

LA11
Department of Agriculture – Capital

Capital Budget Summary

Grant and Loan Programs
(\$ in Millions)

	<i>FY 2011 Approp.</i>	<i>FY 2012 Approp.</i>	<i>FY 2013 Allowance</i>	<i>FY 2013 Adjusted</i>	<i>% Change FY 2012 Approp. – FY 2013 Adjusted</i>	<i>DLS Recommd.</i>
Maryland Agricultural Land Preservation Program ¹	\$31.874	\$8.567	\$39.127	\$22.874	167.0%	\$17.456
Tobacco Transition Program	4.256	1.238	2.736	2.736	121.0%	0.842
Maryland Agricultural Cost-Share Program	10.800	6.000	0.000	0.000	-100.0%	0.000
Total	\$46.930	\$15.805	\$41.863	\$25.610	62.0%	\$18.298

¹ The fiscal 2011 general obligation (GO) bond authorization for the Maryland Agricultural Land Preservation Program (MALPP) includes \$10.0 million in prior year fund balance that is replaced with GO bonds. The fiscal 2013 special fund allowance for MALPP includes \$16.3 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 2012, \$5.4 million in GO bond authorization as partial replacement for the transferred funds, and \$8.7 million in prior year replacement GO bond authorization. The amounts reflected in the fiscal 2013 allowance column include the contingent appropriation, the proposed GO bond funds intended for partial replacement of the contingent reduction, and the prior year replacement GO bond authorization. The fiscal 2013 adjusted column does not include the contingent funds since these funds are intended to be transferred to the general fund and, therefore, not available for program use.

Summary of Issues

Maryland Agricultural Land Preservation Program Audit Findings: The Maryland Agricultural Land Preservation Program (MALPP) is audited annually by the Office of Legislative Audits. The most recent findings came out May 13, 2011, and cover the period beginning July 1, 2009, and ending June 30, 2010. The audit found that the easement acquisition database needed to be tested and reconciled with State records, counties needed to file annual reports on remitted unused agricultural transfers tax funds, and procedures were not in place to ensure taxes remitted by counties were supported by monthly reports. **The Department of Legislative Services recommends that the Maryland Department of Agriculture (MDA) comment on whether a test for verifying the accuracy of the easement database has been decided upon, the meeting with county administrators and finance staff has occurred, and tax remittance monthly reports from the counties are matching posted entries by the Comptroller.**

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Summary of Updates

Critical Farms Program in Funding Limbo: The Maryland Agricultural Land Preservation Foundation (MALPF) – Critical Farms Fund and Program (Chapter 581 of 2011) gave sole responsibility to MALPF for establishing the Critical Farms Program and determining, with county approval, if a property qualifies for the program in accordance with specified criteria. The Governor is authorized to include in the annual budget an appropriation to the Critical Farms Fund consistent with the Agricultural Stewardship Act of 2006 (Chapter 289). MALPF notes that no action has taken place because no funds have been provided.

Program Open Space Acquisition Opportunity Loan of 2009 Status: The Program Open Space Acquisition Opportunity Loan of 2009 provided for \$70 million in general obligation authorization for land and conservation easement acquisition for the Department of Natural Resources and MDA. Of the \$70 million, MDA’s share is \$5 million. MDA reports that all funds have been committed to easement offers and that the bond authorization may be completely used by June 30, 2012.

Maryland Agricultural Cost-Share Program Hiatus: The fiscal 2013 allowance does not include any funding for the Maryland Agricultural Cost-Share Program despite the programming of \$8.5 million in general obligation bond authorization for fiscal 2013 in the 2011 *Capital Improvement Program*. MDA notes that available authorizations at the end of fiscal 2011 will provide sufficient funding for project expenditures in both fiscal 2012 and 2013. In addition, there is \$6.0 million in a fiscal 2012 general obligation bond authorization as well as federal funding that does not flow through the State budget but is received directly by farmers.

Summary of Recommended PAYGO Actions

1. Concur with the Maryland Agricultural Land Preservation Program budget bill language.
2. Concur with Governor's allowance of \$842,000 in special funds for the Tobacco Transition Program tobacco buyout.

Summary of Recommended Bond Actions

1. Reduce by \$5,418,000 the general obligation bond authorization for the Maryland Agricultural Land Preservation Program.
2. Delete \$1,894,000 general obligation bond authorization for Tobacco Transition Program agricultural land preservation.
3. Approve the pre-authorization of \$12,653,000 in general obligation bonds for the Maryland Agricultural Land Preservation Program in the Maryland Consolidated Capital Bond Loan of 2013.
4. Approve the pre-authorization of \$6,134,000 in general obligation bonds for the Maryland Agricultural Land Preservation Program in the Maryland Consolidated Capital Bond Loan of 2014.

Program Description

The Maryland Department of Agriculture (MDA) capital program is comprised of the Maryland Agricultural Land Preservation Program (MALPP), the Tobacco Transition Program, and the Maryland Agricultural Cost-Share (MACS) Program. The programs fit under MDA's goals to preserve adequate amounts of productive agricultural land and woodland in Maryland; promote profitable production, use and sale of Maryland agricultural products; and provide and promote land stewardship. Descriptions of the three programs follow.

