L00A1111
Department of Agriculture – Capital

Capital Budget Summary

($ in Millions)

	FY 2009 Approp.	*FY 2010 Approp.*	*FY 2011 Allowance*	*FY 2011 Adjusted*	*% Change FY 2010-2011 Adjusted*	*DLS Recommd.*
Maryland Agricultural Land Preservation[1]	$45.705	$25.585	$47.689	$25.874	1.1%	$20.874
Tobacco Transition Program	9.030	10.335	4.256	4.256	-58.8%	2.256
Maryland Agricultural Cost-Share Program[2]	4.800	7.000	12.500	12.500	78.6%	10.000
Total	**$59.535**	**$42.920**	**$64.445**	**$42.630**	**-0.7%**	**$33.130**
Fund Source						
Special	$44.735	$15.921	$26.131	14.316	-10.1%	$14.316
Federal	10.000	2.000	2.000	2.000	0.0%	2.000
PAYGO Subtotal	**$54.735**	**$17.921**	**$28.131**	**$16.316**	**-9.0%**	**$16.316**
GO Bonds	4.800	25.000	36.314	26.314	5.3%	16.814
Total	**$59.535**	**$42.921**	**$64.445**	**$42.630**	**-0.7%**	**$33.130**

[1] The fiscal 2011 special fund allowance for the Maryland Agricultural Land Preservation Program (MALPP) includes $11.8 million in State transfer tax revenue that would be credited to the general fund contingent upon the enactment of a provision in the Budget Reconciliation and Financing Act of 2010 (BRFA) that reduces the transferred funds with general obligation (GO) bond authorizations. The amounts reflected above in the fiscal 2011 allowance column include the contingent appropriation and proposed GO bonds funds intended as replacement and are, therefore, overstated by $11.8 million. In addition, the BRFA includes a provision that would transfer $10.0 million of available unencumbered/unexpended fund balance to the general fund and the Governor's fiscal 2011 capital budget proposes using GO bond funds authorized in the fiscal 2011 capital budget bill to replace fully the transferred fund balance. Accounting for the above, MALPP's available fiscal 2011 special fund allowance is $21.8 million less for a total fiscal 2011 allowance of $25.9 million, as shown in the Fiscal 2011 Adjusted column.

[2] The Maryland Department of Agriculture anticipates bringing in $1 million in Chesapeake and Atlantic Coastal Bays 2010 Trust Fund special funds in fiscal 2010 for the Maryland Agricultural Cost-share Program; however, the budget amendment increasing the special fund appropriation has not been approved as of January 2010; therefore, the funding is not reflected above.

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Summary

Issues

Proposed Change to State Transfer Tax Allocation for the Maryland Agricultural Land Preservation Foundation: Senate Bill 59 has been introduced in the 2010 session and would change the allocation of the agricultural transfer tax and remove a provision that diverts State transfer tax revenues from the Maryland Agricultural Land Preservation Foundation (MALPF), among other actions. These actions would remove some of the provisions introduced in Chapter 610 of 2008. **The Department of Legislative Services (DLS) recommends that MALPF discuss whether funding is necessary for self-funded installment purchase agreements in fiscal 2011 given how depressed interest rates reduce the attractiveness of installment purchase agreements and comment on why it has proposed the deletion of the Priority Preservation Area provisions in Chapter 610 of 2008.**

Status of Federal Funds: MALPF continues to have difficulty using federal funds from the Farm and Ranch Lands Protection Program (FRPP) for agricultural land preservation. The main concern is that the FRPP has created restrictions on how funding may be used that oversteps its authority and limits the ability of MALPF to provide matching funding. **DLS recommends that MALPF comment on the status of the resolution of FRPP funding concerns.**

Gap Increases for Funding Agricultural Land Preservation Goal: Maryland General Assembly Joint Resolution 16 and 17 of 2002 established a statewide goal to triple the existing number of acres of productive agricultural land preserved by 2022. The goal of 1,030,000 acres, an increase of 686,667 acres from the base April 6, 2002, acreage of 343,333, will not be met due to insufficient funding levels and current easement acquisition prices. **DLS recommends that MALPF comment on how transfer of development rights programs could help to meet the 1,030,000-acre goal for agricultural land preserved and what barriers stand in the way of more effective use of this land conservation tool.**

Tobacco Transition Program Tobacco Bond Repayment Plan Revised: By a letter dated September 30, 2009, the Tri-County Council (TCC) for Southern Maryland submitted a revised Tobacco Transition Program bond repayment plan. Subsequently, the Department of Budget and Management (DBM) budgeted for fiscal 2011 the $1.8 million bond repayment amount requested by TCC and proposed a variation on the repayment that would increase repayments to $3.3 million for fiscal 2012 through 2015 and then return to the $3.8 million repayment level originally contemplated between fiscal 2016 and 2018. **DLS recommends that the Maryland Department of Agriculture and DBM discuss the relative merits of their proposed bond repayment plans and provide some assurance that a plan amenable to both parties will be formally selected and communicated to the budget committees before the submission of the fiscal 2012 budget.**

Updates

Easement Monitoring Compliance Report Submitted: A report on easement monitoring compliance was requested in the 2009 *Joint Chairmen's Report*. The submitted report indicates that in fiscal 2009 92% of federal and 11% of State easements were monitored, which means that the State policy was met and only 10, or 8%, of the federally funded properties were not inspected.

Summary of Recommended Actions – PAYGO

		Funds
1.	Strike the contingent language on the Maryland Agricultural Land Preservation Foundation Capital Appropriation.	
2.	Reduce special funds by $11,814,797 to reflect a contingent reduction in the operating budget.	$ 11,814,797
	Total Reductions	**$ 11,814,797**

Summary of Recommended Actions – Bond

	Program	Action	Amount
1.	Maryland Agricultural Land Preservation	Reduce	-$5,000,000
2.	Tobacco Transition Program	Delete	-2,000,000
3.	Maryland Agricultural Cost-Share Program	Reduce	-2,500,000
	Total		**$9,500,000**

Overview

The fiscal 2011 allowance includes $26.1 million in special funds, $2.0 million in federal funds, and $36.3 million in general obligation (GO) bonds. However, the Maryland Agricultural Land Preservation Program's (MALPP) funding includes $11.8 million in special funds that are contingent reductions if the $11.8 million of GO bonds also budgeted are authorized as replacement funds, and another $10.0 million of GO bond funds intended to replace prior appropriated funds that remain in the MALPP fund balance account that, as part of the total budget package, are to be transferred to the general fund which combined overstate the amount of new funding intended to support additional easements during fiscal 2011 by $21.8 million

Exhibit 1 shows the available fiscal 2011 funding for the three programs in the allowance taking into account the overstatement of special funds and GO bonds in the Maryland Agricultural Land Preservataion Foundation's (MALPF's) fiscal 2011 allowance. The overall appropriation would decrease $0.2 million between fiscal 2010 and 2011. This primarily reflects a combined $6.0 million special fund and GO bond reduction in the Tobacco Transition Program, due to the end of bond funding for tobacco buyout payments and the budgeting of Cigarette Restitution Fund special funds in the operating budget for the beginning of debt service on the GO bond authorization, instead of in the pay-as-you-go (PAYGO) budget for bond repayment and agricultural land preservation. These decreases partially are offset by a $0.3 million increase in MALPF from available special fund revenue and a $5.5 million increase in the Maryland Agricultural Cost-share (MACS) Program GO bond authorization programmed for meeting the two-year milestone reductions of nutrient and sediment loading for Chesapeake Bay Restoration.

