

KA05
Department of Natural Resources – Capital

Capital Budget Summary

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

<i>Program</i>	<i>2014 Approp.</i>	<i>2015 Approp.</i>	<i>2016 Request</i>	<i>2017 Estimate</i>	<i>2018 Estimate</i>	<i>2019 Estimate</i>	<i>2020 Estimate</i>
Program Open Space							
Land Acquisition and Local Program	\$60.274	\$45.635	\$33.500	\$16.141	\$30.821	\$81.261	\$82.638
Natural Resources Development Fund	4.562	0.871	2.696	7.212	10.516	21.053	16.680
Critical Maintenance Projects	4.620	2.500	4.001	4.000	4.001	4.001	4.000
Rural Legacy Program	13.512	16.034	18.206	11.011	12.407	21.985	22.097
Ocean City Beach Maintenance	0.000	0.500	1.000	2.000	2.000	2.000	2.000
Waterway Improvement Program	6.840	5.000	6.587	6.600	6.600	6.600	6.600
Community Parks and Playgrounds	2.500	2.500	2.500	2.500	2.500	2.500	2.500
Oyster Restoration Program	10.000	7.600	7.600	7.600	7.600	7.600	7.600
Chesapeake Bay 2010 Trust Fund	36.558	25.000	0.000	0.000	0.000	0.000	0.000
Total	\$138.866	\$105.640	\$76.089	\$57.064	\$76.445	\$147.000	\$144.116

<i>Fund Source</i>	<i>2014 Approp.</i>	<i>2015 Approp.</i>	<i>2016 Request</i>	<i>2017 Estimate</i>	<i>2018 Estimate</i>	<i>2019 Estimate</i>	<i>2020 Estimate</i>
PAYGO SF	\$30.092	\$9.303	\$13.909	\$29.443	\$48.353	\$118.400	\$120.367
PAYGO FF	6.600	3.963	3.587	3.600	3.600	3.600	3.600
GO Bonds	102.174	92.374	58.593	24.021	24.492	25.000	20.149
Total	\$138.866	\$105.640	\$76.089	\$57.064	\$76.445	\$147.000	\$144.116

Note: Numbers may not sum to total due to rounding.

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CIP: *Capital Improvement Program*
FF: federal fund
GO: general obligation

PAYGO: pay-as-you-go
SF: special fund

Note: The fiscal 2014 appropriation reflects \$40.1 million in prior year funding replaced with GO bonds. The fiscal 2015 appropriation reflects the following: (1) \$51.9 million in prior year GO bond replacement funding, and (2) \$7.1 million in negative deficiencies proposed in the fiscal 2015 budget. The fiscal 2016 request reflects the following: (1) the reduction of \$27.9 million in special funds that is contingent upon the transfer of the special funds to the general fund via the Budget Reconciliation and Financing Act of 2015; and (2) \$41.5 million in GO bond funding that is equal to a portion of the amount programmed for prior year replacement funding. The fiscal 2016 through 2020 columns reflect that pre-authorizations of GO bonds for the Program Open Space (POS) – State, POS – Local, and the Rural Legacy Program included in the Maryland Consolidated Capital Bond Loan (MCCBL) of 2014, representing transfer tax funding that has been or will be redirected to the general fund between fiscal 2014 and 2018, have been struck in the MCCBL of 2015 as follows: fiscal 2017 (\$77.5 million), 2018 (\$80.6 million), 2019 (\$66.7 million), and 2020 (\$34.0 million).

Summary of Issues

Waterway Improvement Fund Tapped Again: The Waterway Improvement Fund (WIF) has seen a number of recent fiscal and policy actions that have impacted available funding for projects. Chapter 180 of 2013 (Natural Resources – Vessel Excise Tax – WIF) modified revenues by capping the vessel excise tax, although funding was backfilled with revenues from a motor fuel tax allocation. In addition, the Budget Reconciliation and Financing Act (BRFA) of 2015 contains both an operating budget provision authorizing the use of an additional \$875,000 from the WIF for administrative expenses – in fiscal 2016 only – and there is a pay-as-you-go (PAYGO) provision that would transfer \$2,180,000 from the WIF balance to the general fund on or before June 30, 2015. **The Department of Legislative Services (DLS) recommends that the Department of Natural Resources (DNR) comment on how it plans on meeting both the operating and PAYGO/capital demands on the WIF including the demonstrated need for dredging projects and the emerging need for larger facilities to handle larger boats.**

Oyster Restoration Commitment Reduced but Shell Still Elusive: The budget committees were concerned that there was insufficient information available about the progress of the Oyster Restoration Program. Therefore, the budget committees requested that DNR submit a report on oyster restoration activity and monitoring status. The submitted report and additional information provided by DNR indicate that there has been insufficient time to gauge the status of the oyster restoration efforts and that there will be ongoing shell material procurement needs that have not been addressed. **DLS recommends that DNR comment on how it plans to balance the need for oyster shell for both oyster restoration and oyster aquaculture in order to be able to meet the five tributary restoration goals cost effectively.**

Summary of Updates

Capital Development Projects Status: In the fiscal 2015 capital budget analysis, DLS recommended that DNR comment on several possibilities for improving its encumbrance and expenditure activity for the Natural Resources Development Fund and the Critical Maintenance Program: modifying staffing, considering an indefinite quantity contract, or pursuing some kind of public-private partnership (P3) on

State lands with sufficient revenue sources. DNR notes that it has not modified staffing nor has it made any changes to procurement regulations or procedures, although it has discussed with the Department of General Services (DGS) the possibility of an indefinite quantity contract for Critical Maintenance Program projects. Also, DNR once again reiterates that a P3 is inappropriate for the Maryland park system.

Fiscal 2015 Program Open Space Projects: The fiscal 2015 authorization for Program Open Space (POS) – State included \$6.0 million for a grant to Baltimore City for the construction of capital improvements to the Gwynns Falls/Leakin Park Urban Children in Nature Campus project and \$0.3 million for a grant to the Board of Directors of The Royal Theater and Community Heritage Corporation for the acquisition, clearance, and site preparation of land and the design of athletic and open space uses. DNR notes that funding has been encumbered for both projects, but the Gwynns Falls/Leakin Park project was delayed by scope changes, and The Royal Theater and Community Heritage Corporation project still requires the acquisition of townhomes to move forward.

Chesapeake and Atlantic Coastal Bays 2010 Trust Fund Update: The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund received general obligation (GO) bond funding in fiscal 2013 through 2015 for structural nonpoint source pollution control projects and as a way to repay restoration funding that was redirected to the general fund. DNR notes that the funding provided has supported 69 grants to local partners to complete 307 projects. Of these projects 55 are complete; 46 are in construction; 99 are being permitted; and 107 are in the design and planning stages. The funding has leveraged an additional \$35 million in federal, local, and private dollars and that at completion the projects are estimated to reduce 125,325 pounds of nitrogen, 105,000 pounds of phosphorus, and 17,095,050 pounds of sediment over the lifespan of the projects.

Harriet Tubman Underground Railroad State Park Update: The fiscal 2015 budget analysis noted that there was a contract appeal for the Harriet Tubman Underground Railroad State Park project in Dorchester County and that this could jeopardize federal funding. DNR notes that the contract appeal was denied by the State Contract Review Board and that federal funding is secure and reimbursements are being provided as invoices are paid. In addition, DNR notes that the project is under construction and approximately 25% complete as of January 29, 2015. The anticipated completion of construction is December 2015, after which the exhibits will be installed.

Summary of Recommended PAYGO Actions

1. Concur with the contingent reduction on the Outdoor Recreation Land Loan.
2. Concur with the Governor's allowance of \$500,000 in special funds for the Ocean City Maintenance Program.
3. Concur with Governor's allowance of \$6,000,000 in special funds and \$587,000 in federal funds for Waterway Improvement Capital Projects.

Summary of Recommended Bond Actions

	<u>Funds</u>
1. Community Parks and Playgrounds	
Approve the \$2,500,000 general obligation bond authorization for Community Parks and Playgrounds to provide grants to local governments to design and construct capital-eligible park and playground improvement projects.	
2. Critical Maintenance Projects	-\$1,544,870 GO
This action adds \$1,544,870 in general obligation bond authorization to the Critical Maintenance Program.	
3. Natural Resources Development Fund	-\$1,544,870 GO
This action adds \$1,544,870 in general obligation bond authorization to the Natural Resources Development Fund.	
4. Ocean City Beach Maintenance	
Approve the \$500,000 general obligation bond authorization for Ocean City Beach Replenishment Fund for the maintenance and restoration of the beach at Ocean City.	
5. Program Open Space – Stateside	
Approve the \$14,500,000 general obligation bond authorization for Program Open Space – Stateside – Land Acquisition for the purchase of conservation easements and acquisition of land.	
6. Program Open Space – Local	-\$8,181,400 GO
This action adds \$8,181,400 in general obligation bond authorization to the Program Open Space – Local authorization.	
7. Rural Legacy Program	\$11,271,140 GO
Reduce Rural Legacy Program funding commensurate with Program Open Space replacement amount and by the mandated funding amount in statute.	

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8. Oyster Restoration Program

Approve the \$7,600,000 general obligation bond authorization for the Oyster Restoration Program to design and construct oyster habitat restoration projects and provide grants for aquaculture development projects.

9. Section 2 – Department of Natural Resources – Capital Development Projects

Approve the modification of Chapter 336 of 2008, as amended by Chapter 485 of 2009, Chapter 424 of 2013, and Chapter 463 of 2014, to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.

10. Section 2 – Department of Natural Resources – Program Open Space Capital Development

Approve the modification of Chapter 485 of 2009, as amended by Chapter 424 of 2013, and Chapter 463 of 2014, to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.

11. Section 2 – Department of Natural Resources – Natural Resources Development Fund

Approve the modification of Chapter 483 of 2010, as amended by Chapter 444 of 2012, to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.

12. Section 2 – Department of Natural Resources – Natural Resources Development Fund

Approve the modification of Chapter 396 of 2011 to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.

13. Section 2 – Department of Natural Resources – Natural Resources Development Fund

Approve the modification of Chapter 444 of 2012 to allow funds to be reallocated to projects authorized under the Natural Resources

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Development Fund or Department of Natural Resources Capital Development Projects.

14. Section 2 – Department of Natural Resources – Natural Resources Development Fund

Approve the modification of Chapter 424 of 2013 to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.

15. Section 2 – Department of Natural Resources – Natural Resources Development Fund

Approve the modification of Chapter 463 of 2014 to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.

Program Description

The mission of the DNR capital program may be summarized as the protection of Maryland's open space lands, shorelines, waterways, and natural resources while providing outdoor recreation opportunities in cooperation with federal and local governments. The capital program is comprised of POS – including the Natural Resources Development Fund and Critical Maintenance Program, the Rural Legacy Program, Ocean City Beach Maintenance, the Waterway Improvement Program (WIP), Community Parks and Playgrounds, and the Oyster Restoration Program. The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund received GO bond authorization in fiscal 2013 through 2015 but is not programmed to receive funding beyond fiscal 2015. Descriptions of the programs follow.

- **POS – Land Acquisition and Local Program** – Title 5, Subtitle 9 of the Natural Resources Article established POS for the purpose of expediting the acquisition of outdoor recreation and open space areas and the provision of recreation facilities before land is devoted to other purposes. The POS appropriation has historically been split between the State and local government. While both State acquisitions and local grants fund projects that protect open space and provide recreation facilities, State acquisitions tend to place a greater emphasis on natural resource management. State POS funds are allocated for State land acquisition and operation. In addition, POS funds are allocated to capital improvements and critical maintenance, which are described as separate programs below. Local recreation and parks departments use local POS funds for acquisition, development, and planning projects. Primary funding for POS has historically been provided by the State transfer tax of 0.5% of the consideration paid for the transfer of real property from one owner to another. POS administers the Heritage Conservation Fund, which is used to acquire land that provides habitat for rare, threatened, and endangered species through an easement or fee simple purchase and supported by 1.8% of the annual transfer tax revenue. Of note, Chapter 410 of 2011 (State Government – Land Acquisitions and Transfers of Property) consolidated acquisition review, appraisals, and negotiation all within DNR.
- **POS – Natural Resources Development Fund** – State law allows up to 25.0% of the POS funds allocated to the State to be used for capital development projects and for operating expenses at State forests and parks. The Natural Resources Development Fund provides support to design and construct development projects on DNR property. Capital development projects include shower buildings, building renovations, road parking and trail improvements, and general park improvements. In addition, the Natural Resources Development Fund has taken on the funding for dam rehabilitations. The Dam Rehabilitation Program was initiated in fiscal 1999 to address the major repair needs at 13 of DNR's 29 dams. The dams scheduled for repair through the program were identified by the Maryland Department of the Environment's (MDE) Dam Safety Division as needing immediate repairs. The work included conducting assessments; developing emergency warning plans; and repairing spillways, sluice gates, and access roads. Final funding for the program was provided in fiscal 2012. In fiscal 2015, Natural Resources Development Fund funding was provided for the Bloede Dam Removal project but has since been deferred to the out-years due to a reduction in the transfer tax revenue estimate.