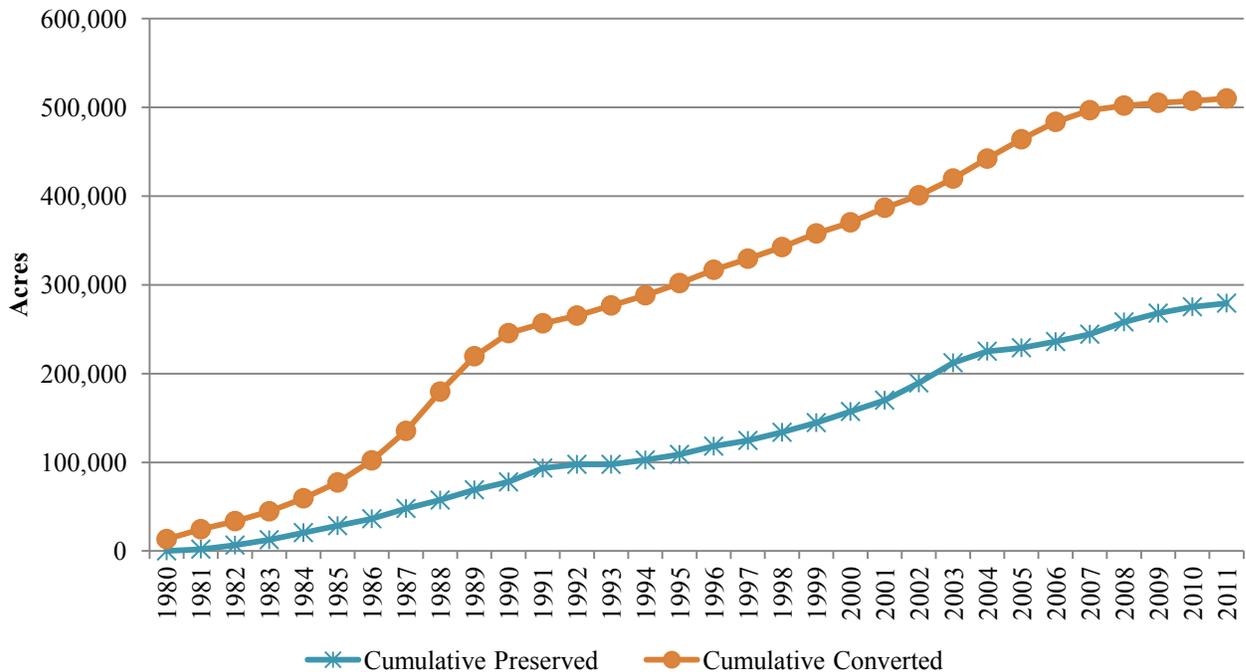
- **Maryland Agricultural Land Preservation Program** – The General Assembly created MALPP to preserve productive agricultural land and woodland which provides for the continued production of food and fiber; limit the extent of urban development; and protect agricultural land and woodland as open space. 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. 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.
- **Tobacco Transition Program** – 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 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).
- **Maryland Agricultural Cost-Share Program** – The MACS Program provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized best management practices (BMP) that reduce soil and nutrient runoff from farmland. The program requires a minimum 12.5% cost-share match from grantees. Animal waste treatment and containment projects are funded 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 are funded 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.

Program Performance Measures and Outputs

Maryland Agricultural Land Preservation Program

Agricultural land is desirable for conversion to other uses, such as residential development. MALPP is one tool for keeping farmland in agriculture, as is the agricultural use assessment for taxation purposes. **Exhibit 1** reflects the cumulative agricultural land preserved by MALPP versus the agricultural land converted from fiscal 1980 to 2011. During this time period, the amount of cumulative agricultural land converted has exceeded the cumulative amount conserved. From fiscal 1980 to 1990 and again from fiscal 2004 to 2007, the amount of farmland converted annually exceeded the amount of farmland preserved annually. Since about fiscal 2007, more land has been preserved annually than converted.

Exhibit 1
Cumulative Agricultural Land Preserved by MALPP Versus Converted
Fiscal 1980-2011



MALPP: Maryland Agricultural Land Preservation Program

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

Source: Maryland Department of Agriculture; Department of Legislative Services

Tobacco Transition Program

The 10-year agricultural land preservation goal established in 2001 for the Tobacco Transition Program is to protect 35,000 acres. With the \$1.9 million general obligation (GO) bond authorization in fiscal 2013, TCC intends to preserve an estimated cumulative acreage of approximately 28,500 acres. This cumulative acreage remains unchanged from fiscal 2012 since the General Assembly deleted funding in that year. **The Department of Legislative Services (DLS) has recommended the deletion of the \$1.9 million GO bond authorization, which will defer this additional easement acreage purchased by a year.**

MDA did not provide updated numbers for the Managing for Results measures of farmers benefiting from farmers’ market promotion and agri-businesses enhanced/developed. Instead, MDA noted that fiscal 2014 will be the last tobacco buyout payments, but that funding will continue to be provided to promote alternatives to tobacco farming in southern Maryland. In addition, funding will continue to be provided for agricultural land preservation. MDA also notes that in the most recent agricultural easement purchase cycle, Charles and St. Mary’s counties again used Tobacco Transition Program funding to match MALPF funding. **DLS again recommends that MDA comment on a set of appropriate measures that reflect the status of the Tobacco Transition Program’s progress toward assisting landowners and agricultural producers of Southern Maryland transition from the 300-year old tradition of tobacco production.**