Exhibit 1
MDA Capital Budget Changes by Fund
Fiscal 2010–2011
($ in Millions)

Program	Fund	Fiscal 2010	Fiscal 2011	Difference
MALPF	SF	$10.6	$12.1	$1.5
	FF	2.0	2.0	0
	GO	13.0	11.8	-1.2
Subtotal		**$25.6**	**$25.9**	**$0.3**
Tobacco Transition	SF	5.3	2.3	-3.0
	GO	5.0	2.0	-3.0
Subtotal		**$10.3**	**$4.3**	**-$6.0**
MACS	GO	7.0	12.5	5.5
Subtotal		**$7.0**	**$12.5**	**$5.5**
Total		**$42.9**	**$42.7**	**-$0.2**

FF: federal fund
GO: general obligation
MACS: Maryland Agricultural Cost-share
MALPF: Maryland Agricultural Land Preservation Foundation
MDA: Maryland Department of Agriculture
SF: special fund

Source: Department of Legislative Services

The MALPF program funding changes in Exhibit 1 reflect the replacement of an off-budget fund balance transfer with on-budget GO bonds and the assumption that a contingent reduction in fiscal 2011 State transfer tax funding occurs and is replaced with GO bonds. In all, $21.8 million in special funds is transferred to the general fund and replaced with GO bonds: $11.8 million of MALPF's fiscal 2011 revenue is contingent upon the replacement of an equivalent amount in the GO capital budget and $10.0 million in prior year fund balance which is not contingent upon replacement. The available fiscal 2011 funding is $25.9 million.

Maryland Agricultural Land Preservation Program (Statewide)

GO Bonds	**$21,814,000**	**Recommendation:**	**Reduce special funds by $11,814,797 to reflect contingent reduction** **Reduce GO bond by $5,000,000**
PAYGO SF	**$23,874,797**		
PAYGO FF	**$2,000,000**		

Bill Text: Provide funds for the acquisition of conservation easements on agricultural land. The funds appropriated for this purpose shall be administered in accordance with §§ 2-501 through 2-519 of the Agriculture Article.

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, 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.

As of July 1, 2007, agricultural districts are no longer required to participate in the easement application process for MALPF, per Chapter 650 of 2007, and MALPF is prohibited from accepting a district petition for any purpose after June 30, 2008. However, districts in which an easement has been transferred to MALPF and districts established by a county and a landowner for the purpose of providing a property tax credit to the landowner will remain in force and may not be terminated.

MALPF qualifications include the requirement that parcels be at least 50 contiguous acres in active agricultural use with at least 50% of the total soils on the land 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.

An owner of land that is at least 50 acres in size and actively devoted to agriculture use who is interested in selling an easement to MALPF is required to file an application with the county governing body. The county governing body refers the application and accompanying materials both to the agricultural preservation advisory board and to the county planning and zoning body. Within 60 days after the referral of the application, the agricultural preservation advisory board is required to advise the county governing body as to whether the land in the proposed easement meets MALPF qualifications and to make a recommendation on whether the easement should be purchased.

If either the agricultural preservation advisory board or the planning and zoning body recommend approval, the county governing body is required to hold a public hearing on the proposed easement. Within 120 days after the receipt of the application, the county governing body is required to render a decision as to whether the application will be recommended to MALPF for approval.

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.

Chapter 610 of 2008 stated the General Assembly's intent that counties be encouraged to establish Priority Preservation Areas for agricultural land preservation and that new funds provided to MALPF for preservation easement acquisitions be used only in Priority Preservation Areas after July 1, 2010. However, Senate Bill 59 has been introduced in the 2010 legislative session and would repeal the Priority Preservation Areas provisions.

Prior Authorization and Capital Improvement Program

Authorization Request
($ in Millions)

Fund Source	*2009 Approp.*	*2010 Approp.*	*2011 Allowance*	*2012 Estimate*	*2013 Estimate*	*2014 Estimate*	*2015 Estimate*
PAYGO SF	$35.705	$10.585	$23.875	$37.300	$38.650	$41.600	$44.300
PAYGO FF	10.000	2.000	2.000	2.000	2.000	2.000	2.000
GO Bonds	0.000	13.000	21.814	0.000	0.000	0.000	0.000
Total	**$45.705**	**$25.585**	**$47.689**	**$39.300**	**$40.650**	**$43.600**	**$46.300**

Note: The fiscal 2011 allowance amount includes $11.8 million in special funds that is a contingent reduction and $10.0 million in general obligation bonds to replace fund balance transferred to the general fund. Therefore, the fiscal 2011 allowance overstates available appropriation by $21.8 million.

With the $11.8 million contingent special fund reduction the Administration's total proposed fiscal 2011 funding is $35.9 million and includes $12.1 million in special funds, $2.0 million in federal funds, and $21.8 million in general obligation (GO) bond authorization. However, in terms of the difference in funding between fiscal 2010 and 2011, there is relatively little change because $10.0 million of the GO bond authorization is for fund balance replacement and would not fund agricultural land preservation in fiscal 2011. The fiscal 2012 to 2015 planning period reflects an anticipated increase in transfer tax revenues, flat federal fund appropriation, and no need for GO bond authorization to supplement the other revenue sources.

The special fund allowance includes $11.8 million in property transfer tax revenue, $12.0 million in matching funds from local jurisdictions, and $60,000 in other income from settlement adjustments and child or owner lot reimbursements. There are also federal funds and GO bond authorization in the fiscal 2011 allowance. The $2.0 million in PAYGO federal funds consist of federal Farm and Ranch Lands Protection Program (FRPP) funding. The GO bond authorization of $21.8 million reflects the replacement of (1) $10.0 million in unexpended balance being transferred to the general fund; and (2) $11.8 million of fiscal 2011 State transfer tax special funds being transferred to the general fund.

Maryland Agricultural Land Preservation Fund Data

Fund History

	FY 2009 Actual	*FY 2010 Estimated*	*FY 2011 Estimated*
Beginning Balance	$0	$0	$0
Revenue			
Transfer Tax	$16,704,604	$0	$0
Agricultural Transfer Tax	7,059,066	2,033,220	2,069,030
County Participation	14,000,000	10,000,000	12,000,000
Federal Grant	10,000,000	2,000,000	2,000,000
Other Income	0	60,000	60,000
General Obligation Bonds	0	12,999,780	11,814,000
Total Revenue	**$47,763,670**	**$27,093,000**	**$27,943,030**
Total Available	**47,763,670**	**27,093,000**	**27,943,030**
Encumbrances			
Foundation Commitments*	$45,504,604	$25,074,176	$25,674,000
Operating Expenses	2,059,066	1,818,824	2,069,030
Indirect Expenses	200,000	200,000	200,000
Total Encumbrances	**47,763,670**	**27,093,000**	**27,943,030**
Ending Balance	**$0**	**$0**	**$0**

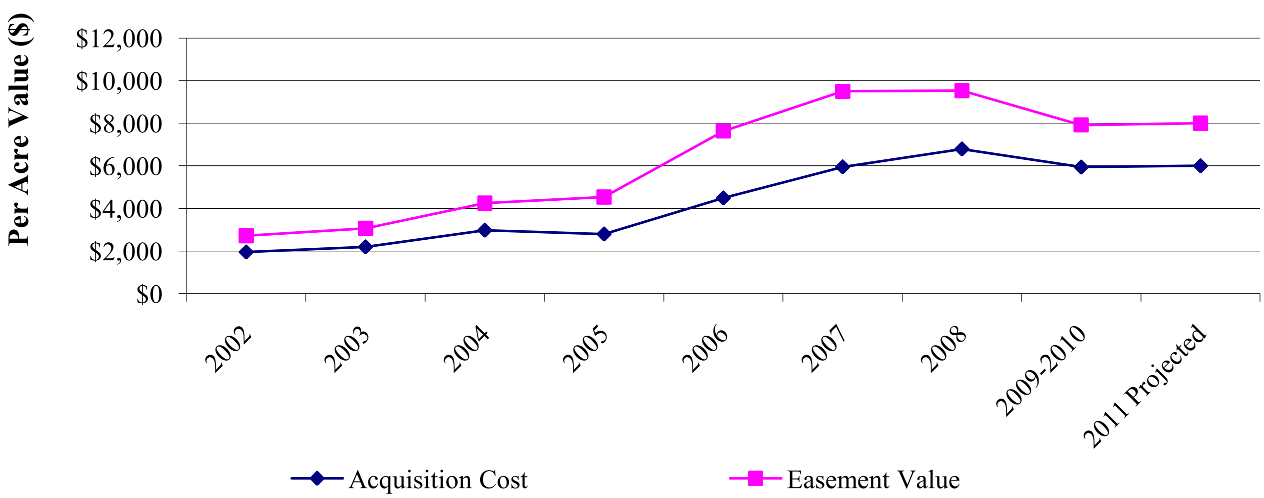
Note: Figures do not include $10 million of general obligation (GO) bonds proposed to be authorized for fiscal 2011 as replacement funds for the proposed transfer of unexpended fund balance, since this would overstate the amount of funds available for new easements for fiscal 2011. The figures also reflect the contingent reductions and transfer of fiscal 2011 transfer tax revenue, but include the $11.8 million of GO bond funds intended as replacement.

