L00A11.11
Department of Agriculture – PAYGO

Pay-As-You-Go Capital Budget Summary

($ in Thousands)

	FY 2004 Approp.	*FY 2005 Approp.*	*FY 2006 Allowance*	*Percent Change*	*DLS Recommd.*
Maryland Agricultural Land Preservation Prog.	$42,968	$27,780	$29,731	7.02%	$29,731
Tobacco Transition Program	9,040	9,653	9,525	-1.33%	9,525
Total	**$52,008**	**$37,433**	**$39,256**	**4.87%**	**$39,256**
Fund Source					
Special	$22,376	$22,433	$29,256	30.42%	$29,256
Federal	4,032	5,000	5,000	0%	5,000
Subtotal	**26,408**	**27,433**	**34,256**	**24.87%**	**34,256**
GO Bonds	25,600	10,000	5,000	-50.0%	5,000
Total	**$52,008**	**$37,433**	**$39,256**	**4.87%**	**$39,256**

Summary of Issues

Cost Containment Reduces Maryland Agricultural Land Preservation Program (MALPP) Funds Again: Under the proposed budget reconciliation legislation, $27.8 million in fiscal 2006 transfer tax revenues that would have funded MALPP is directed to the general fund for cost containment. In addition, the legislation proposes reductions in fiscal 2007 – 2009 transfer tax revenues. **The Maryland Department of Agriculture (MDA) should brief the committees on the impact of the fiscal 2006 budget reconciliation legislation.**

Maryland Agricultural Land Preservation Foundation (MALPF) Task Force Releases Final Report: The MALPF Task Force's January 2005 final report proposes a number of programmatic and legislative changes. **MDA should be prepared to brief the committees on these recommendations, the fiscal implications, and the status of implementing legislation.**

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Are Tobacco Transition Program Participants Transitioning?: Participation in the Tobacco Buyout Program has been more successful than originally anticipated, but the extent to which buyout participants are transitioning to other agricultural operations is not clear. **MDA and the Tri-County Council (TCC) should be prepared to discuss how many TCC marketing program participants are buyout participants, how many buyout participants have successfully transitioned to other agricultural operations, and the types of agricultural operations that have proven most successful.**

Summary of Recommended Actions

1. Concur with Governor's allowance.

Maryland Agricultural Land Preservation Program (Statewide)

PAYGO SF	**$24,731,514**	**Recommendation:**	**Approve**
PAYGO FF	**$5,000,000**		

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; limit the extent of urban development; and 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. In order for a landowner to participate in the program, they must establish an Agricultural Land Preservation District. To be eligible for district status, a property must have at least 50 contiguous acres with at least 50% of the total soils classified as U.S. Department of Agriculture soil capability Class I, II, III, or woodland group one or two. Landowners also agree to maintain the land in agricultural use for a minimum of five years and not subdivide the land for residential, commercial, or industrial use while under district status. 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 owners who originally sold the easement.

Year Program Began: 1977

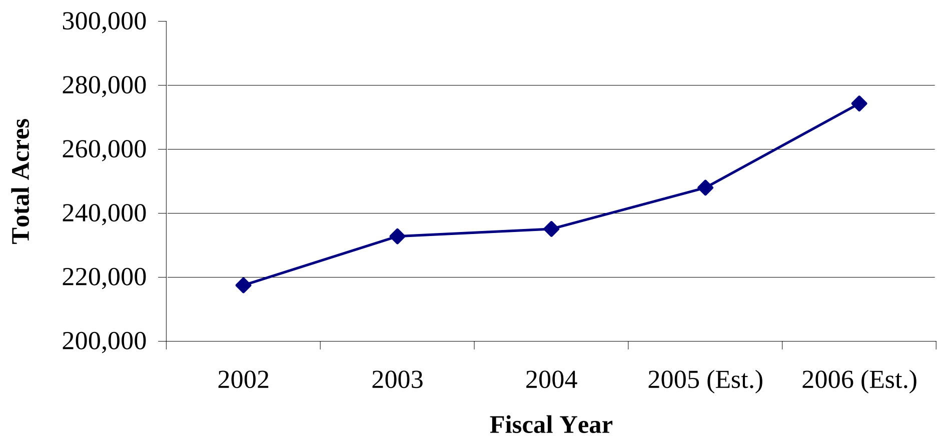
Comments: The Administration's total proposed fiscal 2006 funding for MALPP is $29.7 million and is comprised of $24.7 million in special funds and $5.0 million in federal funds. The proposed level of funding for fiscal 2006 is $1.95 million, or 7% higher than the fiscal 2005 working appropriation. The PAYGO special fund allowance includes $6.4 million in property transfer tax revenue, $5.2 million in estimated agricultural land transfer tax revenues, and $13.0 million in matching funds from local jurisdictions. Based on an average cost of $1,958 per acre, the fiscal 2006 allowance would allow MALPF to acquire easements on approximately 15,185 acres.