Capital Improvement Program

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

<i>Description</i>	<i>2011 Approp.</i>	<i>2012 Approp.</i>	<i>2013 Request</i>	<i>2014 Estimate</i>	<i>2015 Estimate</i>	<i>2016 Estimate</i>	<i>2017 Estimate</i>
PAYGO SF	\$15.116	\$5.438	\$25.845	\$36.486	\$40.836	\$43.286	\$44.936
PAYGO FF	2.000	0.000	0.000	0.000	0.000	0.000	0.000
GO Bonds	29.814	10.367	16.018	17.153	14.634	8.500	8.500
Total	\$46.930	\$15.805	\$41.863	\$53.639	\$55.470	\$51.786	\$53.436

Note: The fiscal 2011 appropriation amount includes \$10.0 million in general obligation bond authorization for the Maryland Agricultural Land Preservation Program (MALPP) that replaces prior year fund balance transferred to the general fund. The fiscal 2013 request included \$8.7 million in general obligation bond authorization for MALPP that replaces prior year funding transferred to the general fund.

LA11 – Department of Agriculture – Capital

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

<i>Program</i>	<i>2011 Approp.</i>	<i>2012 Approp.</i>	<i>2013 Allowance</i>	<i>2014 Estimate</i>	<i>2015 Estimate</i>	<i>2016 Estimate</i>	<i>2017 Estimate</i>
Maryland Agricultural Land Preservation Program	\$31.874	\$8.567	\$39.127	\$46.403	\$44.234	\$41.050	\$42.700
Tobacco Transition Program	4.256	1.238	2.736	2.736	2.736	2.236	2.236
Maryland Agricultural Cost-Share Program	10.800	6.000	0.000	4.500	8.500	8.500	8.500
Total	\$46.930	\$15.805	\$41.863	\$53.639	\$55.470	\$51.786	\$53.436

Looking forward, the 2012 *Capital Improvement Program* (CIP) reflects a rebound in State transfer tax revenue and local subdivision participation. For fiscal 2014 and 2015, the pre-authorizations of \$12.7 million and \$6.1 million in GO bonds are shown.

Budget Overview

The fiscal 2013 allowance includes \$25.8 million in special funds and \$16.0 million in GO bonds. However, the allowance includes \$16.3 million in special funds that are to be contingently reduced if the Budget Reconciliation and Financing Act (BRFA) of 2012 provision to transfer this amount of special funds to the general fund is enacted.

Exhibit 2 shows the available fiscal 2013 funding for the two programs in the allowance. The MACS Program does not receive funding but is shown nonetheless for comparison purposes. The figures are adjusted to account for contingent reductions and bond replacement of prior year fund balance in the fiscal 2013 appropriation. After accounting for these adjustments, the proposed fiscal 2013 funding level is \$1.1 million higher than what was provided in fiscal 2012. This reflects a greater amount of replacement of MALPP special fund revenue transferred to the general fund relative to the fiscal 2012 replacement amount and higher county funding participation in easement purchases. For the Tobacco Transition Program, the decrease in the tobacco buyout amount is defrayed by the increase in funding for conservation easement purchases. No funding for conservation easement purchases was provided in fiscal 2012. No fiscal 2013 funding is provided for the Maryland Agricultural Cost-Share Program due to available prior year bond authorizations.

Exhibit 2
Department of Agriculture Capital Budget Changes by Fund
Fiscal 2012–2013
(\$ in Millions)

<u>Program</u>	<u>Fund</u>	<u>2012</u>	<u>2013</u>	<u>Difference</u>
Maryland Agricultural Land Preservation Program	SF	\$4.2	\$8.8	\$4.6
	FF	0.0	0.0	0.0
	GO	4.4	5.4	1.1
<i>Subtotal</i>		\$8.6	\$14.2	\$5.6
Tobacco Transition Program	SF	\$1.2	\$0.8	-\$0.4
	GO	0.0	1.9	1.9
<i>Subtotal</i>		\$1.2	\$2.7	\$1.5
Maryland Agricultural Cost-Share Program	GO	\$6.0	\$0.0	-\$6.0
<i>Subtotal</i>		\$6.0	\$0.0	-\$6.0
Total		\$15.8	\$16.9	\$1.1

FF: federal fund
 GO: general obligation
 SF: special fund

Source: Department of Legislative Services

Maryland Agricultural Land Preservation Program

MALPF's fiscal 2013 allowance reflects \$25.0 million in special funds and \$14.1 million in GO bond authorization. Of the \$25.0 million in special funds in the fiscal 2013 allowance, \$16.3 million is reduced contingent on the BRFA of 2011 transferring the funding to the general fund. In addition, \$8.7 million of the \$14.1 million in GO bond authorization replaces prior year funding. Therefore, there is only \$8.8 million in special funds and \$5.4 million in GO bond authorization – a total of \$14.2 million – in new fiscal 2013 funding. The remaining special fund appropriation primarily reflects local subdivision participation; although local subdivision participation may not materialize to this extent due to the reduction of State transfer tax funds, which the local funds match.

Tobacco Transition Program

Funds in the fiscal 2013 allowance are spread among three different areas of MDA's budget as follows:

- \$4,303,000 in CRF special funds in the operating budget for tobacco bond repayment (\$3,323,000), noncapital grants for infrastructure/agricultural development programs (\$500,000), and administrative expenses (\$480,000);
- \$842,000 in CRF special funds in the pay-as-you-go budget for the tobacco buyout program (buyout payments decrease to \$319,000 in fiscal 2014, and then to \$0 in fiscal 2015); and
- \$1,894,000 in GO bonds in the capital budget for agricultural land preservation.