Data available as of January 25, 2010.

Program Analysis and Performance

For fiscal 2010, MALPF decided to continue funding the easements generated by the fiscal 2009 solicitation instead of soliciting new interest for easement purchases due to the reduced funding available. **Exhibit 2** illustrates the average per acre acquisition cost increase of $3,983, or 206%, and per acre easement value increase of $5,201, or 194%, between fiscal 2002 and the combined fiscal 2009-2010 solicitation. This reflects the increase in property values as part of the housing market bubble, primarily between fiscal 2005 and 2008. However, since landowners discount their property value in order to receive funding, acquisition cost (what MALPF pays) is below the easement value (what MALPF could pay). Between fiscal 2008 and the projected value for fiscal 2011, it appears that the gap between acquisition cost and easement value is anticipated to narrow.

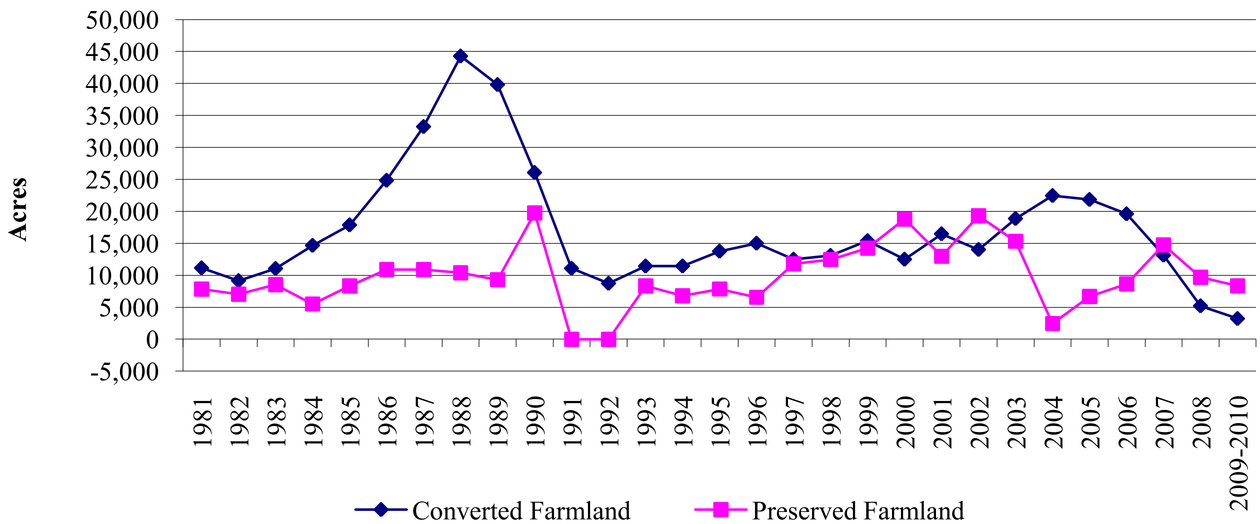
Exhibit 2
Per Acre Easement Value and Acquisition Costs
Fiscal 2002-2011



Source: Maryland Department of Agriculture

Exhibit 3 compares the agricultural land preserved and the amount of land converted to nonagricultural uses in each fiscal year. The period between fiscal 1983 and 1993 shows that more land was converted than preserved. Since then, land preserved has roughly equaled land converted in all but the period between fiscal 2003 and 2006 when there was a large increase in the amount of agricultural land converted to residential housing during the housing market bubble. Since fiscal 2007, the farmland preserved has exceeded the farmland converted.

Exhibit 3
Converted Farmland vs. Preserved Farmland
Fiscal 1981-2009

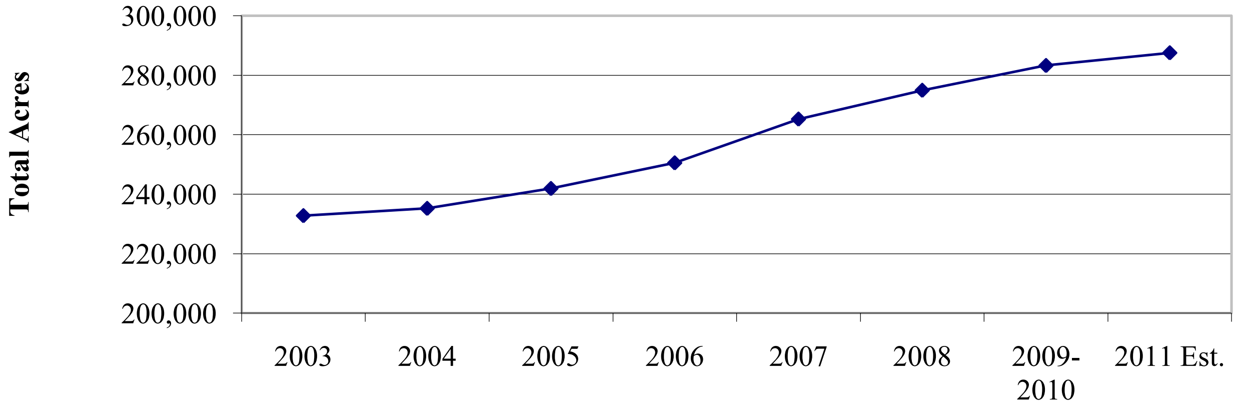


Note: In fiscal 1991 and 1992 there was a net loss of preserved farmland from the Maryland Agricultural Land Preservation Foundation's program.

Source: Maryland Department of Agriculture

MALPP continues to increase the total agricultural acres under protective easements. As shown in **Exhibit 4,** the rate of increase in total MALPP easement acreage is expected to slow between fiscal 2007 and 2011. While adding to total acreage preserved, the annual rate of growth is declining, which reflects reduced funding and relatively flat per acre acquisition costs.

Exhibit 4
Total Acres of MALPP Easements
Fiscal 2003-2011



MALPP: Maryland Agricultural Land Preservation Program

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

Source: Maryland Agricultural Land Preservation Foundation

The Office of Legislative Audits released its annual audit report on MALPF on June 15, 2009, for the fiscal year ending June 30, 2008. **Exhibit 5** shows a summary of the five repeat audit findings and associated recommendations.

Exhibit 5
MALPF Audit Findings and Recommendations

Findings	Recommendations
(1) Lack of a comprehensive listing of all easement acquisitions.	**(1) Maintain a comprehensive database of all easement acquisitions, report this information accurately in annual reports, reconcile to the State's records; investigate difference between fiscal 2007 total cumulative cost of easement acquisitions reported to the General Assembly ($490 million); and State's records ($419 million).**
(2) Inadequate procedures for ensuring proper calculation of easement acquisition prices.	**(2) Have an independent employee review critical lump-sum payment calculations and document the review;** and have an independent employee review critical installment payment calculations and document the review.
(3) Improper certification of county programs resulting in certain counties improperly retaining transfer taxes.	**(3) Establish a procedure for timely monitoring of county certification status and that tax remittances are consistent with certification status; and obtain formal legal advice concerning the legality of recovering excessive tax amounts ($1.2 million) retained by the counties.**
(4) Did not ensure that counties properly used their share of transfer taxes or remitted unused funds to the State as required.	**(4) Establish a procedure to obtain and review required annual reports to monitor transfer tax use and remission amounts; and review counties' usage of agricultural transfer taxes during prior years and recoup taxes due to the State.**
(5) Lack of performance of required easement inspections.	**(5) Take appropriate action to ensure easement inspections are performed by counties and that appropriate follow-up actions are taken when counties fail to provide the inspections as required.**

MALPF: Maryland Agricultural Land Preservation Foundation

*Bold denotes item repeated in full or part from preceding audit report.

Source: Office of Legislative Audits

The Department of Legislative Services (DLS) recommends that MALPF provide an update on the audit recommendations – particularly, concerning the status of the development of a comprehensive database of all easement acquisitions – and comment on whether MALPF has the funding, staffing levels, and expertise necessary to address the recommendations in the June 2009 audit report – particularly, concerning the review of certified counties' audited financial statements.