- **POS – Critical Maintenance Program** – DNR maintains over 1,500 buildings, hundreds of miles of roadway, parking lots, and a variety of water-associated facilities that serve millions of visitors annually. Critical maintenance projects include structural repairs to buildings, bridge repairs, well and septic system replacement, and road and utility repairs. According to information provided by DNR in February 2015 based on project requests submitted by DNR facility managers during the past year, there is a \$44.0 million (676 projects) backlog in necessary critical maintenance projects at State forests and parks, which is an increase in both the overall cost and the number of projects since February 2014 (\$32.1 million and 593 projects). DNR and DGS both manage Critical Maintenance Projects. DNR handles procurement for projects that cost \$50,000 or less (the majority of projects), and DGS handles procurement for projects that cost more than \$50,000. DNR notes that projects under the Critical Maintenance Program are not required to receive Board of Public Works (BPW) approval prior to the expenditure of special funds, but the projects are required to receive BPW approval for contracts funded with GO bonds.
- **Rural Legacy Program** – The purpose of the Rural Legacy Program is to protect agricultural and natural resources land from sprawl development and thus to promote resource-based economies and to develop greenbelts. Program funds are used to purchase conservation easements on land based on Rural Legacy areas approved by the Rural Legacy Board (composed of the Secretaries of DNR, the Maryland Department of Planning, and the Maryland Department of Agriculture (MDA)). Under § 5-9A-09 of the Natural Resources Article, the Governor is required to include at least \$5.0 million in the annual capital budget for the Rural Legacy Program separate and apart from what the program is allocated through the transfer tax formula.
- **Ocean City Beach Maintenance** – The Ocean City Beach Maintenance Fund was established to fund annual maintenance for the Ocean City beach replenishment project. When the fund was established, the State entered into a funding agreement with Worcester County and Ocean City. The funding agreement stipulates that the following amounts be provided annually: not less than \$1.0 million from the State and not less than \$500,000 each from the county and the city. Periodic nourishment is deemed the most cost-effective method of maintaining the beach over a 50-year period. Transfer tax revenue within POS or GO bonds are used to fund the State’s contribution to this effort. Upon reaching a \$15.0 million cap in the fund, no funding is required to be provided by the State or local governments. Nourishment of the Ocean City beach is usually done on a four-year cycle. The U.S. Army Corps of Engineers is responsible for developing estimates, plans, and managing construction contracts for the periodic nourishment efforts and costs are usually shared: 53.0% federal and 47.0% local – State, Ocean City, and Worcester County. Although, the last major nourishment was paid for completely by the U.S. Army Corps of Engineers; it was completed in June 2014 with some fencing and crossover repairs to be completed by May 2015 – approximately 890,000 cubic yards of sand was placed on the beach – and was combined with a project to repair Hurricane Sandy damage. Annual maintenance items, such as grass planting and fence repairs, are the responsibility of the State (50.0%), Town of Ocean City (25.0%), and Worcester County (25.0%). These costs have averaged approximately \$500,000 annually. All Ocean City Beach Maintenance projects are required to receive BPW approval regardless of fund source used.

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- **WIF** – The WIF finances projects to expand and improve public boating access throughout the State. The 5.0% excise tax paid on the sale of motorized vessels within the State, up to \$15,000 per vessel, and 0.5% of the motor vehicle fuel tax support the fund, per Chapter 180 (Natural Resources – Vessel Excise Tax – WIF). Funding is provided in the form of grants and/or long-term, interest-free loans to local governments, DNR, and some federal government agencies, as follows: (1) grants (100.0%) not to exceed \$5,000; (2) grants (100.0%) less than \$100,000; (3) public navigation improvement and DNR boating facility construction grants (100.0%) of unlimited amounts; (4) matching grants with a maximum State cost share (50.0%); and (5) interest-free loans (100.0%) with a 25-year maximum. Additional funding specifications are provided for dredging/navigation projects and boating access facility/boating safety projects.
- **Community Parks and Playgrounds** – Chapters 247 and 248 of 2008 codified and amended the existing Community Parks and Playgrounds Program within DNR. The program had been administered as an uncodified grant program for counties and municipalities by POS since fiscal 2002. The program provides flexible grants to municipalities and Baltimore City – counties are no longer eligible – to do the following: (1) rehabilitate, expand, improve, or maintain existing parks; (2) purchase land to create new parks; (3) develop new parks; (4) purchase and install playground equipment in urban neighborhoods and rural areas throughout the State; or (5) be used for environmentally oriented parks and recreation projects. While land acquisition costs are considered, highest priority is given to capital costs associated with park and playground development and improvement.
- **Oyster Restoration Program** – The Oyster Restoration Program provides funding to construct and rehabilitate oyster bar habitat and provide for aquaculture infrastructure improvements. Funding is guided by Maryland’s oyster plan, which includes goals to rehabilitate oyster bar habitat identified in a best oyster bar survey conducted in fall 2009 and to shift commercial oyster production to aquaculture. In addition, Maryland is guided by the new Chesapeake Bay Agreement signed in June 2014, which has the following goal: “Restore native oyster habitat and populations in 10 tributaries by 2025 and ensure their protection.” Based on a U.S. National Oceanic and Atmospheric Administration oyster workgroup, the program has adopted the following restoration goals: (1) restoring 50.0% to 100.0% of currently restorable oyster habitat at the tributary level; and (2) achieving a mean density of 50 oysters per square meter and 50 grams dry weight per square meter, containing at least two year classes, and covering at least 30.0% of the reef area at the reef level.
- **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund** – The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund was established by Chapter 6 of the 2007 special session to be used to implement the State’s tributary strategy. The fund is financed with a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. Subsequently, Chapters 120 and 121 of 2008 established a framework for how the trust fund money must be spent by specifying that it be used for nonpoint source pollution control projects and by expanding it to apply to the Atlantic Coastal Bays. Structural stormwater practices have been funded by the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund previously, but the program first received GO bond funding in fiscal 2013. The funding is administered by DNR’s Chesapeake and Coastal Services staff while MDE conducts the permitting. Tracking of project implementation occurs through BayStat and the annual report provided for the program.

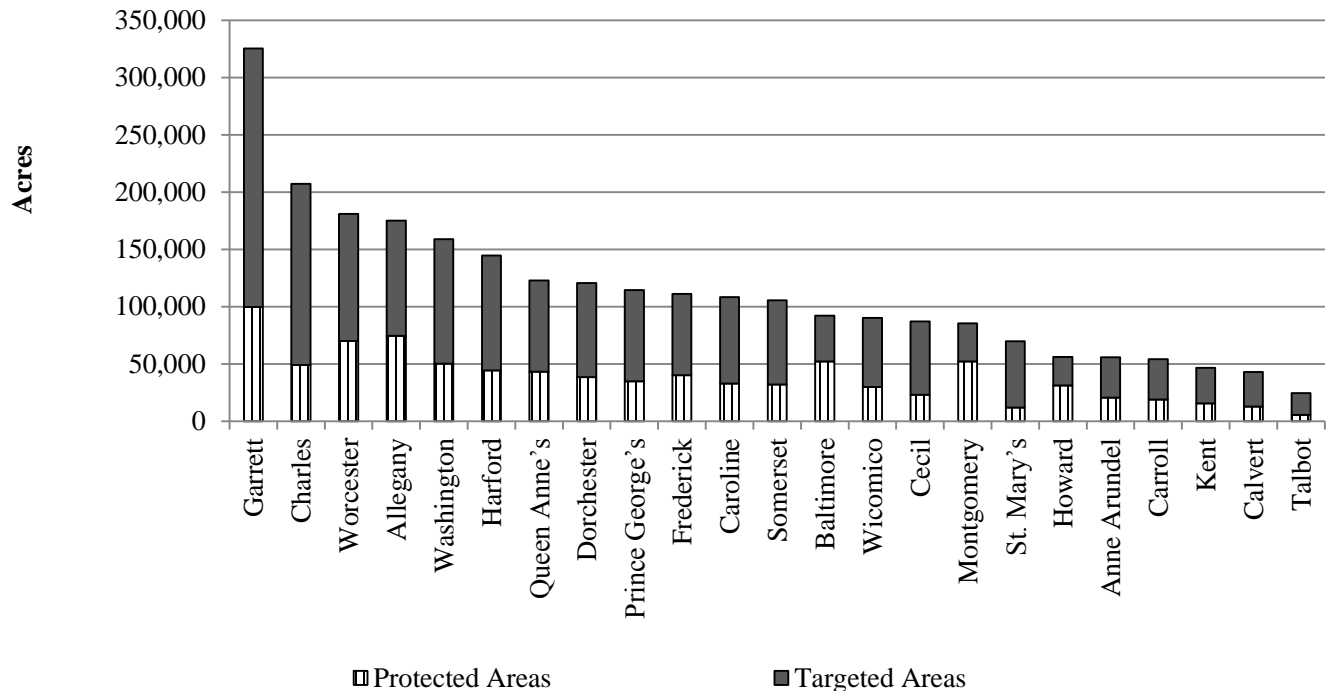
Performance Measures and Outputs

Program Open Space

Maryland distinguishes between targeted ecological areas and high-priority conservation areas. Targeted ecological areas have the highest ranking for green infrastructure, species diversity, and water quality. High-priority conservation areas are areas where targeted ecological areas meet other protected lands. All of this information is summarized in GreenPrint, the online geographic information system tracking program for preserved land and targeted ecological areas.

Maryland’s targeted ecological areas total 2,578,651 acres, which is equal to last year’s analysis. To date, 881,907 acres have been protected, up from 873,566 acres at this time last year, leaving 1,696,744 acres still to be protected. As shown in **Exhibit 1**, Garrett (325,208 acres), Charles (207,129 acres), and Worcester (181,008 acres) counties continue to be the top three counties in terms of targeted ecological areas.

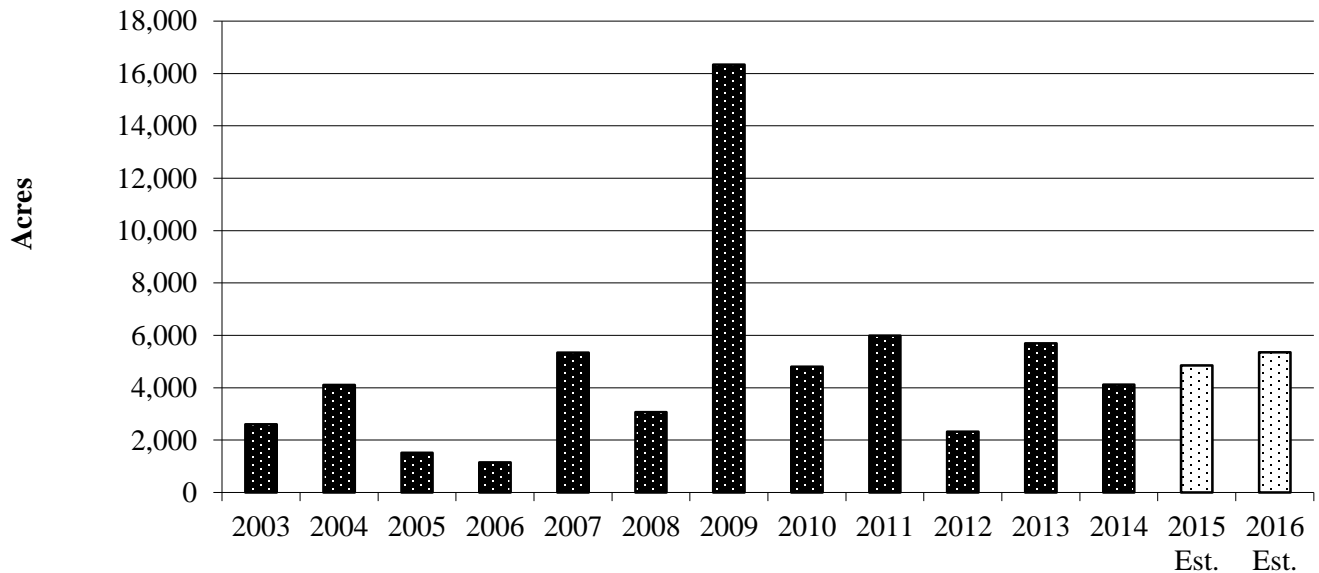
Exhibit 1
Protected and Targeted Ecological Areas
 February 2015



Source: Department of Natural Resources

As illustrated in **Exhibit 2**, there was a decrease in the POS acquisition acres approved by BPW between fiscal 2013 (5,695 acres) and 2014 (4,124 acres). DNR indicates that the acres approved by BPW in fiscal 2013 included 2,352 acres of easements in Dorchester and Queen Anne’s counties donated to POS by the Conservation Fund in January 2013, which skews the comparison between years. In addition, DNR notes that there were some acquisition delays in fiscal 2014 due to landowners deciding not to sell – whether because of the offered value or other considerations – due diligence and negotiation time for the acquisitions, and the increased focus on smaller ecologically, historically, or culturally significant properties. DNR notes that it had more projects approved in fiscal 2014 (49) than in fiscal 2013 (33). In terms of historical numbers, the fiscal 2009 acreage approved reflects two large property purchases: the Maryland Province properties (4,474 acres) and the Smith Foster Furnace property (4,769 acres).