Authorization of GO bonds for the Tobacco Transition Program began in fiscal 2004 and ended with the \$5.0 million authorization in fiscal 2010; the funding was authorized by a provision in the Maryland Consolidated Capital Bond Loan (MCCBL) of 2006, which altered the use of GO bonds for the tobacco buyout funding plan that were originally laid out in Chapter 103 of 2001. The Governor has adopted a revised bond repayment schedule. The Governor's revised schedule is a payment of \$1.8 million in fiscal 2011, \$3.3 million from fiscal 2012 through 2016, and payments of \$3.8 million from fiscal 2016 to 2018 to round out the \$26.6 million required payment.

Multi-year GO Bond Replacement: Revisions to Fiscal 2012 and Pre-authorizations

The fiscal 2013 allowance reflects two interrelated calculations and actions as follows.

- **Fiscal 2013 Transfer Tax Revenue Diverted to General Fund** – The BRFA of 2012 diverts to the general fund \$16.3 million of the transfer tax allocated to MALPF.

- **Three-year Replacement Plan for Fiscal 2013 Revenue Diverted** – The Governor has proposed a multi-year replacement plan for the \$16.3 million in transfer tax revenue diverted to the general fund of \$5.4 million per year from fiscal 2013 through 2015.

The MCCBL of 2012 includes MALPF pre-authorizations of \$12.7 million for the 2013 session and \$6.1 million for the 2014 session. The pre-authorizations complete the replacement of State transfer tax diverted to the general fund instead of being appropriated to MALPF in fiscal 2012 and 2013. **Exhibit 3** shows the MALPF replacement schedule for fiscal 2013 and the revised schedule for prior year funding transferred to the general fund.

Exhibit 3
MALPF Funding Transfers and Replacement
Before Fiscal 2011 to Fiscal 2015
(\$ in Millions)

<u>Timing</u>	<u>Transfer</u> <u>Amount</u>	<u>Replacement</u>					<u>Total</u>
		<u>2011</u> <u>Bonds</u>	<u>2012</u> <u>Bonds</u>	<u>2013</u> <u>Bonds</u>	<u>2014</u> <u>Bonds</u>	<u>2015</u> <u>Bonds</u>	
Prior Transfer	\$10.000	\$10.000					\$10.000
2011 Transfers	11.814	7.814					7.814
2012 Transfers	19.555		\$4.367	\$7.236	\$7.235	\$0.717	19.555
2010 Overattainment	1.470			1.470			1.470
2013 Transfers	16.253			5.418	5.418	5.417	16.253
Total	\$59.092	\$17.814	\$4.367	\$14.124	\$12.653	\$6.134	\$55.092

MALPF: Maryland Agricultural Land Preservation Foundation

Note: The fiscal 2011 replacement amount of \$7.814 million reflects the reduction of \$4.0 million by the General Assembly. The fiscal 2010 overattainment reflects MALPF’s portion of the \$8.6 million that was inadvertently excluded from the fiscal 2012 revenue estimate allocation to agencies.

Source: Department of Legislative Services

Funding for Land Acquisition and Easement Programs Should Be Deferred in Favor of Other Environmental Program Infrastructure Priorities

The continued use of GO bond funds as a source of replacement funds for transfer tax revenues diverted to the general fund complicates the State’s ability to address other pressing infrastructure needs; including a number of environmental program infrastructure needs related to the Watershed Implementation Plan (WIP) for Chesapeake Bay restoration. These needs among others include:

- **Bay Restoration Fund Shortfall** – There is an approximately \$380 million shortfall projected. Even with a proposed doubling of the bay restoration fee, there is still estimated to be a \$77 million shortfall that is programmed in the 2012 CIP to be funded with GO bond authorizations between fiscal 2014 and 2017. This funding need could be partially defrayed by a GO bond authorization in fiscal 2013.
- **Stormwater Retrofits** – Both local governments and the State Highway Administration (SHA) are projected to have substantial financial burdens related to stormwater retrofit costs. The revised Phase II WIP reflects SHA costs of \$467.0 million for calendar 2010 through 2017 and \$1.03 billion for calendar 2018 through 2025, or a total cost of \$1.5 billion. For local governments, the costs are estimated to be \$3.4 billion for calendar 2010 through 2017 and \$2.7 billion for calendar 2018 through 2025, or a total cost of \$6.1 billion. There is \$27.8 million in GO bond authorization in the fiscal 2013 capital budget for stormwater retrofits that were solicited as part of the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund request for proposals. Additional GO bond authorization could be added to this amount to fund stormwater retrofit projects on the request for proposals list.

Rather than fully funding the programs that support land acquisition and easement purchases based on the current GO bond replacement schedule, the State could reprogram a portion of the fiscal 2013 funding for these programs to proactively begin the process of addressing other environmental infrastructure needs.