Issues

1. Proposed Change to State Transfer Tax Allocation for MALPF

Senate Bill 59 has been introduced in the 2010 session and would change the allocation of the agricultural transfer tax and remove a provision that diverts State transfer tax revenues from MALPF, among other actions. These actions would remove some of the provisions introduced in Chapter 610 of 2008.

Chapter 610 of 2008 established a 25% surcharge on the transfer of agricultural land and altered the distribution of the agricultural land transfer tax revenues including the creation of allocations for two new Maryland Agricultural Land Preservation Foundation (MARBIDCO) programs: Installment Purchase Agreements and Next Generation Farmland Acquisition. The 25% surcharge was added to the existing agricultural land transfer tax and all of the additional revenue generated was allocated to the State. Chapter 610 also changed the distribution of the State portion of the agricultural land transfer tax. **Exhibit 6** compares the provisions in Chapter 610 and Senate Bill 59.

The outcome of the legislation would be a restoration of State transfer tax revenue to MALPF for lump-sum and self-funded installment purchase agreements. However, if the legislation is not enacted, MARBIDCO is left with $4 million in State transfer tax special fund appropriation in fiscal 2011 for a program – leveraged installment purchase agreements – that has been deemed infeasible due to the 15-year limitation on State debt. **DLS has recommended in the Maryland Department of Agriculture's operating budget analysis that the $4 million in fiscal 2011 special fund appropriation for MARBIDCO's Installment Purchase Agreements program be restricted: $2 million each to MALPF and the Tobacco Transition Program to be used for the acquisition of conservation easements on agricultural land.**

Exhibit 6
Comparison of Chapter 610 of 2008 and Senate Bill 59 of 2010

Provisions	Acted Upon	Chapter 610 of 2008	Senate Bill 59 of 2010
Allocation Provisions for Agricultural Transfer Tax (in priority order)	(1) Woodland Incentive Fund	Up to $0.2 million (mandatory)	Unchanged
	(2) MALPF	$2.5 million beginning in fiscal 2009 and increasing 5.0% annually beginning in fiscal 2010 (mandatory)	$2,756,250 beginning in fiscal 2011 and increasing by 5% annually thereafter (mandatory)
	(3) MARBIDCO – Next Generation Farmland Acquisition Program	37.5% of the remaining funding up to a maximum of $4.0 million	Unchanged
	(4) MARBIDCO – Installment Purchase Agreements	$4.0 million from either the remaining agricultural land transfer tax or the transfer tax (mandatory)	Removed
	(5) MALPF	Remaining Funds	Unchanged
Administrative Expenses Allowed	MARBIDCO – Installment Purchase Agreements	Up to 3.0% of money received may be used for administrative costs	Removed
Priority Preservation Areas	MALPF	Encouraged to establish Priority Preservation Areas for agricultural land preservation and restricts funding to these areas after July 1, 2010	Removed

MALPF: Maryland Agricultural Land Preservation Foundation
MARBIDCO: Maryland Agricultural Resource-based Industry Development

Source: Department of Legislative Services

The recommended language would usually just supplement the amount of lump-sum easement purchases MALPF could make. However, in fiscal 2011, due to the contingent transfer of the State transfer tax special funds to the general fund, there is no new revenue to support the self-funded installment purchase agreements. Cash revenue is necessary because the self-funded installment purchase agreements cannot use GO bonds due to federal arbitrage concerns. At this point, it is not clear how much cash funding MALPF will need in fiscal 2011 for its self-funded installment purchase agreements, particularly, due to the lower interest rates in the market now which have the effect of dampening interest in the financing mechanism.

In addition, to the above provisions, there is also the provision in Senate Bill 59 to remove the requirement for steering easement purchases to Priority Preservation Areas.

DLS recommends that MALPF discuss whether funding is necessary for self-funded installment purchase agreements in fiscal 2011 given how depressed interest rates reduce the attractiveness of installment purchase agreements and comment on why it has proposed the deletion of the Priority Preservation Area provisions in Chapter 610 of 2008.

2. Status of Federal Funds

MALPF continues to have difficulty using federal funds from FRPP for agricultural land preservation. The main concern is that the FRPP has created restrictions on how funding may be used that oversteps its authority and limits the ability of MALPF to provide matching funding. In recognition of this shared concern, the agricultural representatives for 13 mid-Atlantic and northeast state governments recently sent a letter to the U.S. Department of Agriculture. The main recommendations from the letter are as follows:

- **Contingent Right of Enforcement** – eliminate title standard requirements for projects burdened by such under the 2007-2008 cooperative agreements and allow for flexibility in the wording of indemnification and environmental warranty language;
- **Certification** – provide procedural flexibility to certified entities;
- **Easement Terms and Conditions** – provide local authority for negotiating terms and conditions of template conservation easement deeds;
- **Forest Management Plans** – eliminate the requirement for a forest management plan to show forest land eligibility and allow for other eligibility determinations;
- **Impervious Surfaces** – limit impervious surfaces oversight to just determining whether impervious surfaces are consistent with the agricultural activities to be conducted; and
- **National Ranking Consideration and Proposal Selection** – waive national ranking criteria in deference to broader categories such as soils, land type, farm size, development pressure, and proximity to other farms and protected lands.

DLS recommends that MALPF comment on the status of the resolution of the FRPP funding concerns.

3. Gap Increases for Funding Agricultural Land Preservation Goal

Maryland General Assembly Joint Resolution 16 and 17 of 2002 established a statewide goal to triple the existing number of acres of productive agricultural land preserved by 2022. The goal of 1,030,000 acres, an increase of 686,667 acres from the base April 6, 2002 acreage of 343,333, will be very difficult to meet due to insufficient funding levels and current easement acquisition prices.

Exhibit 7 shows the original acreage and progress as of January 1, 2009, as presented by MALPF at the Joint Subcommittee on Program Open Space and Agricultural Land Preservation hearing on November 3, 2009. Given that 495,094 acres will need to be preserved between January 1, 2009, and January 1, 2022, and applying the fiscal 2011 projected acreage costs of $6,000 per acre, there will be a total funding need of $3.0 billion, or $228,500,000 per year.

Exhibit 7

Progress Toward Joint Resolution 16 and 17
Agricultural Easement Acreage Goal

Program	Starting Acreage (April 6, 2002)	Acreage (January 1, 2009)
Maryland Department of Agriculture – Maryland Agricultural Land Preservation Foundation	208,910	274,948
Local Preservation Programs (purchase and transfer of development rights)	99,983	174,661
Maryland Department of Natural Resources – Rural Legacy Program	29,740	61,159
Maryland Department of Natural Resources – GreenPrint Program	4,700	24,138
Total	**343,333**	**534,906**

Source: Maryland Agricultural Land Preservation Foundation; Maryland Department of Planning

MALPF notes that there are three main ways this shortfall in acreage could be mitigated. First, additional revenues could be found and used. Second, per acre acquisition costs could be reduced somehow. Third, the private sector could bear more of the costs such as through the use of transfer of development rights programs. However, it does not appear that any of the three options are viable at this time.

DLS recommends that MALPF comment on how transfer of development rights programs could help to meet the 1,030,000-acre goal for agricultural land preserved and what barriers stand in the way of more effective use of this land conservation tool.

Update

1. Easement Monitoring Compliance Report Submitted

A report on easement monitoring compliance was requested in the 2009 *Joint Chairmen's Report*. The report was requested because the committees are concerned that MALPF has had multiple audit findings concerning the lack of procedures for ensuring that required annual inspections of easement properties are performed. The report was submitted on December 20, 2009.