In fiscal 2005, MALPP received 25%, or $750,000 of the GreenPrint program appropriation to purchase agricultural easements in the green infrastructure. Since GreenPrint is not funded in the fiscal 2006 allowance, this transfer will not take place in fiscal 2006.

Program Performance Analysis: In recent years, MALPP has steadily increased the total agricultural acres under protective easements. As shown in **Exhibit 1**, between fiscal 2002 and 2004, there was a 4% average annual increase in total MALPP easement acreage. MDA projects that the average annual increase in easement acreage will grow to 8% between fiscal 2004 and 2006.

MDA should discuss why it anticipates an increase in easement acreage in spite of program budget reductions.

Exhibit 1
Maryland Agricultural Land Preservation Program Easements



Source: Budget Books, Fiscal 2005 and 2006

Maryland Agricultural Land Preservation Program Fund Data

Fund History

	FY 2004 Actual	*FY 2005 Estimated*	*FY 2006 Estimated*
Beginning Balance	$16	$1,592	$0
REVENUE			
Transfer Tax	0	0	8,041
Agricultural Transfer Tax	5,171	5,000	5,214
County Participation	11,995	12,750	13,000
Federal Grant	4,032	4,573	5,000
GreenPrint	1,352	750	0
GO Bonds	21,600	5,000	0
Other Income*	88	30	90
TOTAL REVENUE	44,238	28,103	31,345
TOTAL AVAILABLE	44,254	29,695	31,345
ENCUMBRANCES			
Foundation Commitments**	41,557	28,245	29,731
Operating Expenses	955	1,300	1,439
Indirect Expenses	150	150	175
TOTAL ENCUMBRANCES	42,662	29,695	31,345
Ending Balance	$1,592	$0	$0

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

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

($ in Millions)

Description	*2004 Approp.*	*2005 Approp.*	*2006 Request*	*2007 Estimate*	*2008 Estimate*	*2009 Estimate*	*2010 Estimate*
PAYGO SF	$17.336	$17.780	$24.731	$26.900	$33.000	$42.900	53.000
PAYGO FF	4.032	5.000	5.000	6.000	6.500	7.000	7.000
GO Bonds	21.600	5.000	0.000	0.000	0.000	0.000	0.000
Total	**$42.968**	**$27.780**	**$29.731**	**$32.900**	**$39.500**	**$49.900**	**$60.000**

Issues

1. Cost Containment Reduces MALPP Funds Again

In accordance with the Budget Reconciliation Act of 2005 (House Bill 148/Senate Bill 127), MALPP is required to contribute to cost containment 75%, or $27.8 million in fiscal 2006 transfer tax revenues that it should receive under current law. Based on an average cost of $1,958 per acre, this would result in 14,198 fewer acres being protected via agricultural easements. In addition, the legislation proposes permanently directing transfer tax attained above the estimated amount to the general fund, and redirecting a certain percentage of future transfer tax revenues to the general fund: 66% in fiscal 2007, 50% in fiscal 2008, 25% in fiscal 2009, and 0% in fiscal 2010.

Budget reconciliation legislation has impacted MALPP for several years, as summarized below.

- Budget Reconciliation and Financing Act of 2003 – $10.0 million in unexpended prior year property and agricultural transfer tax revenues was redirected to the general fund in fiscal 2003; and $14.7 million in transfer tax revenue that would have been transferred to MALPP in accordance with existing law was redirected to the general fund and replaced with $21.2 million in general obligation (GO) bonds in fiscal 2004. Also, $3.1 million in transfer tax revenue attained in excess of budget estimates that would have funded MALPP in fiscal 2005, was redirected to the general fund.

- Budget Reconciliation and Financing Act of 2004 – $13.1 million in fiscal 2005 transfer tax revenue MALPP would have received in accordance with existing law was redirected to the general fund and replaced with $5.0 million in GO bonds.

MDA should brief the committees on the impact of 2005 budget reconciliation legislation.