Exhibit 4 illustrates the GO bond funding for the State’s land acquisition and easement programs. Since traditionally these programs are funded with special funds derived from the transfer tax and not GO bonds, this illustrates the amount of authorized and programmed GO bond replacement. Note that because the replacement plan is based on a multi-year schedule, the impact of this policy is reflected in future budgets by way of pre-authorizations included in the 2012 session capital budget bill. **DLS recommends that the GO bond replacement for fiscal 2013 transfer tax revenues, as well as the \$5.0 million of additional authorizations for the Rural Legacy program required by Natural Resources Article § 5-9A-09, and the \$1.9 million of authorization for agricultural land preservation in the Tobacco Transition Program be redirected to other environmental program purposes in order to facilitate greater use of the State’s resources in support of infrastructure development and enhancement. DLS also recommends that only the Program Open Space – Local reprogrammed funds be repaid, \$2,261,000 for each of fiscal 2014 and 2015 since further replacement would further burden future years’ budgets.**

Exhibit 5 reflects DLS’s recommendation, which would still leave \$73.7 million of fiscal 2013 GO bond funding for the programs traditionally earmarked for land acquisition and easement purchases. However, the majority of this funding, \$46.6 million, replaces prior year Program Open Space – Local funding transferred to the general fund. This \$46.6 million will be used to support a variety of initiatives including the development of recreational facilities by local recreation and parks departments. Any decision on the pre-authorizations already included in the 2012 capital budget bill that reflect a portion of the multi-year replacement plan can be taken up in the 2013 and 2014 sessions when these funds would be considered for authorization.

Exhibit 4
Fund Transfer and GO Bond Replacement for Land Acquisition/Easement Programs
Before Fiscal 2011 to Fiscal 2015
(\$ in Millions)

<u>Program</u>	<u>Time Period</u>	<u>Amount</u>	<u>GO Bonds 2011</u>	<u>GO Bonds 2012</u>	<u>GO Bonds 2013</u>	<u>GO Bonds 2014</u>	<u>GO Bonds 2015</u>	<u>Total</u>
Transfer Tax Transfers					Replacement			
POS – State	Prior Transfers	\$4.567	\$2.967	\$0.000	\$1.600	\$0.000	\$0.000	\$4.567
	2011 Transfers	13.082	8.075	0.000	1.393	\$2.992	\$0.622	13.082
	2012 Transfers	21.579	0.000	\$4.823	7.193	7.193	2.370	21.579
	2010 Overattainment	2.606	0.000	0.000	2.606	0.000	0.000	2.606
	2013 Transfers	14.724	0.000	0.000	4.908	4.908	4.908	14.724
Subtotal		\$56.558	\$11.042	\$4.823	\$17.700	\$15.093	\$7.900	\$56.558
POS – Local	Prior Transfers	\$103.113	\$41.789	\$16.689	\$36.401	\$4.117	\$4.117	\$103.113
	2011 Transfers	12.352	12.352	0.000	0.000	0.000	0.000	12.352
	2012 Transfers	20.841	0.000	6.947	6.947	6.947	0.000	20.841
	2010 Overattainment	3.239	0.000	0.000	3.239	0.000	0.000	3.239
	2013 Transfers	13.564	0.000	0.000	4.522	4.521	4.521	13.564
Subtotal		\$153.109	\$54.141	\$23.636	\$51.109	\$15.585	\$8.638	\$153.109
Rural Legacy (Transfer Tax)	Prior Transfers	\$10.635	\$10.635	0.000	0.000	0.000	0.000	\$10.635
	2011 Transfers	12.637	6.318	\$4.515	\$0.602	\$0.601	\$0.601	12.637
	2012 Transfers	13.767	0.000	0.000	4.589	4.589	0.000	9.178
	2010 Overattainment	0.431	0.000	0.000	0.431	0.000	0.000	0.431
	2013 Transfers	12.799	0.000	0.000	4.267	4.266	4.266	12.799
Subtotal		\$50.269	\$16.953	\$4.515	\$9.889	\$9.456	\$4.867	\$45.680

<u>Program</u>	<u>Time Period</u>	<u>Amount</u>	<u>GO Bonds 2011</u>	<u>GO Bonds 2012</u>	<u>GO Bonds 2013</u>	<u>GO Bonds 2014</u>	<u>GO Bonds 2015</u>	<u>Total</u>
Transfer Tax Transfers					Replacement			
MALPF	Prior Transfers	\$10.000	\$10.000	\$0.000	\$0.000	\$0.000	\$0.000	\$10.000
	2011 Transfers	11.814	7.814	0.000	0.000	0.000	0.000	7.814
	2012 Transfers	19.555	0.000	4.367	7.236	7.235	0.717	19.555
	2010 Overattainment	1.470	0.000	0.000	1.470	0.000	0.000	1.470
	2013 Transfers	16.253	0.000	0.000	5.418	5.418	5.417	16.253
Subtotal		\$59.092	\$17.814	\$4.367	\$14.124	\$12.653	\$6.134	\$55.092
Total Transfer Tax Transfer/Replacement		\$319.028	\$99.950	\$37.341	\$92.822	\$52.787	\$27.539	\$310.439
Non-transfer Tax Funding					Fiscal 2013 Funding Only			
Rural Legacy (GO Bond)	2013 Funding	\$5.000	n/a	n/a	\$5.000	n/a	n/a	\$5.000
Subtotal		\$5.000	n/a	n/a	\$5.000	n/a	n/a	\$5.000
Tobacco Transition	2013 Funding	\$1.894	n/a	n/a	\$1.894	n/a	n/a	\$1.894
Subtotal		\$1.894	n/a	n/a	\$1.894	n/a	n/a	\$1.894
Total Non-transfer Tax		\$6.894	\$0.000	\$0.000	\$6.894	\$0.000	\$0.000	\$6.894
Grant Total Funding			\$99.950	\$37.341	\$99.716	\$52.787	\$27.539	\$317.333