Exhibit 2
POS Acquisition Acres Approved by the Board of Public Works
Fiscal 2003-2016 Est.



POS: Program Open Space

Note: The fiscal 2013 acreage includes 2,352 acres donated to Program Open Space by the Conservation Fund.

Source: Governor’s Budget Books, Fiscal 2006-2016

POS funding expanded the number of State parks acres available to the public from 140,538 in fiscal 2013 to 140,820 in fiscal 2014. The increased acreage is reflected in **Exhibit 3**.

Exhibit 3
Maryland State Parks Acreage Increase from Program Open Space Acquisitions
Fiscal 2014

<u>County</u>	<u>BPW Date</u>	<u>Area</u>	<u>Managing Unit</u>	<u>Acres</u>
Washington	09/04/2013	South Mountain State Park	Parks	42.0
Harford	08/21/2013	Palmer State Park	Parks	35.0
Montgomery	02/05/2014	Seneca Creek State Park	Parks	30.0
Charles	05/14/2014	Mattawoman Natural Environment Area	Parks	28.2
Baltimore County	07/24/2013	Gunpowder Falls State Park	Parks	22.0
Washington	11/20/2013	South Mountain State Park	Parks	19.0
Washington	07/03/2013	Greenbrier State Park	Parks	18.0
Washington	12/18/2013	Washington Monument State Park	Parks	15.6
Frederick	01/08/2014	Cunningham Falls State Park	Parks	11.7
Washington	09/04/2013	South Mountain State Park	Parks	10.0
Frederick	11/20/2013	South Mountain State Park	Parks	9.7
Washington	09/04/2013	South Mountain State Park	Parks	9.0
Washington	02/05/2014	South Mountain State Park	Parks	8.7
Frederick	07/03/2013	South Mountain State Park	Parks	6.0
Frederick	07/03/2013	South Mountain State Park	Parks	6.0
St. Mary's	10/16/2013	Point Lookout State Park	Parks	6.0
St. Mary's	06/18/2014	Newtowne Neck State Park	Parks	3.0
Washington	04/30/2014	Washington Monument State Park	Parks	2.0
St. Mary's	12/04/2013	Point Lookout State Park	Parks	0.2
Total				282.0

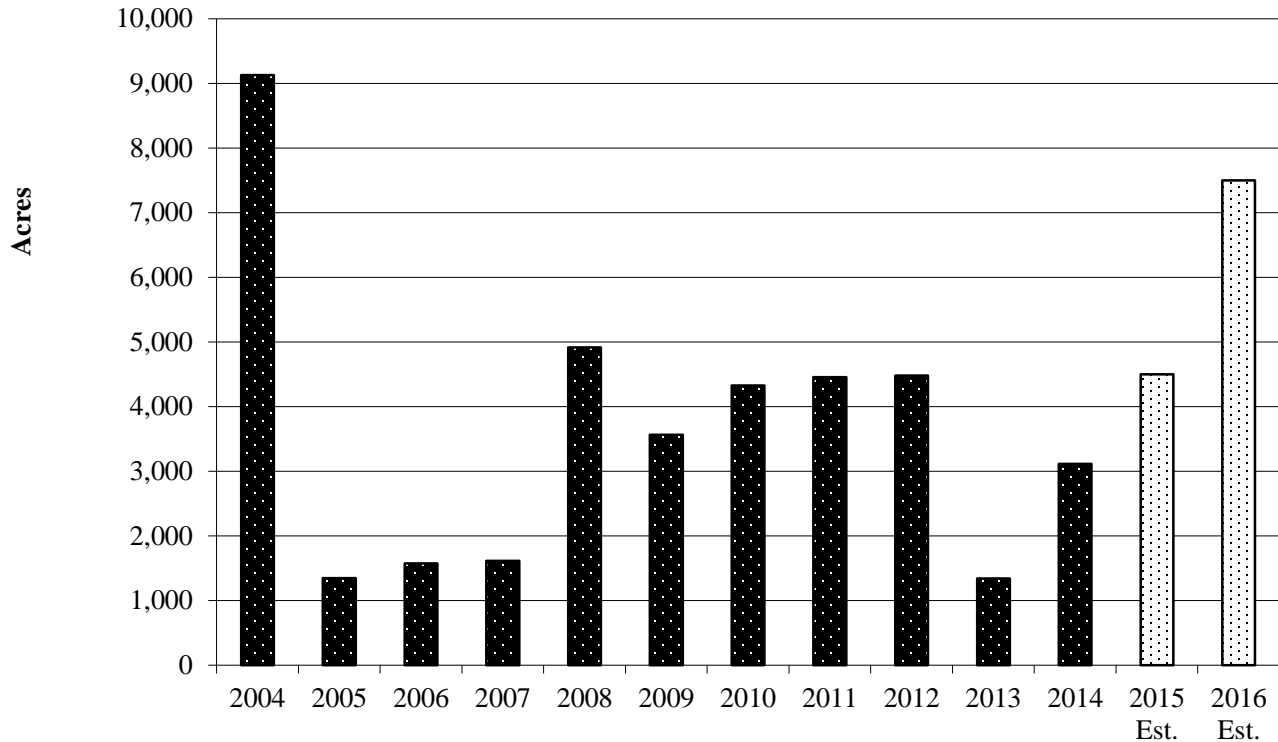
BPW: Board of Public Works

Source: Department of Natural Resources

Rural Legacy Program

Exhibit 4 shows that the number of approved Rural Legacy Program easement and fee simple acres increased from 1,340 acres in fiscal 2013 to 3,114 acres in fiscal 2014 due primarily to the increase in funding from \$5.6 million in fiscal 2013 to \$13.5 million in fiscal 2014. DNR notes that the estimated acreage for fiscal 2016 is based on an older funding plan; therefore, the lower funding reflected for fiscal 2016 of \$18.2 million will reduce the acreage to approximately 5,200 acres based on an estimated \$3,500 per-acre cost. DNR notes that the Rural Legacy Program receives requests that total \$100.0 million on average each year.

Exhibit 4
Rural Legacy Easement and Fee Simple Acres
Approved by the Board of Public Works
Fiscal 2004-2016 Est.

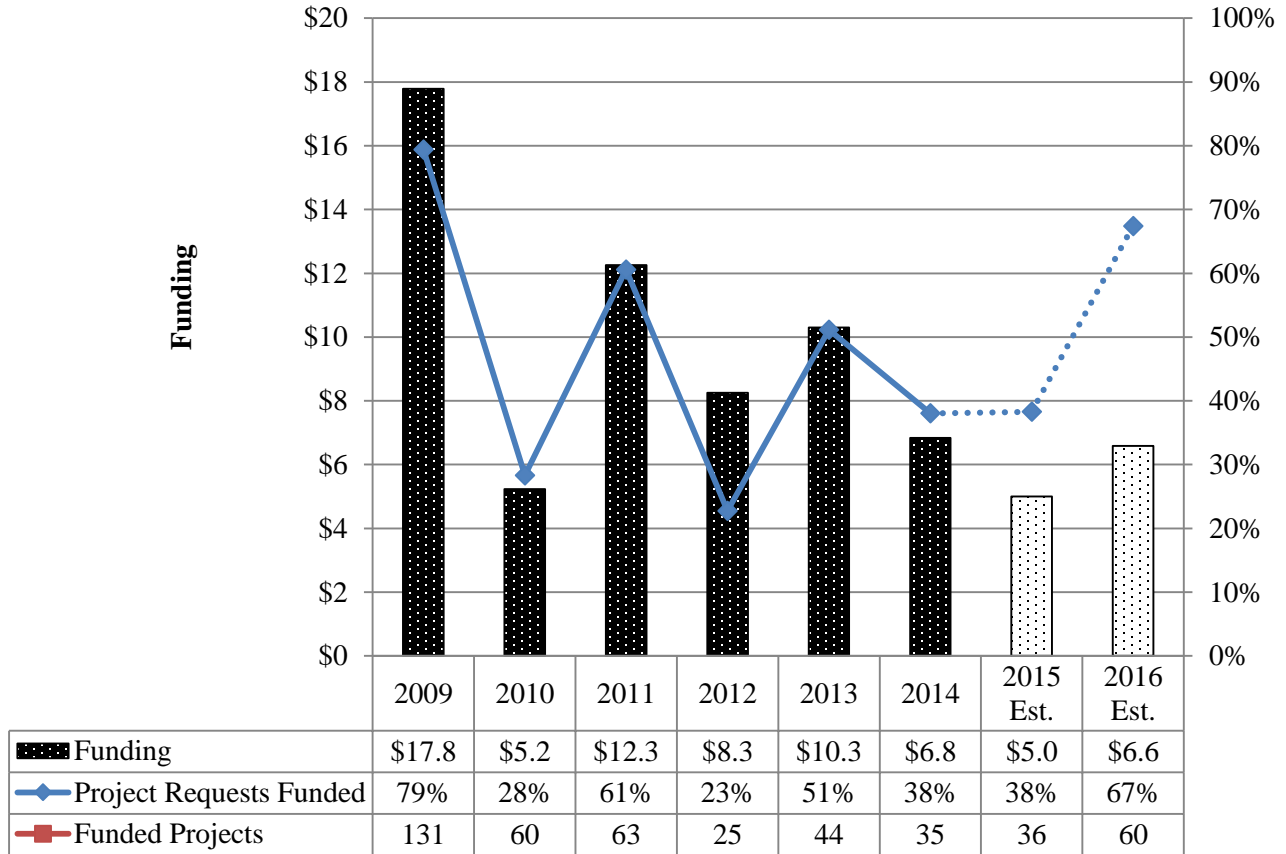


Source: Governor’s Budget Books, Fiscal 2007-2016

Waterway Improvement Program

As illustrated in **Exhibit 5**, the fiscal 2016 allowance will allow the WIP to fund an estimated 67% of the waterway project requests submitted. DNR has noted in the past that it has informed local jurisdictions to limit grant requests to those of the highest priority and recently noted that it is able to fund more projects in fiscal 2016 because of the increase in funding and also perhaps due to more projects requesting lower amounts of funding. DNR’s goal is to fund 80% of project requests; therefore, the fiscal 2016 allowance is 13 percentage points lower than the goal.