2. MALPF Task Force Releases Final Report

The Task Force to Study MALPF was created by House Bill 740 in the 2000 session. The General Assembly reactivated the task force in 2002 to further study and make recommendations on a number of unresolved issues. The task force made interim policy and program recommendations during the 2003 and 2004 sessions. Several of these recommendations were implemented via legislation, including the following:

- Chapter 255, Acts of 2003 established new criteria for ranking easement purchases;
- Chapter 374, Acts of 2004 addressed construction of tenant houses; and
- Chapters 189 and 190, Acts of 2004 established installment purchase agreement-related program options.

Final Recommendations Submitted

The task force submitted its final report in January 2005, approximately eight months after the official due date. The report proposed the following programmatic and legislative recommendations:

Programmatic

- Two additional senior staff positions and one additional support position are needed.
- Monitor the relationship between easement and fair market values to determine the impact of recently instituted local government ranking criteria.

Legislative

- Establish priority preservation areas based on the most appropriate areas to direct new and existing sources of preservation funds.
- Do not divert transfer tax revenue to the general fund; but if diversion is necessary, provide bond funds instead or other funds in subsequent fiscal years.
- Create a statewide Critical Farms Program that would provide interim, emergency financing for farms that would likely be sold for non-agricultural uses.
- Provide new tax revenue by doubling the agricultural transfer tax; doubling the real estate transfer tax and/or eliminating exemptions for corporate interests; and/or assessing a new property tax surcharge.

MDA should be prepared to brief the committees on these recommendations, the fiscal implications, and the status of implementing legislation.

Recommended Actions

1. Concur with Governor's allowance.

Tobacco Transition Program (Statewide)

PAYGO SF	**$4,525,000**	**Recommendation:**	**Approve**
GO Bonds	**$5,000,000**		

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 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, infrastructure/agricultural development, and agricultural land preservation.

- The tobacco buyout component is a voluntary program that provides funds to (a) support all eligible Maryland tobacco growers who choose to give up tobacco production forever while remaining in agricultural production, and (b) restrict the land from tobacco production for 10 years should the land transfer to new ownership.

- The infrastructure/agricultural development program seeks to foster profitable natural resource based economic development for Southern Maryland by helping farmers and related businesses to diversify and develop and/or expand market-driven agricultural enterprises in the region through economic development and education.

- The agricultural land preservation component seeks to provide an incentive to tobacco farmers to place land in agricultural preservation, enhance participation in existing preservation programs, and assist in the acquisition of land for farmers' markets.

Year Program Began: 2000

Comments: The fiscal 2006 allowance includes a total of $10.96 million for the tobacco transition program. Funds are spread among three different areas of the allowance:

- $1,431,000 in special funds in the operating budget for administrative expenses ($350,000) and non-capital grants for infrastructure/agricultural development programs ($1,081,000);

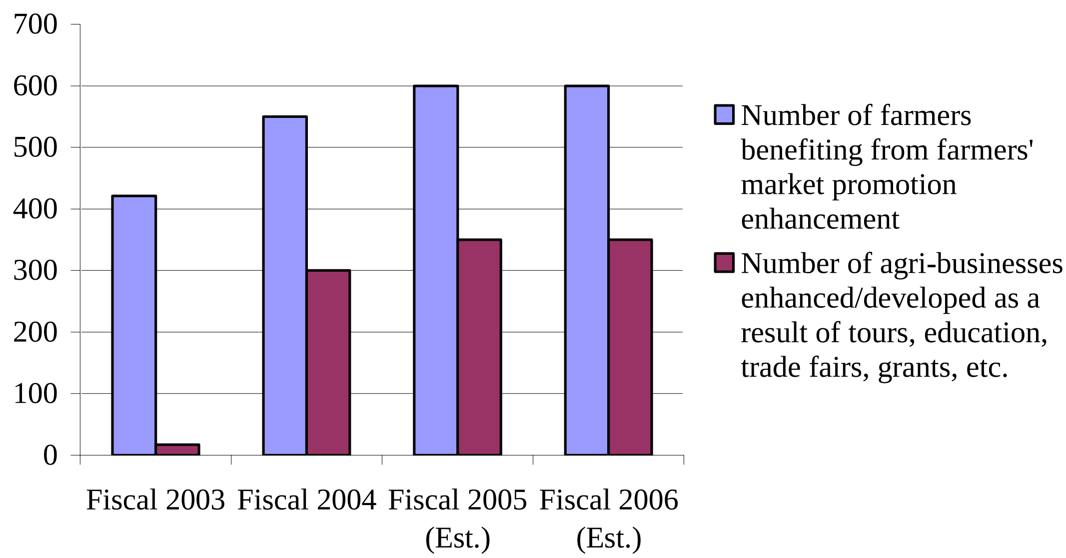
- $4,525,000 in special funds in the PAYGO budget for the tobacco buyout and land preservation programs; and

- $5,000,000 in general obligation bonds in the capital budget for the tobacco buyout and land preservation programs.

