional Strategy Action Plan Needs Regular Updating: The committees are concerned that the Southern Maryland Regional Strategy-Action Plan for Agriculture is not being updated in a timely manner. Therefore, the Maryland Department of Agriculture (MDA) and the Tri County Council (TCC) for Southern Maryland should submit to the budget committees and the Department of Budget and Management an up-to-date version of the Southern Maryland Regional Strategy-Action Plan for Agriculture with the annual budget request for the Tobacco Transition Program.

Information Request	Authors	Due Date
Southern Maryland Regional Strategy-Action Plan for Agriculture	MDA Tri County Council for Southern Maryland	With annual budget submission

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Appendix 1

Object/Fund Difference Report
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<u>Object/Fund</u>	<u>FY01 Actual</u>	<u>FY02 Working Appropriation</u>	<u>FY03 Allowance</u>	<u>FY02 - FY03 Amount Change</u>	<u>Percent Change</u>
Objects					
12 Grants, Subsidies, Contr	\$ 6,200,000	\$ 6,400,000	\$ 6,291,000	(\$ 109,000)	(1.7)%
14 Land & Structures	21,652,000	28,395,723	27,008,000	(1,387,723)	(4.9)%
Total Objects	\$ 27,852,000	\$ 34,795,723	\$ 33,299,000	(\$ 1,496,723)	(4.3)%
Funds					
01 General Fund	\$ 6,200,000	\$ 6,400,000	\$ 0	(\$ 6,400,000)	(100.0)%
03 Special Fund	21,652,000	26,395,723	33,299,000	6,903,277	26.2%
05 Federal Fund	0	2,000,000	0	(2,000,000)	(100.0)%
09 Reimbursable Fund	0	0	0	0	0.0%
Total Funds	\$ 27,852,000	\$ 34,795,723	\$ 33,299,000	(\$ 1,496,723)	(4.3)%

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Appendix 2

Fiscal Summary
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<u>Unit/Program</u>	<u>FY01 Actual</u>	<u>FY02 Legislative Appropriation</u>	<u>FY02 Working Appropriation</u>	<u>FY01 - FY02 % Change</u>	<u>FY03 Allowance</u>	<u>FY02 - FY03 % Change</u>
11 Capital Appropriation	\$ 21,652,000	\$ 28,395,723	\$ 28,395,723	31.1%	\$ 27,008,000	(4.9)%
13 Tobacco Transition	0	0	0	0%	6,291,000	(100.0)%
05 Conservation Grants Capital Appropriation	6,200,000	6,400,000	6,400,000	3.2%	0	(100.0)%
Total Expenditures	\$ 27,852,000	\$ 34,795,723	\$ 34,795,723	24.9%	\$ 33,299,000	(4.3)%
General Fund	\$ 6,200,000	\$ 6,400,000	\$ 6,400,000	3.2%	\$ 0	(100.0)%
Special Fund	21,652,000	26,395,723	26,395,723	21.9%	33,299,000	26.2%
Federal Fund	0	2,000,000	2,000,000	N/A	0	(100.0)%
Total Appropriations	\$ 27,852,000	\$ 34,795,723	\$ 34,795,723	24.9%	\$ 33,299,000	(4.3)%