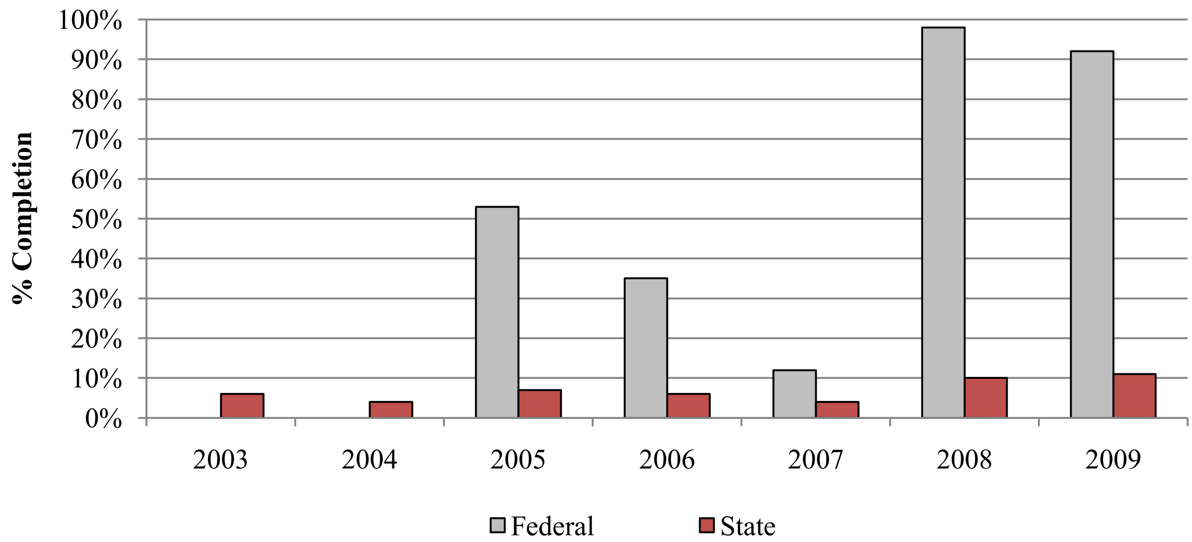
Easement Monitoring Overview

Easement monitoring is conducted by county program administrators. These administrators usually are based in county planning and zoning offices and, thus, are ideally situated for being the first contact for landholders interested in pursuing easements. In October 2007, a full-time MALPF staff member was hired to coordinate monitoring responsibilities. The staff member tracks easement monitoring forms submitted by the county program administrators who actually do the monitoring. The coordination process also involves recommending particular easements to monitor for the new fiscal year based on the prior year's easement monitoring results for a particular county.

The federal requirement is for 100% of easements purchased with FRPP funds to be inspected each year, and the MALPF Board of Trustees approved an annual 10% inspection policy in 1983 for State-owned easements. MALPF estimates an approximately 5-year window between easement monitoring visits to State-owned property instead of 10 years. This may be accounted for by the relatively small number of State-owned easements in some counties and, thus, the ease of monitoring all of the easements frequently.

The monitoring report indicates a couple of promising trends in MALPF easement monitoring. **Exhibit 8** shows that in fiscal 2009, the first year that the new full-time staff member was hired to coordinate monitoring responsibilities, 92% of federal and 11% of State easements were monitored, which means that the State policy was met and only 10, or 8%, of the federally funded properties were not inspected. Only Cecil County did not meet MALPF's internal policy of monitoring 10% of its easements.

Exhibit 8
Percent Completion of MALPF Easement Monitoring Requirements
Fiscal 2003-2009



MALPF: Maryland Agricultural Land Preservation Foundation

Note: MALPF obtained fiscal 2003 through 2007 data from an Office of Legislative Audits audit. The Federal Farm and Ranch Lands Protection Program requirement is 100% monitoring for federally funded properties each year. The MALPF requirement for State properties is 10% per year.

Source: Maryland Agricultural Land Preservation Foundation

Types of Easement Violations

Exhibit 9 provides a breakdown of easement violations discovered as part of the easement monitoring process. The highest number of violations occurs in the category of Soil and Water Conservation Plans and Forest Management Plans. Soil and Water Conservation Plans are updated every 10 years, which MALPF indicates may slip landowners' minds and helps to explain why there are so many violations of this type. The greater number of violations on State easements than on federal easements may be explained by the greater number of State easements (approximately 1,860) than federal easements (132).

MALPF notes that with greater number of easements inspected, there comes the potential greater number of violations and, thus, potentially more assistance is needed from the Office of the Attorney General to resolve the issues through litigation.

Exhibit 9

Types of Easement Monitoring Violations

Fiscal 2008-2009

Violation Weight	**Type of Violation**	**Violations Federal Easements**	**Violations State Easements**	**Violations Total**	**Violations Resolved**	**Violations Unresolved**
Minor	Soil and Water Conservation Plans/Forest Management Plan Not updated	36	99	135	8	127
	Erosion	0	1	1	0	1
Major	Junk/Debris	1	5	6	1	5
	Business	1	2	3	1	2
	Subdivision	1	18	19	4	15
	Agreements	0	2	2	0	2
	Illegal Dwelling	0	6	6	2	4
	Illegal Use of Dwelling	0	2	2	1	1
	Conveyance	1	2	3	1	2
	Total	**40**	**137**	**177**	**18**	**159**

Note: The information does not include data from 10 of the 23 counties for fiscal 2009.

Source: Maryland Agricultural Land Preservation Foundation; Department of Legislative Services

Recommended Actions

1. Strike the following language:

   ~~, provided that this appropriation shall be reduced by $11,814,797 contingent upon the enactment of legislation crediting transfer tax revenues to the General Fund.~~

   Explanation: This action strikes the contingent reduction on the Maryland Agricultural Land Preservation Foundation Capital Appropriation in order to be able to make the reduction directly.

		Amount Reduction	
2.	Reduce special funds in the Maryland Agricultural Land Preservation Foundation allowance by $11,814,797 to reflect a $11,814,000 general obligation bond authorization in the capital budget.	$ 11,814,797	SF
	Total Special Fund Reductions	**$ 11,814,797**	

GO Bond Recommended Actions

LA11A Maryland Agricultural Land Preservation Program............................ $ 16,814,000

Allowance	Change	Authorization
21,814,000	-5,000,000	16,814,000

Explanation: This action reduces the Maryland Agricultural Land Preservation Foundation general obligation bond authorization by $5.0 million with the intent that the full replacement of any transferred MALPF fund balance to the general fund should be structured over a two-year time frame. This reduction would be partially offset by a restriction of $2.0 million in Maryland Agricultural and Resource-Based Industry Development Corporation Installment Purchase Agreement special fund appropriation to MALPF for agricultural land preservation in the operating budget.

Tobacco Transition Program (Stateside)

GO Bonds	**$2,000,000**	**Recommendation:**	**Delete $2.0 million general obligation bond authorization**
PAYGO SF	**$2,256,000**		

Bill Text: Provide funds for the purchase of agricultural easements for the Tobacco Transition Program.

Program Description: 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 now used for growing tobacco. Funds are appropriated to the Maryland Department of Agriculture (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).

- 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. A total of 854 farmers and 7.65 million pounds of tobacco are enrolled in the program and out of production.

- 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. The 10-year agricultural land preservation goal established in 2001 is to protect 35,000 acres.

- 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.

Prior Authorization and Capital Improvement Program

Authorization Request
($ in Millions)

Fund Source	*2009 Approp.*	*2010 Approp.*	*2011 Allowance*	*2012 Estimate*	*2013 Estimate*	*2014 Estimate*	*2015 Estimate*
PAYGO SF	$6.030	$5.335	$2.256	$2.738	$2.738	$2.738	$2.716
GO Bonds	3.000	5.000	2.000	0.000	0.000	0.000	0.000
Total	**$9.030**	**$10.335**	**$4.256**	**$2.738**	**$2.738**	**$2.738**	**$2.716**

Funds in the fiscal 2011 allowance are spread among three different areas of MDA's budget as follows:

- $2,783,000 in CRF special funds in the operating budget for tobacco bond repayment ($1,823,000), non-capital grants for infrastructure/agricultural development programs ($500,000), and administrative expenses ($460,000);

- $2,256,000 in CRF special funds in the pay-as-you-go budget for the tobacco buyout program ($2,214,000) and agricultural land preservation ($42,000); and

- $2,000,000 in general obligation (GO) bonds in the capital budget for agricultural land preservation.