This allocation assumes that a total of $7,800,000 will be dedicated to buyout payments and $1,725,000 to agricultural land preservation.

Program Performance Analysis: Participation in the tobacco buyout program has been higher than anticipated, and the performance data associated with TCC's efforts to help farmers transition to other agricultural opportunities suggests some success as well. As shown in **Exhibit 2**, the number of farmers and agri-businesses benefiting from TCC's marketing efforts grew significantly between fiscal 2003 and 2004, and additional growth is anticipated in fiscal 2005 and 2006.

Exhibit 2
Tobacco Transition Program Performance Measurements
Fiscal 2003 – 2006



Source: Budget Books, Fiscal 2005 and 2006

Tobacco Transition Fund Data

Fund History

	FY 2004 Actual	*FY 2005 Estimated*	*FY 2006 Estimated*
Beginning Balance	$0	$0	$0
REVENUE			
CRF Funds	6,100	5,653	5,956*
GO Bonds	4,000	5,000	5,000
TOTAL REVENUE	10,100	10,653	10,956
TOTAL AVAILABLE	10,100	10,653	10,956
ENCUMBRANCES			
Buyout Program	7,336	7,800	7,800
Ag. Land Preservation Program	1,044	1,853	1,725
Infrastructure Grants	400	650	1,081
Operating Expenses	320	350	350
Transfer to DHMH**	1,000	0	0
TOTAL ENCUMBRANCES	10,100	10,653	10,956
Ending Balance	$0	$0	$0

* Includes funds for operating expenses and non-capital grants.
** Reflects the transfer of $1.0 million to the Department of Health and Mental Hygiene as directed in the fiscal 2004 budget bill.

($ in Millions)

Description	*2004 Approp.**	*2005 Approp.*	*2006 Request*	*2007 Estimate*	*2008 Estimate*	*2009 Estimate*	*2010 Estimate*
PAYGO SF	$5.040	$4.653	$4.525	$6.000	$7.200	$7.300	$7.350
GO Bonds	4.000	5.000	5.000	5.000	5.000	5.000	0.000
Total	**$9.040**	**$9.653**	**$9.525**	**$11.000**	**$12.200**	**$12.300**	**$7.350**

* This does not reflect budget language requiring that $1.0 million in CRF special funds be transferred to the Department of Health and Mental Hygiene for a component of the Cigarette Restitution Fund program.

Issues

1. Are Tobacco Transition Program Participants Transitioning?

Participation in tobacco buyout program has been more successful than originally anticipated, as illustrated in **Exhibit 3**. Overall, it is estimated that 7.8 million pounds of tobacco (94% of cumulative total) and 877 growers (86% of cumulative total) will be taken out of tobacco production for human consumption. TCC has confirmed 850 growers/contracts totaling $7.7 million to date, but several growers may complete the application process later than anticipated. A majority of the growers not participating in the buyout are members of the Amish community.