GO: general obligation
MALPF: Maryland Agricultural Land Preservation Foundation
POS: Program Open Space

Note: The General Assembly reduced the fiscal 2012 general obligation (GO) bond amount for Rural Legacy by \$4.589 million and the fiscal 2011 GO bond amount for the Maryland Agricultural Land Preservation Foundation by \$4.0 million, which accounts for the \$8.589 difference in the amount transferred and the amount replaced. The Tobacco Transition Program funding transferred in fiscal 2013 reflects Cigarette Restitution Funds that are used to defray Medicaid costs. The Rural Legacy Program fiscal 2013 statutory amount reflects the required inclusion of \$5.0 million by Natural Resources Article § 5-9A-09. For fiscal 2011, 2012, 2014, and 2015, “n/a” is reflected for the Rural Legacy Program mandated funding and the Tobacco Transition Program since no prior year or out-year funding is provided for in the Governor’s allowance.

Source: Department of Legislative Services

Exhibit 5
Allowance and DLS Recommendation for Land Acquisition/Easement
Program GO Bond Funding
Fiscal 2013
(\$ in Millions)

<u>Program</u>	<u>Time Period</u>	<u>Allowance 2013</u>	<u>DLS 2013</u>	<u>Difference</u>
POS – State	Prior Transfers	\$1.600	\$1.600	\$0.000
	2011 Transfers	1.393	1.393	0.000
	2012 Transfers	7.193	7.193	0.000
	2010 Overattainment	2.606	2.606	0.000
	2013 Transfers	4.908	0.000	-4.908
Subtotal		\$17.700	\$12.792	-\$4.908
POS – Local	Prior Transfers	\$36.401	\$36.401	\$0.000
	2011 Transfers	0.000	0.000	0.000
	2012 Transfers	6.947	6.947	0.000
	2010 Overattainment	3.239	3.239	0.000
	2013 Transfers	4.522	0.000	-4.522
Subtotal		\$51.109	\$46.587	-\$4.522
Rural Legacy	2011 Transfers	\$0.602	\$0.602	\$0.000
	2012 Transfers	4.589	4.589	0.000
	2010 Overattainment	0.431	0.431	0.000
	2013 Transfers	4.267	0.000	-4.267
	2013 Statutory Amount	5.000	0.000	-5.000
Subtotal		\$14.889	\$5.622	-\$9.267
MALPF	2012 Transfers	\$7.236	\$7.236	\$0.000
	2010 Overattainment	1.470	1.470	0.000
	2013 Transfers	5.418	0.000	-5.418
Subtotal		\$14.124	\$8.706	-\$5.418
Tobacco Transition	2013	\$1.894	\$0.000	-\$1.894
Subtotal		\$1.894	\$0.000	-\$1.894
Total		\$99.716	\$73.707	-\$26.009

DLS: Department of Legislative Services

GO: general obligation

MALPF: Maryland Agricultural Land Preservation Foundation

POS: Program Open Space

Note: The Tobacco Transition Program funding transferred in fiscal 2013 reflects Cigarette Restitution Fund special funds that are used to defray Medicaid costs. The Rural Legacy Program fiscal 2013 statutory amount reflects the required inclusion of \$5.0 million by Natural Resources Article § 5-9A-09. All other transfers reflect transfer tax revenues.

Source: Department of Legislative Services

Looking forward, there is some optimism that the State's fiscal situation is improving which may allow the State to balance its annual operating budget without making use of the diversion of the transfer tax to the general fund. The Board of Revenue Estimates currently estimates transfer tax revenues of \$154 million in fiscal 2014. In addition, current estimates for fiscal 2012 are consistent with the amounts budgeted in which case any underattainment in fiscal 2012 that would impact the availability of fiscal 2014 revenues looks minimal. This would provide an immediate infusion of funds to the State's land acquisition and easement programs that should warrant re-examination of the proposed level of GO bonds in fiscal 2013 in support of land acquisition and easements. Moreover, in recent years, the data shows the amount of acreage protected from development exceeds acreage developed suggesting that development pressure is low in the current economic climate. When the economy improves and development pressure increases, the State transfer tax can once again flow through the formula as intended to meet these pressures.

Accordingly, DLS recommends that the fiscal 2013 replacement funding for programs funded by the transfer tax be repurposed to meet infrastructure needs already established for other environmental programs. For MALPP, DLS recommends that the \$5.4 million in fiscal 2013 GO bond authorization reflecting fiscal 2013 replacement funding be repurposed and that no out-year replacement for this funding be pre-authorized at this time. Furthermore, DLS recommends that the pre-authorizations of \$12.7 million for fiscal 2014 and \$6.1 million for fiscal 2015 be provided as proposed by the Governor as further examination and discussion can be deferred until the session in which the funds would be actually authorized.

Issues

1. Maryland Agricultural Land Preservation Program Audit Findings

MALPP is audited annually by the Office of Legislative Audits. The most recent findings came out on May 13, 2011, and cover the period beginning July 1, 2009, and ending June 30, 2010. The findings and updated responses are shown in **Exhibit 6**.