This allocation assumes that a total of $2,214,000 will be dedicated to buyout payments. **The Department of Legislative Services (DLS) has recommended a reduction of $500,000 in special fund appropriation in the MDA operating budget for infrastructure grants as a cost-saving measure.**

Authorization of GO bonds for the Tobacco Transition Program (TTP) began in fiscal 2004 and ended with the $5 million authorization in fiscal 2010. Buyout payments decrease to $1,238,000 in fiscal 2012, $842,000 in fiscal 2013, $319,000 in fiscal 2014, and then to $0 in fiscal 2015. The 2010 *Capital Improvement Program* reflects a modification of the bond repayment schedule, which is in response to a proposed change requested by the TCC for Southern Maryland. The proposed modifications to the bond repayment plan are addressed as an issue in this analysis. In the fiscal 2011 allowance, the bond repayment is reflected as a payment to the TCC, which will then reimburse the general fund.

Tobacco Transition Program Fund Data

Fund History

	FY 2009 Actual	*FY 2010 Estimated*	*FY 2011 Estimated*
Beginning Balance	$0	$0	$0
Revenue			
CRF Funds	$7,039,000	$7,039,000	$5,039,000
GO Bonds	3,000,000	5,000,000	2,000,000
MALPF Grant	0	0	0
Total Revenue	**$10,039,000**	**$12,039,000**	**$7,039,000**
Total Available	**10,039,000**	**12,039,000**	**7,039,000**
Encumbrances			
Buyout Program	$7,650,000	$7,650,000	$2,214,000
Ag. Land Preservation Program	1,380,000	2,685,000	2,042,000
Infrastructure Grants	569,000	1,244,000	500,000
Operating Expenses	440,000	460,000	460,000
Bond Repayment	0	0	1,823,000
Total Encumbrances	**$10,039,000**	**$12,039,000**	**$7,039,000**
Ending Balance	**$0**	**$0**	**$0**

CRF: Cigarette Restitution Fund
GO: general obligation
MALPF: Maryland Agricultural Land Preservation Foundation

Note: The $2,000,000 in general obligation bond (GO) authorization reflects the replacement of Cigarette Restitution Funds transferred to Medicaid. The GO bonds will be used for agricultural land preservation and thus can be seen as a portion of the of the agricultural land preservation component of the expenditures. The $1,823,000 for tobacco buyout bond repayment is budgeted in the Maryland Department of Agriculture's operating budget. This payment will be made to the Tri-County Council for Southern Maryland which will reimburse the general fund.

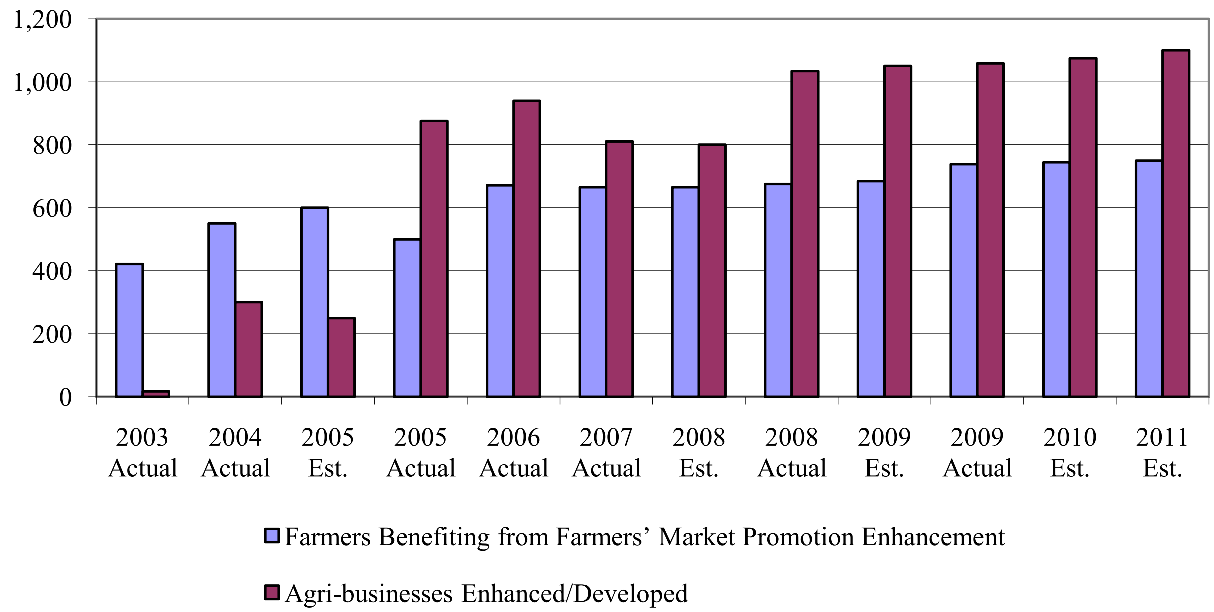
Program Analysis and Performance

The 10-year agricultural land preservation goal established in 2001 is to protect 35,000 acres. With the $2 million general obligation bond authorization, TCC intends to preserve an additional 220 acres, bringing the estimated cumulative acreage preserved to approximately 26,000 cumulative acres. DLS has recommended the deletion of the $2 million GO bond authorization, which will defer this additional easement acreage purchased by a year.

Similarly to last year, the performance data associated with TCC's efforts to help farmers transition to other agricultural opportunities, suggest a performance plateau for both farmers benefiting from farmers' market promotion enhancement and agri-businesses enhanced/developed.

As shown in **Exhibit 10**, the number of agri-businesses benefiting from TCC's marketing efforts only increased by 25 between fiscal 2008 and 2009, whereas it increased by 223 between fiscal 2007 and 2008. In contrast, the number of farmers benefiting from farmers' market promotions increased by 63 between fiscal 2008 and 2009, while it increased by only 10 between fiscal 2007 and 2008.

Exhibit 10
Tobacco Transition Program
Fiscal 2003-2011



Source: Governor's Budget Books, Fiscal 2006-2011

Issues

1. Tobacco Transition Program Tobacco Bond Repayment Plan Revised

By a letter dated September 30, 2009, TCC for Southern Maryland submitted a revised TTP bond repayment plan. The State Treasurer's Office (STO) approved a modification to the TTP bond repayment plan requested by TCC. The modified repayment plan is intended to mitigate the effect of cost containment budget reductions to TTP approved by the Board of Public Works (BPW) on October 15, 2008. As modified, the planned repayments to the Annuity Bond Fund scheduled for fiscal 2011 and 2012, will be reduced, while payments scheduled for fiscals 2013 through 2018, will be increased. The modification will not affect the total amount scheduled to be repaid or extend the repayment period.

Background

Chapter 103 of 2001 established the Southern Maryland Regional Strategy-action Plan for Agriculture, commonly referred to as the TTP, and authorized the issuance of $30 million in general obligation bonds to supplement dedicated CRF revenue to fund the State's tobacco buyout payments and associated programs established by the legislation. Uncodified Section 9 of Chapter 103 requires reimbursement for the principle and issuance costs of any debt issued in support of the TTP; reimbursement for the interest on any bonds issued for the TTP is not explicitly required by Section 9. This uncodified section of Chapter 103 further stipulates that the source of the repayments shall come from an annual reduction in the appropriation from the CRF and that the timing of these repayments should correspond with reductions in tobacco buyout payments so as not to interfere with the other programs administered through the Southern Maryland Regional Strategy-action Plan for Agriculture.

During the 2006 interim, representatives from MDA, the Department of Budget and Management (DBM), STO, and TCC met with legislative staff to begin the process of establishing the required repayment plan. Committee narrative included in the 2006 *Joint Chairmen's Report* required the submission of a report to the budget committees outlining the proposed repayment plan. The plan developed proposed equal repayment amounts spread over an eight-year period, beginning in fiscal 2011, the first year after the last request for bond funds. Furthermore, it proposed that issuance costs be repaid with the final repayment in fiscal 2018. The plan further articulated the need to revisit and possibly revise the repayment schedule during the 2009 interim and prior to the first fiscal year in which repayments would commence on the basis that the CRF revenue estimates fluctuate and may be further subject to potential cost containment actions.