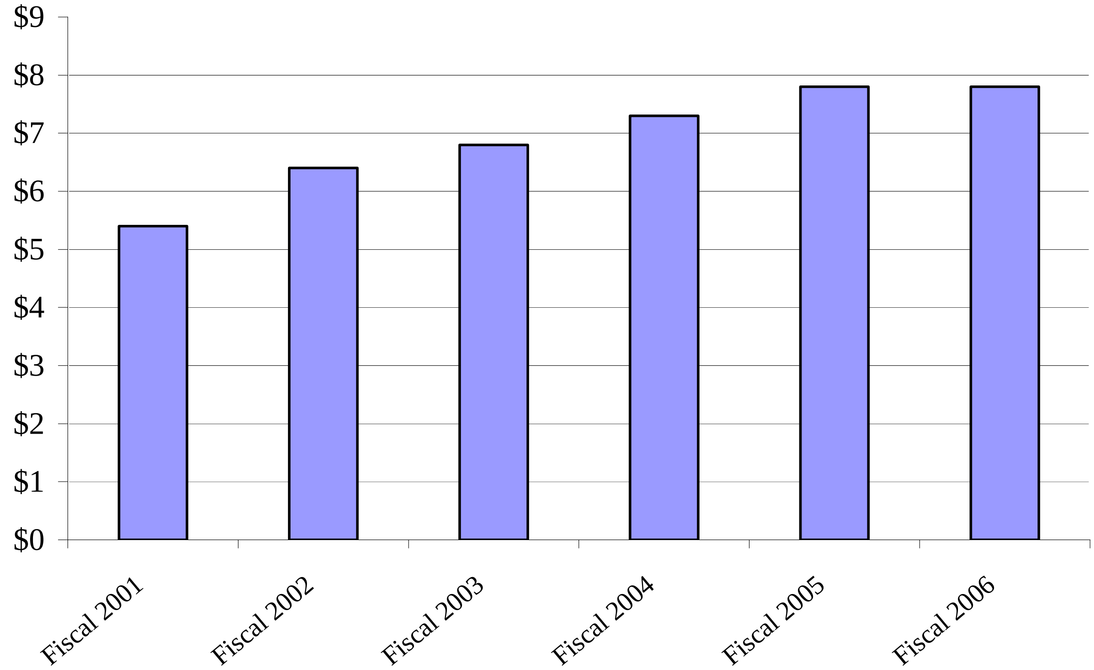
Exhibit 3
Tobacco Buyout Program
(as of August 2004)

	2002 Actual	2003 Actual	2004 Actual	2005 Goal	2006 Goal
Growers Out of Tobacco					
Cumulative Number	655	712	779	877	877
Cumulative %	66%	71%	76%	86%	86%
Pounds of Eligible Tobacco Out of Production (Millions)					
Cumulative Number	6.41	6.81	7.33	7.8	7.8
Cumulative %	78%	83%	89%	94%	94%

Source: Tri-County Council for Southern Maryland

Growers who participate in the buyout program are paid $1.00 per pound of tobacco that they grew on average in the past for ten years. **Exhibit 4** illustrates tobacco buyout program funding trends. Fiscal 2006 buyout payments are projected for 7.8 million pounds of tobacco which requires $7.8 million to fund. However, the estimated fiscal 2006 CRF revenues total $5.9 million ($1.4 million in operating funds and $4.5 million for capital programs), which is less than what is needed for the buyout and other programs. MDA intends to address this shortfall by supplementing the program with $5.0 million in GO bonds. Legislation enacted in 2001, Chapter 103, Acts of 2001, authorizes $5.0 million annually in GO bonds for six years beginning in 2003 – a total authorization of $30 million. However, the bonds are to be issued each year only if CRF funds are not sufficient to implement the Strategy Action Plan.

Exhibit 4
Tobacco Buyout Allocations
($ in Millions)



Source: Tri-County Council for Southern Maryland

While involvement in the buyout is high, the extent to which buyout participants are transitioning to other agricultural operations is not clear. To receive the buyout payments, farmers are required to keep their land in agricultural production for ten years. To help them accomplish this, TCC facilitates participation in land preservation and marketing programs. Some participants may not be interested in transitioning to other crops, as the average tobacco farmer is nearly 65 years old and entering retirement.

MDA and TCC should be prepared to discuss how many TCC marketing program participants are buyout participants, how many buyout participants have successfully transitioned to other agricultural operations, and the types of operations that have proven most successful.

Recommended Actions

1. Concur with Governor’s allowance.

Appendix 1

Fiscal Summary
Department of Agriculture PAYGO

Program/Unit	FY04 Actual	FY05 Wrk Approp	FY06 Allowance	Change	FY05 - FY06 % Change
11 Capital Appropriation	$ 21,410,992	$ 23,105,303	$ 57,569,015	$ 34,463,712	149.2%
13 Tobacco Transition	4,040,000	4,653,000	4,525,000	-128,000	-2.8%
Total Expenditures	**$ 25,450,992**	**$ 27,758,303**	**$ 62,094,015**	**$ 34,335,712**	**123.7%**
Special Fund	$ 20,067,363	$ 22,433,000	$ 57,094,015	$ 34,661,015	154.5%
Federal Fund	4,032,000	4,575,303	5,000,000	424,697	9.3%
Total Appropriations	**$ 24,099,363**	**$ 27,008,303**	**$ 62,094,015**	**$ 35,085,712**	**129.9%**
Reimbursable Fund	$ 1,351,629	$ 750,000	$ 0	-$ 750,000	-100.0%
Total Funds	**$ 25,450,992**	**$ 27,758,303**	**$ 62,094,015**	**$ 34,335,712**	**123.7%**

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.