Exhibit 5
Waterway Project Requests Funded
 Fiscal 2009-2016 Est.
 (\$ in Millions)

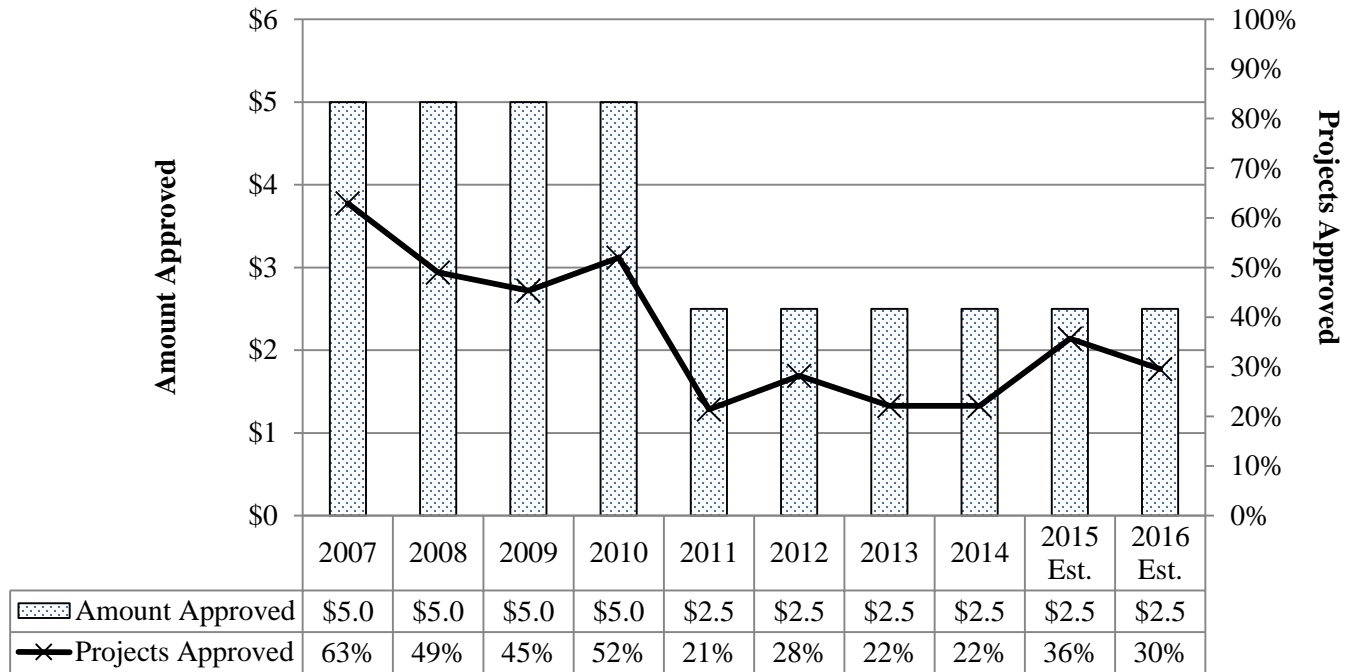


Source: Department of Budget and Management; Department of Natural Resources

Community Parks and Playgrounds

Exhibit 6 reflects the amount of funding approved for Community Parks and Playgrounds projects and the percent of projects requested that are approved. As can be seen, in recent years the reduction in available funding from \$5.0 million to \$2.5 million has reduced the percent of projects that are approved. DNR notes that, in addition to the number of projects that seek funding, the per-project cost must also be considered when looking at year-to-year comparisons.

**Exhibit 6
Community Parks and Playgrounds Funding
Fiscal 2007-2016 Est.
(\$ in Millions)**



Source: Department of Budget and Management; Department of Natural Resources

Budget Overview

Fiscal 2015 Budget Actions

Budget Amendments

In fiscal 2015, there is an increase of \$462,650 in federal fund appropriation brought in by budget amendment for the Harriet Tubman Underground Railroad State Park – Visitor Center project due to the inadvertent cancellation of funding in fiscal 2012. The funding is available from the U.S. Department of Housing and Urban Development’s Economic Development Initiative-Special Projects program.

Budget Reconciliation and Financing Act of 2015

The BRFA of 2015 contains a provision that impacts DNR’s POS special fund balance in fiscal 2015. The BRFA authorizes the Governor to transfer \$10,500,000 from the POS special fund

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balance on or before June 30, 2015. The provision is being handled as the transfer of the entire \$8,181,400 POS – Local unencumbered special fund balance and \$2,318,600 of the POS – State unencumbered special fund balance. The remaining POS – State unencumbered special fund balance is \$494,430. The impact by county is shown in **Exhibit 7**.

Exhibit 7
Transfer of Program Open Space – Local Unencumbered Balances
by Jurisdiction Under the BRFA of 2015

<u>County</u>	<u>Amount</u>
Allegany	\$132,025
Anne Arundel	1,430,335
Baltimore City	0
Baltimore	2,604,691
Calvert	71,413
Caroline	61,548
Carroll	233,640
Cecil	164,862
Charles	370,102
Dorchester	0
Frederick	335,651
Garrett	0
Harford	237,958
Howard	0
Kent	39,946
Montgomery	0
Prince George’s	1,821,787
Queen Anne’s	86,819
St. Mary’s	162,462
Somerset	37,830
Talbot	219,658
Washington	6,165
Wicomico	0
Worcester	164,508
Total	\$8,181,400

BRFA: Budget Reconciliation and Financing Act

Note: The funding transferred reflects POS – Local unencumbered special fund balances. The jurisdictions with zero balances have already encumbered their special fund allocations.

Source: Department of Budget and Management

However, as shown in **Exhibit 8**, there are still substantial POS – State and POS – Local GO bond unencumbered balances. The total remaining balance after the transfer is estimated to be \$80.9 million in combined special funds and GO bond authorization. DNR notes that it does not have a comprehensive list of projects that will be impacted since counties will limit their requests to DNR based on each county’s unencumbered GO bond balances.

Exhibit 8
Transfer Tax Unencumbered Balance Transfer
Fiscal 2015

<u>Program/Year</u>	<u>Fund Source</u>	<u>Description</u>	<u>Unencumbered Balance as of January 2015</u>	<u>Amount Transferred by BREFA of 2015</u>	<u>Amount Remaining</u>
POS – State Land Acquisition					
2014	SF	POS – State Land Acquisition	\$2,723,899	\$2,318,601	\$405,298
2011	GO	POS – State Land Acquisition	6,811	0	6,811
2012	GO	Heritage Conservation Funds	156,104	0	156,104
2013	GO	Prior Year Replacement Funds	7,063,514	0	7,063,514
2014	GO	Prior Year Replacement Funds	14,093,000	0	14,093,000
2015	GO	Prior Year Replacement Funds	12,572,000	0	12,572,000
Subtotal			\$36,615,327	\$2,318,601	\$34,296,726
POS – Local Assistance					
2008	SF	POS – Local Regular	\$54,690	\$54,690	\$0
2009	SF	POS – Local Regular	629,356	629,356	0
2010	SF	POS – Local Regular	518,086	518,086	0
2014	SF	POS – Local Regular	6,979,267	6,979,267	0
2011	GO	POS – Local Regular	1,054,628	0	1,054,628

KA05 – Department of Natural Resources – Capital

<u>Program/Year</u>	<u>Fund Source</u>	<u>Description</u>	<u>Unencumbered Balance as of January 2015</u>	<u>Amount Transferred by BRFA of 2015</u>	<u>Amount Remaining</u>
2011	GO	Prior Year Replacement Funds	1,863,290	0	1,863,290
2012	GO	POS – Local Regular	891,006	0	891,006
2012	GO	Prior Year Replacement Funds	848,962	0	848,962
2013	GO	Prior Year Replacement Funds	10,776,193	0	10,776,193
2014	GO	Prior Year Replacement Funds	12,252,005	0	12,252,005
2015	GO	Prior Year Replacement Funds	18,934,628	0	18,934,628
<i>Subtotal</i>			<i>\$54,802,111</i>	<i>\$8,181,399</i>	<i>\$46,620,713</i>
Total	SF and GO		\$91,417,438	\$10,500,000	\$80,917,438

GO: general obligation
 POS: Program Open Space
 SF: special funds

Source: Department of Natural Resources

Fiscal 2015 Transfer Tax Estimate Write-down and Negative Deficiencies

The following programs, across a number of operating and PAYGO capital budgets, were impacted as a result of the \$32,464,457 transfer tax estimate write-down for fiscal 2015. This funding reduction is reflected as fiscal 2015 negative deficiencies in the fiscal 2016 budget for the operating and PAYGO/capital programs shown in **Exhibit 9**.

Exhibit 9
Transfer Tax Revenue Estimate Write-down Impacts
Fiscal 2015

<u>Budget/Program</u>	<u>Reduction</u>	<u>Impact</u>
Operating Budget		
Department of Natural Resources – Maryland Park Service	\$25,040,636	This funding is intended to be replaced partially by \$22,783,636 in general funds and the repurposing of \$1,975,000 in payment in lieu of taxes funding for local jurisdictions as a result of a provision in the Budget Reconciliation and Financing Act of 2015 striking the payment provision.
Maryland Department of Planning – Maryland Heritage Areas Authority	300,000	It is not clear how the funding reduction will be handled.
<i>Subtotal</i>	<i>\$25,340,636</i>	
PAYGO/Capital Budget		
Department of Natural Resources – Natural Resources Development Fund	\$4,535,821	The following projects were planned to receive fiscal 2015 funding but have been deferred to the out-years: Bloede Dam Removal, Garrett County State Parks – Trail Construction, Point Lookout State Park Water System Infrastructure Improvements, Point Lookout State Park Charge Collection Station, Rocky Gap Parking Lot Improvements, and Wellington Wildlife Management Area Building Renovation. In general, there could be cost increases due to the delay in project funding and for the Bloede Dam Removal project grants could be in jeopardy if the project is pushed out too far into the future.
Department of Natural Resources – Ocean City Beach Replenishment Fund	500,000	There is no impact on the fiscal 2015 work, which will include dune cross-over repairs, planting dune vegetation, and fence repairs, because there is sufficient funding available in the Ocean Beach Maintenance Fund to cover the cost of annual maintenance. However, the State’s contribution to the Ocean Beach Maintenance Fund will be in arrears since the Town of Ocean City and Worcester County have made their contribution for fiscal 2015.

KA05 – Department of Natural Resources – Capital

<u>Budget/Program</u>	<u>Reduction</u>	<u>Impact</u>
Department of Natural Resources – Critical Maintenance Program	2,088,000	The reduction has resulted in the deferral of 30 of the 45 projects on the fiscal 2015 list and 2 projects on the fiscal 2014 list. It is also necessary to reduce overall funding to statewide line items for building razings and the House Assessment program, which when shifted forward displaces projects on the fiscal 2016 list.
<i>Subtotal</i>	<i>\$7,123,821</i>	
Total	\$32,464,457	

PAYGO: pay-as-you-go

Source: Department of Budget and Management; Department of Legislative Services

Fiscal 2016 Proposed Budget

Budget Reconciliation and Financing Act of 2015

The BRFA of 2015 contains provisions affecting the WIF and the programs funded by the transfer tax. For the WIF, there is both an operating budget provision authorizing the use of an additional \$875,000 from the WIF for administrative expenses and there is a PAYGO provision that would transfer \$2,180,000 from the WIF balance to the general fund on or before June 30, 2015. DNR notes that the combined impact of the two provisions is to reduce funding that otherwise would have been available for fiscal 2016 projects such as the following: five dredging projects, – three in Anne Arundel County and two in Dorchester County – four fire and rescue vessel upgrades for Charleston, Laurel Volunteer Rescue Squad, Prince George’s County Fire and Rescue, and assistance to the Natural Resources Police for badly needed replacement vessels.

In terms of the transfer tax, the BRFA of 2015 increases revenue that is diverted to the general fund in fiscal 2016 by \$37,712,700, repeals the requirement that transfer tax funds diverted to the general fund in fiscal 2006 be repaid by unappropriated general fund balance in excess of \$10.0 million, and provides that transfer tax underattainment will not be applied in fiscal 2017 for POS since it is being applied to the fiscal 2015 budget.

Revenue Diversion and Nonreplacement

The BRFA of 2013 authorizes the Governor to transfer \$77.7 million in transfer tax revenue to the general fund in fiscal 2016. The BRFA of 2015 includes a \$37.7 million increase in the transfer of transfer tax revenues to the general fund, as shown in **Exhibit 10**, which brings the fiscal 2016 revenue redirection total to \$115.4 million. The fiscal 2016 budget reduces special fund expenditures contingent upon the enactment of the BRFA crediting transfer tax revenues to the general fund. DNR’s component of this reduction is \$27.9 million, reflected as the POS – State and POS – Local funding in the exhibit.