Impact of the CRF Cost Containment

The fiscal 2009 CRF appropriation for TCC programs was reduced by $1.5 million as part of the October 15, 2008 BPW cost containment actions. This reduced level of funding was carried through to the fiscal 2010 legislative appropriation, and the council anticipated that the fiscal 2011 and 2012 funding levels might also be set at the reduced fiscal 2009 base. As a result, TCC requested that the proposed fiscal 2011 and 2012 bond repayment amounts each be reduced by $1.5 million, and that each of the fiscal 2013 through 2018 repayments be increased by $0.5 million to balance the equation. Subsequently, DBM budgeted for fiscal 2011 the $1.8 million bond repayment amount requested by TCC and proposed a variation on the repayment that would increase repayments to $3.3 million for fiscal 2012 through 2015 and then return to the $3.8 million repayment level originally contemplated between fiscal 2016 and 2018. **Exhibit 11** shows the original, proposed TCC, and proposed DBM repayment plans.

Exhibit 11

Original and Proposed Tobacco Transition Bond Repayment Strategies

($ in Thousands)

Fiscal Year	GO Bond Appropriation	Cumulative GO Bond Appropriation	Original Proposed Repayment Amount	New Proposed Repayment Amount	DBM Proposed Repayment Amount
2004	$4,000	$4,000	$0	$0	
2005	5,000	9,000	0	0	
2006	5,000	14,000	0	0	
2007	1,585	15,585	0	0	
2008	3,000	18,585	0	0	
2009	3,000	21,585	0	0	
2010	5,000	26,585	0	0	
2011	0	26,585	3,323	1,823	1,823
2012	0	26,585	3,323	1,823	3,323
2013	0	26,585	3,323	3,823	3,323
2014	0	26,585	3,323	3,823	3,323
2015	0	26,585	3,323	3,823	3,323
2016	0	26,585	3,323	3,823	3,823
2017	0	26,585	3,323	3,823	3,823
2018	0	26,585	3,323 *	3,823 *	3,823
Total	**$26,585**	**$26,585**	**$26,585** *	**$26,585**	**$26,585**

DBM: Department of Budget and Management
GO: general obligation

*Issuance cost payment of an estimated $20,000 to be included in final payment.

Note: Assumes repayment using Maryland Cigarette Restitution Fund revenue, subject to modification in 2010, based upon the latest revenue projection. The General Assembly reduced the fiscal 2004 GO bond authorization from $5.0 million to $4.0 million, and in fiscal 2007, the General Assembly provided $1.6 million in GO bond funding and earmarked $2.4 million of the Maryland Agricultural Land Preservation Foundation appropriation for the Tri-County Council's land conservation program. For fiscal 2011, the Governor's allowance includes $2.0 million in GO bond funding to replace agricultural land preservation funding that was budgeted for Medicaid.

Source: Tri-County Council for Southern Maryland

DBM's proposed modification to the revised tobacco bond repayment plan is intended to provide additional revenue to the Annuity Bond Fund (ABF) in fiscal 2012. Current estimates, however, put the shortfall between debt service costs and State property tax receipts at approximately $100.0 million for fiscal 2012. Accelerating the pace of repayments to provide an additional $1.5 million of available funds in the ABF will do little to address this deficit situation that looms for fiscal 2012. Perhaps using $53.5 million of available bond premium revenues from the ABF to support fiscal 2011 spending should be avoided to begin a more meaningful solution to this problem.

DLS recommends that MDA and DBM discuss the relative merits of their proposed bond repayment plans and provide some assurance that a plan amenable to both parties will be formally selected and communicated to the budget committees before the submission of the fiscal 2012 budget.

Recommended Actions

GO Bond Recommended Actions

LA12A Tobacco Transition Program... $ 0

Allowance	Change	Authorization
2,000,000	-2,000,000	0

Explanation: This action deletes the authorization for agricultural land preservation. The Maryland Agricultural Land Preservation Foundation already operates an agricultural land preservation program in Calvert, Charles, and St. Mary's counties. However, there is a recommendation for the Maryland Department of Agriculture's operating budget that would restrict $4,000,000 of the special fund appropriation for the Maryland Agricultural and Resource-Based Industry Development Corporation. Half of the funding restricted, $2,000,000, would be restricted to the Tobacco Transition Program for agricultural land preservation and thus would offset the recommended general obligation bond reduction.

Maryland Agricultural Cost-share Program (Statewide)

General Obligation Bonds $12,500,000 Recommendation: Reduce

Bill Text: Provide funds for financial assistance for the implementation of best management practices that reduce soil and nutrient runoff from Maryland farms. The funds appropriated for this purpose shall be administered in accordance with §§ 8-701 through 8-705 of the Agriculture Article.

Program Description: The Maryland Agricultural Cost-share (MACS) Program provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized best management practices (BMPs) that reduce soil and nutrient runoff from farmland. The program requires a minimum of 12.5% cost-share match from grantees. The maximum levels of assistance currently available through MACS are described below.

Animal waste treatment and containment projects:

- up to $100,000 per project, with a maximum of $150,000 per farm when combined with other BMPs; and
- up to $100,000 per project under a pooling agreement to solve a pollution problem on two or more farms.

All other BMPs:

- up to $35,000 per project, with a maximum of $75,000 per farm; and
- up to $70,000 per project under a pooling agreement to solve a pollution problem on two or more farms.

Prior Authorization and Capital Improvement Program

Authorization Request
($ in Millions)

Fund Source	2009 Approp.	2010 Approp.	2011 Allowance	2012 Estimate	2013 Estimate	2014 Estimate	2015 Estimate
PAYGO SF	$3.000	$1.000	$0.000	$0.000	$0.000	$0.000	$0.000
GO Bonds	1.800	7.000	12.500	7.500	8.000	8.500	9.000
Total	**$4.800**	**$8.000**	**$12.500**	**$7.500**	**$8.000**	**$8.500**	**$9.000**

The special funds reflected in the prior authorizations above reflect allocations from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. They fund animal waste management best management practices and Conservation Reserve Enhancement Program bonus payments for riparian buffer best management practices of forest/grass buffers/wetland restoration but will need to be brought in via special fund budget amendment for fiscal 2010 and 2011. The overall Chesapeake and Atlantic Coastal Bays work plan actual and proposed expenditures for MACS are as follows:

- Fiscal 2009 – $3.0 million (reflected in authorization request) for animal waste management best management practices;

- Fiscal 2010 – $1.27 million total for animal waste management best management practices ($1.0 million) and forest/grass buffers/wetland restoration ($0.27 million) from fiscal 2009 revenue brought in via a deficiency in the Department of Natural Resources' budget ($0.29 million; not reflected in authorization request) and fiscal 2010 revenue ($0.98 million; reflected in the authorization request); and

- Fiscal 2011 – $1.6 million total (not reflected above in the authorization request) for forest/grass buffers/wetland restoration ($0.8 million) and animal waste management best management practices ($0.8 million).

The fiscal 2011 allowance provides $12.5 million in general obligation bond funds for MACS, an increase of $4.5 million relative to fiscal 2010 if the $1.0 million in Chesapeake and Atlantic Coastal Bays 2010 Trust Fund allocation for fiscal 2010 is included. Relative to what was programmed for fiscal 2011 in the 2009 *Capital Improvement Program* (CIP), the fiscal 2011 allowance increases $5.0 million. The 2010 CIP projects an authorization decrease to $7.5 million in fiscal 2012, which is then increased each year by $0.5 million through fiscal 2015.

The proposed $5 million increase in bond authorization for fiscal 2011 reflects the interest in meeting the two-year milestones for Chesapeake Bay restoration, which is the evolving approach to meeting Chesapeake Bay nutrient and sediment loading goals in two-year increments. The additional

$5 million would support 11 of the 17 agricultural best management practices included within the two-year milestones. **Exhibit 1** provides an overview of how the additional funding would be used.