Exhibit 6 Audit Findings

Finding

Easement Acquisitions – Certain aspects of MALPF’s database of easement acquisitions had not been tested for reliability nor reconciled with the State’s records

County Agricultural Land Transfer Taxes – MALPF did not ensure that counties properly filed an annual report or remitted unused agricultural land transfer tax funds to the State as required

County Agricultural Land Transfer Taxes – MALPF had not established procedures to ensure taxes remitted by the counties were supported by monthly reports

MALPF: Maryland Agriculture Land Preservation Foundation
MDA: Maryland Department of Agriculture

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

Response Update

The database has been populated and reviewed on a sample basis. Discussions about a database accuracy test have begun with MDA’s information technology unit. Easement expenditures are being reconciled with the State’s accounting system annually.

A meeting with county administrators and finance staff about monthly responsibilities and annual reports is in the plans.

Comptroller posted entries are reviewed with monthly reports from the counties.

DLS recommends that MDA comment on whether a test for verifying the accuracy of the easement database has been decided upon, the meeting with county administrators and finance staff has occurred, and tax remittance monthly reports from counties are matching posted entries by the Comptroller.

Updates

1. Critical Farms Program in Funding Limbo

MALPF – Critical Farms Fund and Program (Chapter 581 of 2011) gave sole responsibility to MALPF for establishing the Critical Farms Program and determining, with county approval, if a property qualifies for the program in accordance with specified criteria. The program’s objectives to acquire agricultural preservation easements on critical farms are accomplished through either a purchase of an easement option from an owner or purchaser of a critical farm or the purchase of a fee simple interest in property and the sale, lease, exchange, or transfer of the property, with an agricultural land preservation easement in place. The program is financed by a Critical Farms Fund, established by Chapter 581. The Governor is authorized to include in the annual budget an appropriation to the Critical Farms Fund consistent with the Agricultural Stewardship Act of 2006 (Chapter 289). Chapter 581 also expressed legislative intent that the Governor provides \$20 million in general funds for MALPF to be used for, among other things, the Critical Farms Program. MALPF notes that no action has taken place because no funds have been provided.

2. Program Open Space Acquisition Opportunity Loan of 2009 Status

The Program Open Space Acquisition Opportunity Loan of 2009 provided \$70 million in general obligation authorization for land and conservation easement acquisition for the Department of Natural Resources and MDA. Of the \$70 million, MDA’s share is \$5 million. MDA reports that all funds have been committed to easement offers and that the bond authorization may be completely used by June 30, 2012.

3. Maryland Agricultural Cost-Share Program Hiatus

The fiscal 2013 allowance does not include any funding for the Maryland Agricultural Cost-Share Program despite the programming of \$8.5 million in GO bond authorization for fiscal 2013 in the 2011 CIP. MDA notes that available authorization at the end of fiscal 2011 will provide sufficient funding for project expenditures in both fiscal 2012 and 2013. In addition, there is \$6.0 million in fiscal 2012 GO bond authorization, as well as federal funding that does not flow through the State budget but is received directly by farmers. The Maryland Agricultural Cost-Share Program is a key component of the Administration’s funding of agricultural best management practices for Chesapeake Bay restoration and provides funding for projects such as animal waste storage structures and heavy use poultry area concrete pads.

PAYGO Recommended Actions

1. Concur with the following language on the special fund appropriation:

, provided that this appropriation shall be reduced by \$16,253,258 contingent upon the enactment of legislation crediting transfer tax revenues to the General Fund.

Explanation: The fiscal 2013 budget bill as introduced includes a \$16,253,258 reduction to the Maryland Agricultural Land Preservation Program, contingent upon enactment of a provision in the Budget Reconciliation and Financing Act of 2012. This action concurs with that contingent reduction.

2. Concur with Governor’s allowance of \$842,000 in special funds for the Tobacco Transition Program tobacco buyout.

GO Bond Recommended Actions

1. Reduce by \$5,418,000 the general obligation bond authorization for the Maryland Agricultural Land Preservation Program.

LA11A Maryland Agricultural Land Preservation Program \$ 8,706,000

<u>Allowance</u>	<u>Change</u>	<u>Authorization</u>
14,124,000	-5,418,000	8,706,000

Explanation: Reduce by \$5,418,000 the general obligation (GO) bond authorization for the Maryland Agricultural Land Preservation Program. This action reduces the \$14,124,000 GO bond authorization by the \$5,418,000 programmed for replacement of fiscal 2013 transfer tax revenues transferred to the general fund. This allows for the repurposing of the \$5,418,000 to meet the funding needs of the Watershed Implementation Plan for Chesapeake Bay restoration. The remaining authorization of \$8,706,000 is comprised of the replacement of \$7,236,000 in fiscal 2012 transfer tax revenues and \$1,470,000 in fiscal 2010 overattainment.

2. Delete \$1,894,000 general obligation bond authorization for Tobacco Transition Program agricultural land preservation.

LA11 – Department of Agriculture – Capital

LA12A Tobacco Transition Program \$ 0

<u>Allowance</u>	<u>Change</u>	<u>Authorization</u>
1,894,000	-1,894,000	0

Explanation: This action deletes the \$1,894,000 general obligation bond authorization for Tobacco Transition Program agricultural land preservation. There is already Maryland Agricultural Land Preservation Program funding for this purpose.