Exhibit 10
BRFAs of 2013 and 2015 Transfer Tax Reductions
Fiscal 2016

	<u>Statutory Allocation</u>	<u>BRFA of 2013</u>	<u>BRFA of 2015</u>	<u>Total</u>	<u>Appropriation</u>
Program Open Space – State					
Land Acquisition	\$29,346,072	\$21,867,000	\$5,979,072	\$27,846,072	\$1,500,000
Heritage Conservation Fund	2,813,192	0	2,813,192	2,813,192	0
Rural Legacy Program Capital Development Projects	15,814,422	8,864,000	6,238,773	15,102,773	711,649
Program Open Space – Local Maryland Agricultural Land Preservation Foundation	14,278,508	9,081,000	0	9,081,000	5,197,508
	34,335,229	21,484,000	12,851,229	34,335,229	0
	26,188,434	16,358,000	9,830,434	26,188,434	0
Total	\$122,775,857	\$77,654,000	\$37,712,700	\$115,366,700	\$7,409,157

BRFA: Budget Reconciliation and Financing Act

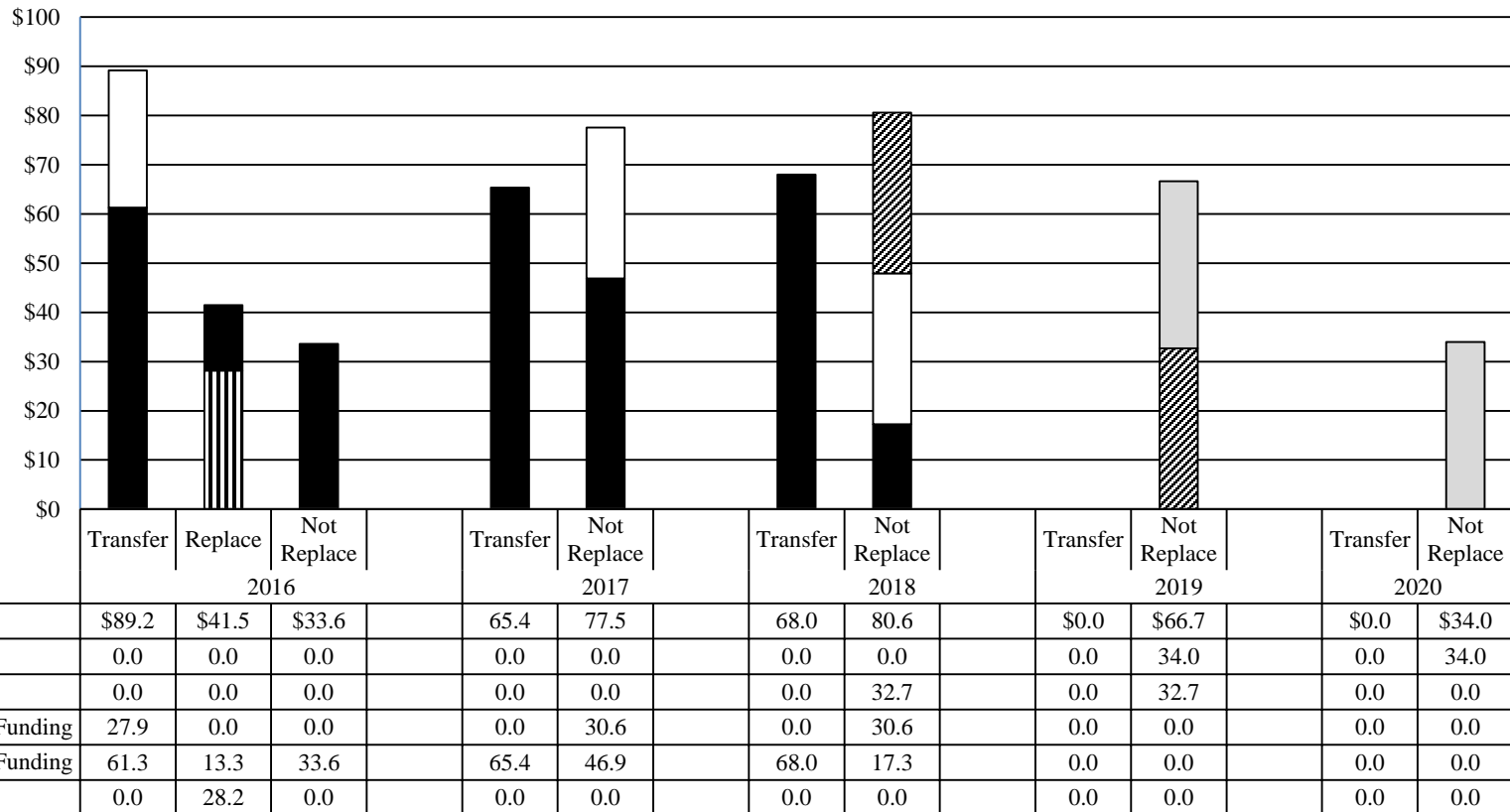
Source: Department of Legislative Services

In addition to the enhanced transfer, the Maryland Consolidated Capital Bond Loan of 2015 eliminates the repayment of \$292.4 million in transfer tax revenue that has been or will be redirected to the general fund between fiscal 2014 and 2018. While GO bonds are programmed in the fiscal 2016 capital budget for DNR, the funding has not been explicitly labeled as replacement for either the prior year or additional fiscal 2016 transfers.

Therefore, as shown in **Exhibit 11**, the fiscal 2016 allowance reflects two interrelated calculations and actions.

- **Fiscal 2016 Transfer Tax Revenue Diverted to General Fund** – The BRFA of 2015 (referred to as the 2015 session plan in the exhibit) transfers an additional \$27.9 million in estimated transfer tax revenue to the general fund in fiscal 2016.

Exhibit 11
Special Fund Transfers and Modification of GO Bond Replacement for DNR Only
Fiscal 2014-2018
(\$ in Millions)



DNR: Department of Natural Resources
 GO: general obligation

Note: The fiscal 2015 plan and funding refers to the plan through the 2014 legislative session and funding for fiscal 2015. The fiscal 2016 plan and funding refers to the plan through the 2015 legislative session and funding for fiscal 2016. For fiscal 2016, the exhibit reflects pre-authorized general obligation bond funding that is not replaced, and for fiscal 2017 through 2020 it also reflects planned Capital Development Projects funding reflected in the 2014 *Capital Improvement Program* that is not replaced.

Source: Department of Legislative Services

- **Deletion of Pre-authorized Multi-year GO Bond Replacement** – The Governor has submitted a fiscal 2016 capital budget that strikes the GO bond pre-authorizations for replacement of funding transferred between fiscal 2014 and 2018. The 2014 session plan was to transfer a total of \$376.8 million between fiscal 2014 and 2018 and replace it with \$371.2 million in GO bond authorizations. Instead, the fiscal 2016 capital budget provides for \$41.5 million for POS – State, POS – Local, and the Rural Legacy Program in fiscal 2016 and strikes the remaining pre-authorizations and presumably the commitments in the 2014 CIP. As a result, DNR capital program planned GO bond funding through fiscal 2020 is reduced by \$292.4 million, as shown in Exhibit 11.

In terms of the impact of the GO bond replacement elimination, DNR notes that as a Chesapeake Bay Watershed Agreement signatory it has committed by 2025 to help protect an additional two million acres throughout the Chesapeake Bay watershed, including 225,000 acres of wetlands and 695,000 acres of forestland, and to add 300 new Chesapeake Bay public access sites for boating, swimming, and fishing. In particular, the impacts by program are as follows.

- **POS – Stateside:** The easement and fee simple acres purchased for public recreation and watershed and wildlife protection would decrease by approximately 29,000 acres based on fiscal 2016 and future year pre-authorized repayments and a per-acre cost of \$4,000.
- **POS – Local:** The total number of acquisition acres and recreational development projects affected is not known since local jurisdictions bring individual projects to DNR for consideration and subsequent BPW approval and since the scope and cost of projects varies considerably based on the jurisdiction and type of project.
- **Rural Legacy:** The conservation easements purchased on working farms and forests in the 31 locally designated Rural Legacy Areas would decrease by approximately 12,000 acres based on fiscal 2016 and future pre-authorized repayments and a per-acre cost of \$3,500.

Repayment Requirement

In response to the transfers of State transfer tax funding between fiscal 2002 and 2006, the Land Preservation and State Asset Protection Act (Chapter 473 of 2005) was passed. Chapter 473 required the first \$50 million repayment installment in fiscal 2012 of the \$90 million transferred in fiscal 2006 if the State’s closing fiscal 2010 general fund balance exceeds a certain amount. Pursuant to general mandate relief authority and actions to further defer the repayment, monies to repay the transfer were not provided in the fiscal 2012 through 2015 budgets. The BRFA of 2013 shifted the mandate to fiscal 2016.

In the BRFA of 2015, the Administration is proposing to repeal this requirement. **DLS has made the recommendation to concur with repealing the requirement in the State Reserve Fund analysis.**

Underattainment Application

The current fiscal 2015 transfer tax revenue estimate is \$161.0 million, a reduction of \$32.5 million from the original estimate of \$193.5 million. The law requires that the amount of transfer tax available for allocation be reduced by any underattainment from the second prior fiscal year. The BRFA of 2015 contains a provision that transfer tax underattainment will not be applied in fiscal 2017 for POS since it is being applied to the fiscal 2015 budget. Under this provision, if transfer tax revenues decline further, then there will be insufficient revenue to complete the redirection of \$144.2 million in fiscal 2015 revenue as proposed in the BRFA of 2014. The fiscal impact of this provision cannot be fully estimated at this time as it is dependent upon the fiscal 2015 actual revenue amount. As noted in Exhibit 9, the Administration has addressed the revenue estimate write-down in the fiscal 2016 budget through fiscal 2015 negative deficiencies totaling \$32,464,457.

Future Transfer Tax Revenues

As noted above, the Board of Revenue Estimates currently estimates transfer tax revenues of \$161.0 million in fiscal 2015, which is a reduction of \$32.5 million relative to the December 2013 estimate for fiscal 2015 of \$193.5 million, as shown in **Exhibit 12**. The transfer tax estimate for fiscal 2016 is \$174.5 million, which increases to \$198.0 million in fiscal 2020. The difficulty in estimating the transfer tax can be seen in the fiscal 2016 numbers: the December 2009 through 2014 estimates for fiscal 2016 have been \$208.5 million, \$177.8 million, \$196.8 million, \$200.6 million, \$203.8 million, and \$174.5 million, respectively.

Exhibit 12
Property Transfer Tax Revenue Projections
Fiscal 2009-2020
(\$ in Millions)

Year	December 2007 Est.	December 2008 Est.	December 2009 Est.	December 2010 Est.	December 2011 Est.	December 2012 Est.	December 2013 Est.	December 2014 Est.
2009	\$166.3	\$121.5	\$113.7					
2010	181.4	114.7	116.5					
2011	184.0	121.4	149.9	\$113.8				
2012	187.5	130.0	169.2	118.9	\$118.5			
2013	191.5	135.4	176.2	134.0	131.3			
2014	n/a	138.1	190.8	157.4	153.4	\$164.0		
2015	n/a	n/a	201.3	174.2	179.6	187.1	\$193.5	\$161.0
2016	n/a	n/a	208.5	177.8	196.8	200.6	203.8	174.5
2017	n/a	n/a	n/a	n/a	206.7	213.2	203.6	181.5
2018	n/a	n/a	n/a	n/a	n/a	221.3	209.3	184.0
2019	n/a	n/a	n/a	n/a	n/a	n/a	215.6	191.4
2020	n/a	n/a	n/a	n/a	n/a	n/a	n/a	198.0

Source: Comptroller of Maryland; Department of Budget and Management

Program Highlights

The changes in funding for fiscal 2016, accounting for the fiscal 2015 negative deficiencies and fiscal 2016 contingent reductions, are reflected in **Exhibit 13**. No funding is provided for the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund, which is consistent with the 2014 CIP. The difference between fiscal 2015 and 2016 reflected by fund is shown in **Exhibit 14**.