There are there two things to note about the exhibit. First, the plan is to increase the number of water control structures by a factor of 10, to more than double the number of streamside forest buffers, and to increase by 350 from a base of zero the number of acres of wetlands restored, which combined reflect a substantial increase in planned activity. Second, there is no information presented on the amount of nutrient and sediment reduction generated by each best management practice, which precludes a dollar per pound of nitrogen reduced calculation. **The Department of Legislative Services (DLS) recommends that the Maryland Department of Agriculture (MDA) comment on (1) the amount of demand for the practices reflected in Exhibit 1 given the voluntary cost-share nature of the MACS program, and (2) MDA's ability to manage the additional workload that an additional $5 million of funding would entail.**

Exhibit 1

MACS Best Management Practices Supporting Two-year Milestones

Best Management Practice	Unit	$/unit	FY11 – Proposed Activity Level	FY11 Requested Funding	FY11 – CIP Activity Level	FY 2011 – CIP Funding Level	FY11 – Additional Activity for 2011 Milestones	FY11 – Additional Funding Needed for 2011 Milestones
Heavy Use Poultry Area Concrete Pads	Farms	$35,000	140	$4,900,000	60	$2,100,000	80	$2,800,000
Poultry Waste Structures	Structures	17,547	10	175,470	10	175,470	0	0
Livestock Waste Structures	Structures	37,500	50	1,875,000	34	1,275,000	16	600,000
Water Control Structures	Acres	24	15,000	360,000	1,500	36,000	13,500	324,000
Stream Protection with Fencing	Acres	50	1,700	85,000	970	48,500	730	36,500
Stream Protection without Fencing	Acres	50	1,500	75,000	1,500	75,000	0	0
Runoff Control Systems	Systems	2,534	30	76,020	30	76,020	0	0
Streamside Grass Buffers	Acres	200	3,700	740,000	2,140	428,000	1,560	312,000
Streamside Forest Buffers	Acres	700	1,500	1,050,000	750	525,000	750	525,000
Retire Highly Erodible Land	Acres	175	900	157,500	600	105,000	300	52,500
Wetland Restoration	Acres	1,000	350	350,000	0	0	350	350,000
Other BMPs associated with Soil Conservation and Water Quality Plan 2011 Milestone	n/a	n/a	365	2,656,010	365	2,656,010	n/a	n/a
Totals	**n/a**	**n/a**	**n/a**	**$12,500,00**	**n/a**	**$7,500,000**	**n/a**	**$5,000,000**

BMP: best management practices
CIP: *Capital Improvement Program*
MACs: Maryland Agricultural Cost-share

Source: Maryland Department of Agriculture

In general, MDA has noted that the increase in bond authorization for fiscal 2012 through fiscal 2015 reflects the need to meet the following:

- cost sharing for enhanced Conservation Reserve Enhancement Program eligibility and benefits;

- additional program expenditures anticipated from changes to the maximum level of State funding assistance brought about through Chapter 77 of 2006 (became effective August 2006);

- new activity from concentrated animal feeding operations subject to updated Maryland Department of the Environment and potentially U.S. Environmental Protection Agency discharge permit requirements; and

- two relatively new practices – heavy use areas (associated with poultry houses) and water control structures (reduces nutrients in water management systems).

Authorization Encumbrance and Expenditure Data

Authorization Summary
($ in Millions)

		Funds		***Balances***	
Fiscal Year	***Authorization***	***Encumbered***	***Expended***	***To Be Encumbered***	***To Be Expended***
Prior Years	$83.158	$83.158	$83.158	$0.000	$0.000
2006	5.500	5.500	5.500	0.000	0.000
2007	4.578	4.578	4.573	0.000	0.005
2008	3.608	3.608	2.697	0.000	0.911
2009	4.800	4.800	2.209	0.000	2.591
2010	8.000	1.363	0.000	6.637	8.000
Total	**$109.644**	**$103.007**	**$98.137**	**$6.637**	**$11.507**

Note: Fiscal 2010 data as of 1/23/10. For fiscal 2009, there is $3 million in Chesapeake and Atlantic Coastal Bays 2010 Trust Fund monies reflected. Of this amount, all but $795,217 has been expended. There remains $1,796,196 of fiscal 2009 bond authorization to be expended. In fiscal 2010, there is $1 million in Chesapeake and Atlantic Coastal Bays 2010 Trust Fund monies reflected. The Maryland Department of Agriculture indicates that none of the fiscal 2010 funding, bond or Trust Fund monies, has been expended and that $5,637,000 of the bond authorization remains to be encumbered and all $1 million of the Trust Fund monies is to be expended.

The authorization summary reflects $3.5 million in fiscal 2008 and 2009 encumbered funding that has not been expended, which is a substantial improvement from the $7.1 million that was reflected for fiscal 2007 and 2008 at the same time last year. MDA states that there are two ways that prior year unexpended funding can be categorized – funding that was encumbered (taken to the Board of Public Works) but then reverted to the MACS Program because it was not used; and funding that was encumbered for projects but then cancelled with no work done. More detail about why funding that is encumbered for a particular project is reverted follows:

- **Project Overestimation** – Best management practice costs are less than estimated or U.S. Department of Agriculture cost share reduces the amount of MACS funding required; and

- **Project Cancellations** – Farmers cancel projects due to cost, timing, change in operations, or other reasons.

The current estimate for fiscal 2010 reversions is approximately $1.0 million. **Exhibit 2** displays recent reversion activity. The reverted funds are available for new projects or may be carried over as revenue for the following fiscal year.

Exhibit 2
MACS Reversions
Fiscal 2005-2010 (To Date)

Fiscal Year	Number of Cancellations	Amount of Project Cancellations	Amount of Project Overestimations	Total Amount Reverted
2005	77	$459,200	$1,229,738	$1,688,938
2006	29	257,800	882,458	1,140,258
2007	18	122,100	782,153	904,253
2008	62	355,300	303,749	659,049
2009	82	578,490	898,860	1,477,350
2010*	43	401,400	664,050	1,065,450

MACS: Maryland Agricultural Cost-Share

Note: Fiscal 2010 data as of 1/25/10. Overall, the Maryland Department of Agriculture estimates approximately $1,000,000 in reversions for fiscal 2010 and $1.5 million for fiscal 2011.

Source: Maryland Department of Agriculture

Exhibit 3 shows that MDA anticipates having a zero closing balance in the MACS Program in both fiscal 2010 and 2011.

Exhibit 3
Allowance Calculation
Fiscal 2011

Fiscal 2010	
Revenue	
Beginning Balance	$0
GO Appropriation	7,000,000
Reversion of Encumbered Funds (January 2010 Estimate)	1,000,000
Total Revenue	**$8,000,000**
Expenditure	
Encumbrances	$8,000,000
Total Expenditure	**$8,000,000**
Total Available for Fiscal 2011	**$0**
Fiscal 2011	
Revenue	
Beginning Balance	$0
Reversion of Encumbered Funds (January 2010 Estimate)	1,500,000
GO Appropriation	12,500,000
Total Revenue	**$14,000,000**
Expenditure	
Encumbrances	$14,000,000
Total Expenditure	**$14,000,000**
Total Available for Fiscal 2012	**$0**

GO: general obligation

Source: Maryland Department of Agriculture; Department of Legislative Services

DLS recommends that MDA comment on whether it can encumber and expend in a timely manner the proposed $12.5 million bond authorization given that there is approximately $1.6 million in Chesapeake and Atlantic Coastal Bays 2010 Trust Fund special funds that are proposed to be allocated to the MACS program for fiscal 2011 and that the authorization of $12.5 million is $4.5 million greater than the highest appropriation in recent years.

Program Analysis and Performance

Exhibit 4 shows MACS nutrient and sediment loading reductions. **DLS recommends that MDA comment on why only 57% of the nitrogen, 70% of the phosphorus, and 52% of the sediment reduction goals were met in fiscal 2009 and how funding correlates with nutrient and sediment reductions.**

Exhibit 4
MACS Nutrient and Sediment Loading Reductions
Fiscal 2007-2011

	2007 Actual	2008 Actual	2009 Goal	2009 Actual	2010 Goal	2011 Goal
Nitrogen (pounds)	129,363	112,241	165,000	94,024	100,000	100,000
Phosphorus (pounds)	7,547	7,079	9,000	6,299	6,500	6,500
Sediment (tons)	18,000	15,000	27,500	12,460	15,000	15,000

MACS: Maryland Agricultural Cost-share

Source: Maryland Department of Agriculture

Recommended Actions

LA15A	Maryland Agricultural Cost-share Program (MACS).........................	$ 10,000,000

Allowance	**Change**	**Authorization**
12,500,000	-2,500,000	10,000,000

Explanation: This action reduces by half the $5 million in funding over and above the 2009 *Capital Improvement Program*. This additional funding is programmed for meeting the two-year milestones commitment to nitrogen and phosphorus reductions. However, it is not clear that there is sufficient interest in the best management practices proposed nor does it appear that there is sufficient administrative capacity to administer this additional level of funding.