3. Approve the pre-authorization of \$12,653,000 in general obligation bonds for the Maryland Agricultural Land Preservation Program in the Maryland Consolidated Capital Bond Loan of 2013. The pre-authorization allows for the replacement of \$7,235,000 in fiscal 2012 transfer tax revenue diverted to the general fund and \$5,418,000 in fiscal 2013 transfer tax revenue diverted to the general fund.
4. Approve the pre-authorization of \$6,134,000 in general obligation bonds for the Maryland Agricultural Land Preservation Program in the Maryland Consolidated Capital Bond Loan of 2014. The pre-authorization allows for the replacement of \$717,000 in fiscal 2012 transfer tax revenue diverted to the general fund and \$5,417,000 in fiscal 2013 transfer tax revenue diverted to the general fund.

Maryland Agricultural Land Preservation Program Fund Data

Fund History Fiscal 2011-2017

	<u>2011 Actual</u>	<u>2012 Appropriation</u>	<u>2013 Allowance</u>	<u>2014 Estimate</u>	<u>2015 Estimate</u>	<u>2016 Estimate</u>	<u>2017 Estimate</u>
Beginning Balance	\$12,772,491	\$21,835,005	\$230,539	\$428,010	\$378,010	\$278,010	\$78,010
Revenue							
State Transfer Tax	\$8,125,996	\$0	\$0	\$24,950,000	\$29,250,000	\$32,100,000	\$33,750,000
Agricultural Transfer Tax	1,401,235	2,050,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000
Miscellaneous Fees	628,378	50,000	50,000	50,000	50,000	50,000	50,000
Federal Fund Revenue	1,872,162	0	0	0	0	0	0
Local Subdivision Participation	5,116,287	4,200,000	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000
Transfer to General Fund	-15,671	0	0	0	0	0	0
GO Bonds	5,000,000	4,367,000	14,124,000	12,653,000	6,134,000	0	0
Total Revenue	\$22,128,387	\$10,667,000	\$24,774,000	\$48,253,000	\$46,034,000	\$42,750,000	\$44,400,000
Total Funds Available	\$34,900,878	\$32,502,005	\$25,004,539	\$48,681,010	\$46,412,010	\$43,028,010	\$44,478,010
Expenditures							
Operating expenses	\$1,696,266	\$1,907,863	\$1,702,529	\$1,900,000	\$1,900,000	\$1,900,000	\$1,900,000
Easements Purchases	11,369,607	30,363,603	22,874,000	46,403,000	44,234,000	41,050,000	42,700,000
Total Expenditures	\$13,065,873	\$32,271,466	\$24,576,529	\$48,303,000	\$46,134,000	\$42,950,000	\$44,600,000
Ending Balance	\$21,835,005	\$230,539	\$428,010	\$378,010	\$278,010	\$78,010	-\$121,990

GO: general obligation

Note: The data was provided on February 3, 2012. The exhibit reflects the contingent reduction and transfer of fiscal 2013 transfer tax revenue and the \$5.4 million of general obligation bonds intended as replacement.

Tobacco Transition Program Fund Data

Fund History Fiscal 2011-2017

	<u>2011 Actual</u>	<u>2012 Appropriation</u>	<u>2013 Allowance</u>	<u>2014 Estimate</u>	<u>2015 Estimate</u>	<u>2016 Estimate</u>	<u>2017 Estimate</u>
Revenue							
Cigarette Restitution Funds ¹	\$5,039,000	\$5,539,000	\$5,145,000	\$7,039,000	\$7,039,000	\$7,039,000	\$7,039,000
GO Bonds	2,000,000		1,894,000	0	0	0	0
Total Funds Available	\$7,039,000	\$5,539,000	\$7,039,000	\$7,039,000	\$7,039,000	\$7,039,000	\$7,039,000
Expenditures							
Operating expenses ²	\$460,000	\$478,000	\$480,000	\$480,000	\$480,000	\$480,000	\$480,000
Tobacco Buyout	2,214,000	1,238,000	842,000	319,000	0	0	0
Infrastructure	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Agricultural Land Preservation ³	2,042,000	0	1,894,000	2,417,000	2,736,000	2,236,000	2,236,000
GO Bond repayment ⁴	1,823,000	3,323,000	3,323,000	3,323,000	3,323,000	3,823,000	3,823,000
Total Expenditures	\$7,039,000	\$5,539,000	\$7,039,000	\$7,039,000	\$7,039,000	\$7,039,000	\$7,039,000
Capital							
Tobacco Buyout	\$2,214,000	\$1,238,000	\$842,000	\$319,000	\$0	\$0	\$0
Agricultural Land Preservation	2,042,000	0	1,894,000	2,417,000	2,736,000	2,236,000	2,236,000
Total Capital Budget	\$4,256,000	\$1,238,000	\$2,736,000	\$2,736,000	\$2,736,000	\$2,236,000	\$2,236,000

¹ The allocation of Cigarette Restitution Fund revenues was reduced in fiscal 2009 by the Board of Public Works and extended to out-years fiscal 2010 through 2017.

² The funds required for administration and infrastructure are budgeted under the Maryland Department of Agriculture (MDA) operating budget.

³ The \$1.894 million general obligation (GO) bond authorization for fiscal 203 reflects the replacement of Cigarette Restitution Fund special funds transferred to Medicaid. The GO bonds will be used for agricultural land preservation and thus can be seen as a portion of the agricultural land preservation component of the expenditures.

⁴ Chapter 103 of 2001 requires the repayment of bond proceeds and issuance costs within eight years of the land bond authorization. The \$3,323,000 for tobacco buyout bond repayment in fiscal 2013 is budgeted in the Maryland Department of Agriculture's operating budget.