Exhibit 13
DNR Capital Budget Changes
Fiscal 2015-2016
(\$ in Millions)

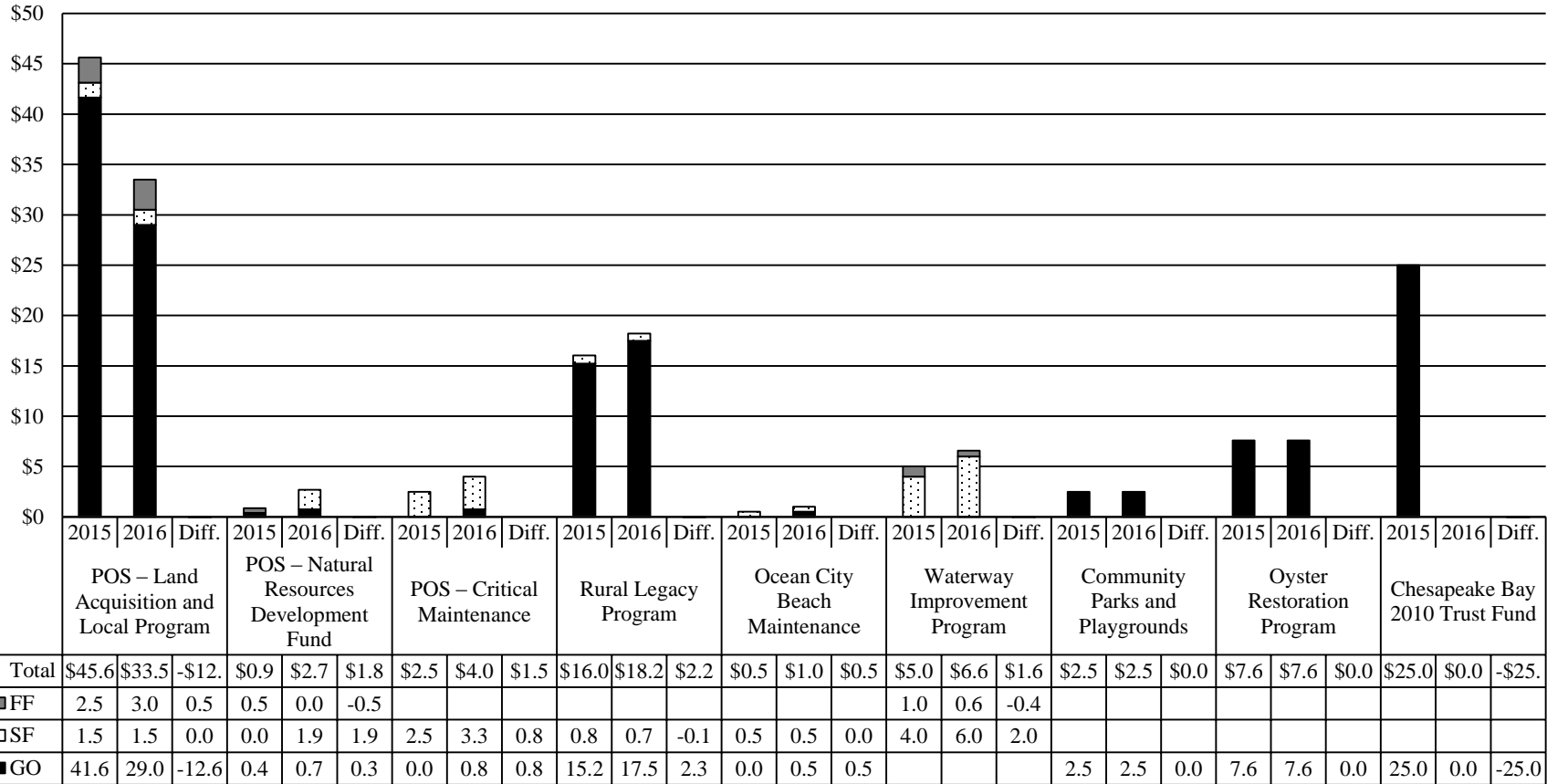
<u>Program</u>	<u>2015</u>	<u>2016</u>	<u>Difference</u>
Rural Legacy Program	\$16.0	\$18.2	\$2.2
POS – Natural Resources Development Fund	0.9	2.7	1.8
Waterway Improvement Program	5.0	6.6	1.6
POS – Critical Maintenance	2.5	4.0	1.5
Ocean City Beach Maintenance	0.5	1.0	0.5
Community Parks and Playgrounds	2.5	2.5	0.0
Oyster Restoration Program	7.6	7.6	0.0
POS – Land Acquisition and Local Program	45.6	33.5	-12.1
Chesapeake Bay 2010 Trust Fund	25.0	0.0	-25.0
Total	\$105.6	\$76.1	-\$29.6

Note: The exhibit reflects the fiscal 2015 funding reduced by negative deficiencies and the fiscal 2016 special funds that are contingently reduced.

DNR: Department of Natural Resources
POS: Program Open Space

Source: Department of Legislative Services

Exhibit 14
DNR Capital Budget Changes by Fund
Fiscal 2015-2016
(\$ in Millions)



DNR: Department of Natural Resources
 FF: federal fund

GO: general obligation
 POS: Program Open Space

SF: special fund

Source: Department of Legislative Services

KA05 – Department of Natural Resources – Capital

The highlighted changes in funding are as follows.

- **POS – Land Acquisition and Local Program** – The fiscal 2016 allowance includes \$1.5 million in special funds for POS – State that will be used for the Baltimore City Direct Grant, \$3.0 million in federal funds that could be used for either POS – State or POS – Local, \$14.5 million in GO bonds for POS – State, and \$14.5 million in GO bonds for POS – Local. The overall decrease of \$12.1 million between fiscal 2015 and 2016 primarily reflects a reduction of GO bond authorization, which in turn reflects the elimination of the plan to replace transfer tax redirected to the general fund with GO bonds.
- **POS – Natural Resources Development Fund** – The POS – Natural Resources Development Fund appropriation includes \$1,947,000 in transfer tax special funds, of which \$500,000 is repurposed from the Ocean City Beach Maintenance program, and \$749,000 in GO bonds. The fiscal 2016 budget reflects an increase of \$1,825,350 relative to the fiscal 2015 budget but is less than the amount programmed for fiscal 2016 in the 2014 CIP due to a reduction of GO bond replacement funding and the redirection of additional transfer tax revenue to the general fund. The fiscal 2016 appropriation would provide funding for the following projects: Elk Neck State Park Improvements (\$2,384,000); Cunningham Falls State Park – Day Use and Beach Improvements (\$131,000); Point Lookout State Park – Lighthouse Restoration (\$112,000); and St. Clement’s Island Shore Erosion Control (\$69,000). As noted above, the following projects were planned to receive fiscal 2015 funding but have been deferred to the out-years: Bloede Dam Removal; Garrett County State Parks – Trail Construction; Point Lookout State Park Water System Infrastructure Improvements; Point Lookout State Park Charge Collection Station; Rocky Gap Parking Lot Improvements; and Wellington Wildlife Management Area Building Renovation. The fiscal 2015 encumbrance estimate of \$9.1 million would leave \$9.4 million in unencumbered funds for fiscal 2016.
- **POS – Critical Maintenance Program** – There are \$3,250,508 in special funds and \$750,000 in GO bonds in the fiscal 2016 allowance for the POS – Critical Maintenance Program, which is \$1.5 million more than the fiscal 2015 appropriation but basically level with the fiscal 2014 CIP, with a slight fund mix change. While DNR notes that the fiscal 2016 project list will change if the fiscal 2015 negative deficiency is approved, the fiscal 2016 appropriation includes funding for the following currently selected projects: Herrington Manor State Park – Cabin Renovations Phase II (\$600,000 for 10 cabins); Greenbrier State Park – Day Use Bathroom Renovations (\$450,000); Green Ridge State Forest – Gordon Road Repairs (\$236,000); New Germany State Park – Cabin 11 Renovations (\$233,800); Bear Creek Hatchery – Replace Intake Pipe (\$200,000); Fort Frederick State Park – Picnic Area – Replace Headwalls; Pipes and Resurface (\$200,000). In addition to specific projects, funding is budgeted for the following general project categories: DNR Bridge Inspections and Repairs (\$300,000); Statewide – Housing Assessment Program (\$100,000); Statewide – Contingencies (\$53,018); and Statewide – Razings (\$50,000). Based on the fiscal 2015 estimated encumbrance of \$5.1 million, there will be \$2.5 million available for fiscal 2016.
- **Rural Legacy Program** – The Rural Legacy Program’s fiscal 2016 allowance provides \$711,649 in special funds for easement costs, which are not eligible for GO bonds and

KA05 – Department of Natural Resources – Capital

\$17,494,000 in GO bonds. The \$17,494,000 in GO bonds includes \$5,000,000 as part of the mandated amount in statute. The funding increase between fiscal 2015 and 2016 of approximately \$2.2 million reflects additional GO bond authorization. Relative to the 2014 CIP, the fiscal 2016 authorization decreases by \$8.8 million due to additional transfer tax revenues being redirected to the general fund. The fiscal 2016 cost per acre is estimated to be \$3,500. It is estimated that the entire \$16.0 million in fiscal 2015 funding will be encumbered in fiscal 2015, leaving no carry-over funding available for fiscal 2016. However, there appears to be an inequitable distribution of this funding for land preservation programs in the fiscal 2016 capital budget. As shown in **Exhibit 15**, both the Rural Legacy Program and the Maryland Agricultural Land Preservation Foundation – budgeted with MDA – receive amounts equal to the full replacement funding for prior funds redirected to the general fund that was planned in the 2014 CIP, while POS receives only 49.8% of the programmed replacement funding. In addition, the Rural Legacy Program receives a \$5.0 million mandated appropriation in statute that is not available to either POS or the Maryland Agricultural Land Preservation Foundation. **DLS recommends that the Rural Legacy Program GO bond authorization be reduced by \$11.3 million to reflect a reduction of \$6.3 million attributable to the same replacement funding percentage received by POS and \$5.0 million for the mandated funding. DLS also recommends that the funding be repurposed to backfill the \$8.2 million POS – Local unencumbered balance proposed to be transferred in fiscal 2015 and a portion of the fiscal 2015 negative deficiencies for the Natural Resources Development Fund and Critical Maintenance Program.**

Exhibit 15
Equitable Allocation of GO Bond Authorization Plan
for Land Preservation Programs
Fiscal 2016

<u>Program</u>	<u>Pre-Auth.</u>	<u>Budget</u>	<u>Percent</u>	<u>Equitable Allocation Based on POS</u>	<u>Reduction</u>
POS	\$58,225,000	\$29,000,000	49.8%	\$29,000,000	\$0
Rural Legacy Program	12,494,000	12,494,000	100.0%	6,222,860	6,271,140
Maryland Agricultural Land Preservation Program	22,726,000	22,726,000	100.0%	11,319,090	11,406,910

GO: general obligation

POS: Program Open Space

Note: The Rural Legacy Program budgeted amount does not include the \$5.0 million mandated authorization.

Source: Department of Legislative Services

- **Ocean City Beach Maintenance** – The Ocean City Beach Maintenance appropriation is \$1.0 million comprised of \$500,000 in GO bond authorization and the \$500,000 in special funds for the Worcester County (\$215,000), Ocean City (\$215,000), and fund interest (\$70,000) shares of the next regularly scheduled beach nourishment project. The fiscal 2016 funding is an increase of \$0.5 million relative to the fiscal 2015 appropriation. The State funding of \$0.5 million in special funds from the transfer tax is repurposed for the Natural Resources Development Fund due to the U.S. Army Corps of Engineers paying for the entire spring 2014 nourishment, thus allowing this funding to be used for other purposes.
- **Waterway Improvement Program** – The WIP’s fiscal 2016 allowance includes \$6.0 million in special funds and \$587,000 in federal funds. This reflects a \$1.6 million increase relative to the fiscal 2015 appropriation. In addition, the fiscal 2016 funding reflects an increase of \$2.0 million relative to the 2014 CIP due to the availability of additional motor fuel tax revenue. The entire \$5.0 million of fiscal 2015 funding has been encumbered. The WIP is discussed further as an issue in this analysis.
- **Community Parks and Playgrounds** – The fiscal 2016 allowance includes \$2.5 million in GO bonds for the Community Parks and Playgrounds program, which is level with fiscal 2015, and so no change in funding is reflected. This funding level is consistent with the 2014 CIP.
- **Oyster Restoration Program** – The fiscal 2016 allowance includes \$7.6 million in GO bond authorization for the Oyster Restoration Program. This is even with the fiscal 2015 appropriation and the 2014 CIP. The funding would be used as follows: substrate construction with material and locations to be determined (\$3.45 million), transport and planting of seed spat-on-shell by the Oyster Recovery Partnership (\$2.85 million), replenish fresh shell material for University of Maryland Center for Environmental Science (UMCES) – Horn Point Hatchery use (\$1.0 million), and Maryland Agricultural and Resource-Based Industry Development Corporation (MARIBDCO) aquaculture loans (\$0.30 million). The 2015 CIP reflects an increase of \$5.1 million for fiscal 2018 and 2019 relative to the 2014 CIP in order to continue production and planting of spat on shell, construction of habitat substrate, and loans for aquaculture infrastructure improvements. Full encumbering of the \$7.8 million available from fiscal 2015 is expected. The Oyster Restoration Program is discussed further as an issue in this analysis.

Issues

1. Waterway Improvement Fund Tapped Again

The WIF has seen a number of recent fiscal and policy actions that have impacted available funding for projects. Chapter 180 (Natural Resources – Vessel Excise Tax – WIF) modified revenues by capping the vessel excise tax, although funding was backfilled with revenues from a motor fuel tax allocation. In addition, the BRFA of 2015 contains both an operating budget provision authorizing the use of an additional \$875,000 from the WIF for administrative expenses – in fiscal 2016 only – and

there is a PAYGO provision that would transfer \$2,180,000 from the WIF balance to the general fund on or before June 30, 2015. In addition to these actions, it is interesting to note that there is anecdotal evidence that there is increasing demand for replacing and expanding existing facilities to accommodate larger boats and address aging infrastructure, which, along with dredging, DNR is pursuing through communications with the Maryland Association of Counties.

Chapter 180 of 2013

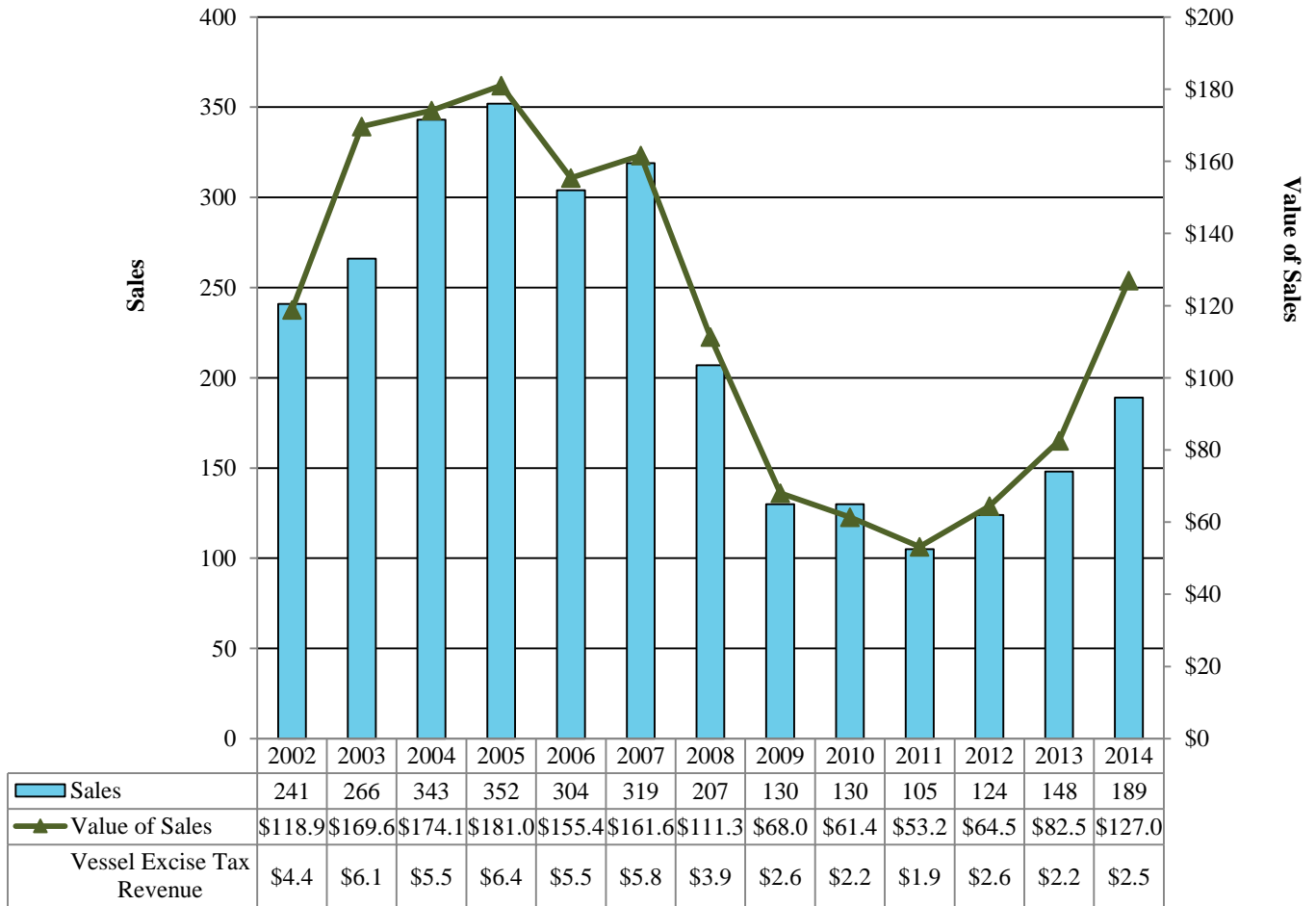
Chapter 180 allocated 0.5% of specified motor fuel tax revenue to DNR's WIF and established a maximum vessel excise tax amount of \$15,000 per vessel. DNR is required to submit a report to the Governor and the General Assembly by August 1, 2014, 2015, and 2016 describing the effect of limiting the vessel excise tax on the number and type of vessels registered in the State and the health of the boating industry. In addition, Chapter 180 established a Task Force to Study Enhancing Boating and the Boating Industry in Maryland to evaluate options and make recommendations for enhancing boating and growing the boating industry. The task force must submit a report of its findings and recommendations to the Governor and the General Assembly by September 1, 2015. The September 2014 report notes that there is no way to know how much vessel excise tax revenue has changed as a result of the cap because there is no way to determine how many additional boats of greater than \$300,000 value registered in Maryland are due to cap. Therefore, it is possible that the economy is having an equal or greater impact on vessel sales and thus presumably on the vessel excise tax revenues. What is known is that between calendar 2013 and 2014, there was an increase in both the value and number of sales of boats of greater than \$300,000 value registered in Maryland as shown in **Exhibit 16**. There was also a slight increase in the vessel excise tax revenue collected as well.

BRFA of 2015

As indicated above, DNR notes that the combined impact of the two BRFA of 2015 provisions, effectively totaling \$3.1 million, is to reduce funding that otherwise would have been available for fiscal 2016 projects such as the following: five dredging projects – three in Anne Arundel County and two in Dorchester County – four fire and rescue vessel upgrades for the Town of Charleston, Laurel Volunteer Rescue Squad, Prince George's County Fire and Rescue, and assistance for the Natural Resources Police to replace vessels.

Exhibit 17 reflects the fund history for the WIF including the \$2.2 million transfer to the general fund. DNR notes that the fairly substantial fund balance over the last couple of years is due to the need to provide for unforeseen repairs to existing facilities and DNR vessels, and to mitigate cost overruns on awarded projects. **DLS recommends that DNR comment on how it plans on meeting both the operating and PAYGO/capital demands on the WIF including the demonstrated need for dredging projects and the emerging need for larger facilities to handle larger boats.**

Exhibit 16
Maryland-registered Vessels Worth Greater than \$300,000
Calendar 2002-2014
(\$ in Millions)



Source: University of Maryland Environmental Finance Center; Department of Natural Resources

Exhibit 17
Waterway Improvement Fund Summary
Fiscal 2006-2016
(\$ in Millions)

	<u>Actual</u> <u>2006</u>	<u>Actual</u> <u>2007</u>	<u>Actual</u> <u>2008</u>	<u>Actual</u> <u>2009</u>	<u>Actual</u> <u>2010</u>	<u>Actual</u> <u>2011</u>	<u>Actual</u> <u>2012</u>	<u>Actual</u> <u>2013</u>	<u>Actual</u> <u>2014</u>	<u>Approp.</u> <u>2015</u>	<u>Allowance</u> <u>2016</u>
Beginning Balance	\$23.0	\$23.8	\$19.0	\$14.6	\$7.1	\$4.1	\$1.3	\$2.3	\$3.1	\$7.5	\$5.1
<i>Revenue</i>											
Waterway Fund Income	\$32.8	\$29.4	\$27.4	\$19.0	\$15.5	\$15.4	\$14.2	\$15.8	\$18.8	\$18.1	\$18.5
Reversions (Cancelled Encumbrances)	1.1	3.7	3.7	2.9	12.1	0.0	0.8	0.0	0.0	0.0	0.0
Revenue – GO Bonds	0.0	0.0	0.0	0.0	0.0	10.2	7.3	7.4	3.0	0.0	0.0
Total Revenue	\$34.0	\$33.1	\$31.1	\$22.0	\$27.6	\$25.6	\$22.4	\$23.2	\$21.8	\$18.1	\$18.5
Total Available	\$57.0	\$56.8	\$50.1	\$36.5	\$34.7	\$29.7	\$23.6	\$25.5	\$24.9	\$25.6	\$23.6
<i>Encumbrances</i>											
Grant Encumbrances	\$20.0	\$25.0	\$24.6	\$16.2	\$4.1	\$11.3	\$7.8	\$9.7	\$4.7	\$4.0	\$6.0
Grant Reversions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Operating Expenditures	13.2	12.8	11.0	13.3	13.1	13.1	12.4	12.7	12.7	14.3	15.2
Total Encumbrances	\$33.2	\$37.8	\$35.6	\$29.5	\$17.1	\$24.4	\$20.2	\$22.4	\$17.4	\$18.3	\$21.2
Special Fund Transferred to GF	\$0.0	\$0.0	\$0.0	\$0.0	\$13.5	\$4.0	\$1.2	\$0.0	\$0.0	\$2.2	\$0.0
Ending Balances	\$23.8	\$19.0	\$14.6	\$7.1	\$4.1	\$1.3	\$2.3	\$3.1	\$7.5	\$5.1	\$2.4

GF: General Fund

GO: general obligation

Source: Department of Natural Resources

2. Oyster Restoration Commitment Reduced but Shell Still Elusive

The budget committees were concerned that there was insufficient information available about the progress of the Oyster Restoration Program. Therefore, the budget committees requested that DNR submit a report on (1) the overall scope of Oyster Restoration Program work by activity (substrate, seeding, and monitoring), fund source, funding amount, fiscal year, and sanctuary; and (2) an integrated review of oyster sanctuary monitoring data from the annual Fall Oyster Survey, patent tong survey, and sonar survey as it relates to the tributary and reef level restoration goals. The report was requested to be submitted by December 1, 2014. The submitted report and additional information provided by DNR indicate that there has been insufficient time to gauge the status of the oyster restoration efforts and that there will be ongoing shell material procurement needs that have not been addressed.

Funding and Activities

The fiscal 2010 through 2016 funding for oyster restoration work in Harris Creek and the Little Choptank River is reflected in **Exhibit 18**. Due to combined procurements for certain items, DNR used the shell barging and placement funding split of 27 % for Harris Creek and 73% for the Little Choptank River to estimate funding for items in the exhibit that are not explicitly associated with a fiscal year. The overall cost through fiscal 2015 is \$6.9 million for Harris Creek and \$19.4 million for the Little Choptank River although this does not include federal funding that does not flow through the State budget. The two largest costs shown are the \$7.1 million for granite purchase, barging and placement, and the \$6.3 million for shell purchase and loading. These two costs reflect approximately half the oyster restoration costs shown and are indicative of the importance of inexpensive hard substrate for cost-effective oyster restoration work.

DNR notes that the fiscal 2016 tributary cost allocation has not been determined at this time, but that the overall allocation of \$7.6 million will be used as follows: substrate construction with material and locations to be determined (\$3.45 million); transport and planting of seed spat-on-shell by the Oyster Recovery Partnership (\$2.85 million); replenish fresh shell material for UMCES – Horn Point Hatchery use (\$1.0 million); and MARBIDCO aquaculture loans (\$0.30 million).

**Exhibit 18
Oyster Restoration Funding
Fiscal 2010-2016**

<u>Fund Source</u>	<u>Activity/Year</u>	<u>Harris Creek</u>	<u>Little Choptank River</u>	<u>Total</u>
GO Bonds	Shell Barging and Placement	\$744,454	\$1,996,648	\$2,741,102
GO Bonds	Granite Purchase, Barging and Placement	1,654,140	5,448,364	7,102,504
GO Bonds	Shell Purchase and Loading	1,716,732	4,604,330	6,321,062
GO Bonds	Shell Rail Transport	678,973	1,821,027	2,500,000
GO Bonds	Engineering and Construction Oversight	56,274	150,929	207,203
GO Bonds	Hatchery Spat-on-shell Planting – MCCBL 2013	380,225	1,019,775	1,400,000
GO Bonds	Hatchery Spat-on-shell Planting – MCCBL 2014	814,768	2,185,232	3,000,000
General Funds	MES Project Management – SFY 2014	75,994	203,817	279,811
General Funds	MES Project Management – SFY 2015	125,805	337,414	463,219
Federal Funds	NOAA Oyster Restoration – FFY 2014	228,135	611,865	840,000
Federal Funds	NOAA Oyster Restoration – FFY 2015	271,589	728,411	1,000,000
Reimbursable Funds from MDOT/MD Port Administration	In Water Restoration – SFY 2014	54,318	145,682	200,000
Reimbursable Funds from MDOT/MD Port Administration	In Water Restoration – SFY 2015	54,318	145,682	200,000
Total		\$6,855,725	\$19,399,176	\$26,254,901

FFY: federal fiscal year

GO: general obligation

MCCBL: Maryland Consolidated Capital Bond Loan

MDOT: Maryland Department of Transportation

MES: Maryland Environmental Service

NOAA: National Oceanic and Atmospheric Administration

SFY: State fiscal year

Source: Department of Natural Resources

Sanctuary Data

In June 2014, Maryland signed the new Chesapeake Bay Agreement, which updated the number of tributaries that Maryland is called upon to restore with oysters. The previous Chesapeake Bay Agreement cited the restoration of 20 tributaries – 10 in each of Maryland and Virginia – by the 2025 Chesapeake Bay restoration deadline. The new Chesapeake Bay Agreement reduces the goal by half – 5 tributaries restored in each of Maryland and Virginia. DNR notes that this will still be a challenge.

The five-year period in which DNR is monitoring the oyster reefs being restored has not yet lapsed and so the oyster density, year class, and reef area coverage data is not yet available. The status of the first two tributary projects as well as a federal project are as follows.

- **Harris Creek** – DNR notes that the original tributary plan oyster goal for Harris Creek was 377 acres of which only 3 acres met the restoration goals before any work was done. Therefore, 374 acres needed to be restored. Of these 374 acres, 157 acres already had a hard substrate and only needed oyster seed, and 212 required both hard substrate and oyster, which appears to leave a remainder of 5 acres. DNR notes that the construction of the oyster reefs using hard substrate – including U.S. Army Corps of Engineers work – is anticipated to be completed by the end of fiscal 2015. Following the substrate work, seeding of newly constructed bars will be completed in fiscal 2015 and 2016. Finally, there may be the need to re-seed areas planted with seed three years ago, which will be determined after survey work. In terms of the tributary level restoration goal, DNR notes that by the end of fiscal 2015 Maryland and federal partners will have restored 369 acres in Harris Creek, which along with the 3 acres already meeting restoration goals, amounts to restoration of 62% of restorable bottom in the Harris Creek oyster sanctuary.
- **Little Choptank River** – DNR notes that it did not receive a permit to construct oyster reefs in shallow water before its contract ended. Therefore, the original plan to construct 178 acres of reefs has been reduced to 125 acres. The final acreage may be even lower due to the need to place additional hard substrate to raise the oyster reefs to the desired height; this comes at the expense of not being able to use the hard substrate to construct more acres of reef. DNR notes that 29 acres with hard bottom have been seeded, which is equivalent to the restoration of 4% of restorable bottom. The 104 to 125 acres of reef estimated to be constructed by the end of February 2015 will not be counted toward the goal until they have been seeded or had a natural oyster spat set.
- **Tred Avon River** – The U.S. Army Corps of Engineers is anticipated to construct 24 acres of reef by the end of calendar 2015, which will amount to restoration of 16% of the restorable bottom once the reef is seeded.

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In terms of next steps, DNR is looking at a number of tributaries to determine which one to restore. **Exhibit 19** reflects the Tier 1 Tributaries noted in the U.S. Army Corps of Engineers' publication *Chesapeake Bay Oyster Recovery: Native Oyster Restoration Master Plan – Maryland and Virginia* as well as data provided by DNR in its response to the report on oyster restoration requested by the budget committees. DNR notes that it will use the U.S. Army Corps of Engineers' restoration goal – restorable bottom must be at least 8% of the historic oyster bottom – as a first criteria and then consider areas of between 10 and 1,000 acres of restorable bottom. Then, areas with poor water quality will be removed from consideration and the remaining areas will be considered based on natural spat set, existing oyster density, and disease prevalence. Additional considerations not reflected in the exhibit include whether protection from poaching can be provided by Maritime Law Enforcement Information Network sanctuary monitoring by radar, the likelihood of oyster larvae retention, and the ability of a restored area to seed bars available to the current open oyster fishery. All three current tributaries being restored are in the Choptank River region and so the Choptank area will not be a focus of additional oyster restoration work.

**Exhibit 19
Oyster Restoration Tributary Possibilities**

<u>Tier 1 Tributaries</u>	<u>Restoration Target (Acres)</u>	<u>Low Cost</u>	<u>High Cost</u>	<u>Restorable Bottom Acres (NOAA Analysis)</u>	<u>Sanctuary Area (Acres)</u>	<u>Oyster Bar Area in Sanctuary</u>	<u>Proportion of Sanctuary As Bar</u>	<u>Army Corps Master Plan Acreage (8% of Oyster Bar Area)</u>	<u>Restorable Bottom > Master Plan?</u>	<u>Mean Oyster Density Oysters</u>	<u>Average Spat Set (Number Per Bushel 2004-2013)</u>	<u>Water Quality (Salinity and O2, NOAA)</u>	<u>Army Corps NEPA Done</u>
Current Restoration													
Harris Creek Little Choptank	300-600	\$30.2	\$101.9	604.5	4,589.7	1,998.0	0.4	319.7	Yes	-	25.3	OK	Yes
Lower Choptank River (Tred Avon River)	400-700	40.3	118.9	793.3	9,417.0	1,712.7	0.2	274.0	Yes	17.0	25.8	OK	-
	1,400-2,800	140.8	475.0	1,840.4	7,172.4	4,216.5	0.6	674.6	Yes	1.6	7.4	OK	Yes
Potential Restoration													
Severn River	190-290	32.7	69.6	408.8	7,804.2	1,376.0	0.2	220.2	Yes	2.2	3.1	OK	Yes
South River	90-200	15.5	48.0	0.0	2,327.7	140.6	0.1	22.5	No	0.6	7.7	Poor	-
Lower Chester River	500-1,100	86.0	264.0	6,128.0	24,147.4	6,929.6	0.3	1,108.7	Yes	0.1	21.6	OK	-
Lower Eastern Bay	700-1,400	122.3	341.5										
Upper Eastern Bay	800-1,600	139.9	390.2										
Upper Choptank River	400-800	40.3	135.8	890.6	5,897.6	2,364.6	0.4	378.3	Yes	-	2.3	OK	Yes
Broad Creek	200-400	20.1	68.0										

<u>Tier 1 Tributaries</u>	<u>Restoration Target (Acres)</u>	<u>Low Cost</u>	<u>High Cost</u>	<u>Restorable Bottom Acres (NOAA Analysis)</u>	<u>Sanctuary Area (Acres)</u>	<u>Oyster Bar Area in Sanctuary</u>	<u>Proportion of Sanctuary As Bar</u>	<u>Army Corps Master Plan acreage (8% of Oyster Bar Area)</u>	<u>Restorable Bottom > Master Plan?</u>	<u>Mean Oyster Density Oysters</u>	<u>Average Spat Set (Number Per Bushel 2004-2013)</u>	<u>Water Quality (Salinity and O2, NOAA)</u>	<u>Army Corps NEPA Done</u>
St. Mary's River	200-400	17.1	70.0	135.3	1,304.2	88.9	0.1	14.2	Yes	12.5	120.1	OK	-
Lower Tangier Sound	800-1,700	68.3	297.5										
Upper Tangier Sound	900-1,800	76.8	315.0										
Manokin River	400-800	43.1	158.0	2,229.2	16,821.4	11,029.9	0.7	1,764.8	Yes	16.0	115.0	OK	-
Total	7,280-14,590	\$873.3	\$2,853.4										

NEPA: National Environmental Policy Act
 NOAA: National Oceanic and Atmospheric Administration

Source: U.S. Army Corps of Engineers, *Chesapeake Bay Oyster Recovery: Native Oyster Restoration Master Plan – Maryland and Virginia*; Department of Natural Resources, *Oyster Restoration Program Expenditures and Outcomes*

Future Steps and Complications

Hard substrate on which to grow oysters is a key component of restoration, and along with disease prevalence and poaching, this is a limiting factor in its success. DNR had a contract with CSX Corporation to transport shell – at cost – from a fossil shell site in Florida. This contract has ended and DNR needs to find a new substantial source of shell. In addition, increased oyster spat capacity at the UMCES’ Horn Point Laboratory and the success of oyster aquaculture partially funded by DNR’s authorization could challenge affordable shell material procurement and thus oyster restoration success.

A potential substantial source of shell material is available at Man O War Shoal, which is just north of the Patapasco River. The permit application to dredge shell from Man O War Shoal most recently was directed by Chapter 212 of 2009 (DNR – Shell Dredging – Permit Application). DNR notes that it originally submitted a permit application on July 1, 2009, but then asked the U.S. Army Corps of Engineers to put the application on hold when it became apparent that DNR could not substantiate the “purpose and need” requirements because there were alternative shell and nonshell materials that appeared to be available and feasible – oyster bar shell reclamation, out-of-state oyster, clam shell, and nonshell alternatives. After mixed results with these alternatives and with the public oyster fishery and oyster aquaculture increasing, about a year ago DNR asked the U.S. Army Corps of Engineers to open the permit again. The U.S. Army Corps of Engineers now is in agreement about the adequate purpose and need for the oyster shell and DNR plans on submitting a revised permit application in March 2015. Uncertainties remain about Man O War Shoal including the volume and quality of buried shell, recovery cost, and whether costly special permit conditions will be needed.

In terms of Horn Point Hatchery, DNR notes that expanding capacity from approximately 700 million to 2 billion oysters annually both increases oyster spat available for oyster restoration and also increases demand for oyster shell for oyster aquaculture and thus could result in increased shell costs and an even greater demand for alternate sources of shell. Therefore, once again oyster shell becomes a limiting resource in oyster recovery.

In addition, DNR is providing funding for oyster aquaculture through its GO bond funding. As noted above, funding has been provided in the amount of \$300,000 per year for the last couple of years to the MARIBDCO to fund the Maryland Shellfish Aquaculture Financing Fund and the Maryland Remote Setting Shellfish Aquaculture Financing Program. DNR notes that since the inception of the Maryland Shellfish Aquaculture Financing Fund in 2011, MARIBDCO has approved 57 loans to 35 borrowers totaling \$3,295,317 for projects located in 10 counties. Forty-two of these loans are fully drawn. MARIBDCO has approved four loans in the Maryland Remote Setting Shellfish Aquaculture Financing Program totaling \$90,500. Two of these loans are fully drawn. **DLS recommends that DNR comment on how it plans to balance the need for oyster shell for both oyster restoration and oyster aquaculture in order to be able to meet the five tributary restoration goals cost effectively.**

Updates

1. Capital Development Projects Status

In the fiscal 2015 capital budget analysis, DLS recommended that DNR comment on several possibilities for improving its encumbrance and expenditure activity for the Natural Resources Development Fund and the Critical Maintenance Program. Possible ways to improve timely spending included modifying staffing, considering an indefinite quantity contract, or pursuing some kind of P3 on State lands with sufficient revenue sources. DNR notes that it has not modified staffing nor has it made any changes to procurement regulations or procedures, although it has discussed with DGS, the possibility of an indefinite quantity contract for Critical Maintenance Program projects. Also, DNR once again reiterates that a P3 is inappropriate for the Maryland park system because not all properties are revenue generating and even those that are do not fully support operations. In addition, DNR notes that it intends to maintain a public park system so that it is affordable, which may not necessarily be the case if a public-private model is pursued.

2. Fiscal 2015 POS Projects

The fiscal 2015 authorization for POS – State included \$6.0 million for a grant to Baltimore City for the construction of capital improvements to the Gwynns Falls/Leakin Park Urban Children in Nature Campus project and \$0.3 million for a grant to the Board of Directors of The Royal Theater and Community Heritage Corporation for the acquisition, clearance, and site preparation of land and the design of athletic and open space uses. DNR notes the following progress.

- **Gwynns Falls/Leakin Park Urban Children in Nature Campus Project** – The \$6.0 million has been approved by BPW and encumbered, although the project is currently under design due to delays in completing the project scope. The project scope now includes more items than originally planned in order to meet the long-term needs of Baltimore City and the community. The current plan is to bid the construction in summer 2016.
- **The Royal Theater and Community Heritage Corporation** – The \$0.3 million has been approved by BPW and encumbered. Baltimore City is still in the process of acquiring the townhomes in the area. Once the acquisition is completed, Baltimore City can begin design, bid, site preparation, and construction.

3. Chesapeake and Atlantic Coastal Bays 2010 Trust Fund Update

The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund received GO bond funding in fiscal 2013 through 2015 for structural nonpoint source pollution control projects and as a way to repay restoration funding that was redirected to the general fund. No funding is provided in fiscal 2016. DNR notes that the funding provided has supported 69 grants to local partners to complete 307 projects. Of these projects 55 are complete; 46 are in construction; 99 are being permitted; and 107 are in the design

and planning stages. In terms of whether the goals of the program have been met, DNR notes that the funding has leveraged an additional \$35 million in federal, local, and private dollars and that at completion the projects are estimated to reduce 125,325 pounds of nitrogen, 105,000 pounds of phosphorus, and 17,095,050 pounds of sediment over the lifespan of the projects. The fund summary for the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund is reflected in **Exhibit 20**.

Exhibit 20
Chesapeake and Atlantic Coastal Bays 2010 Trust Fund Funding Summary
Fiscal 2013-2015

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>Total</u>
Authorized	\$38.0	\$36.6	\$25.0	\$99.6
Encumbered	37.3	36.2	24.1	97.6
To Be Encumbered	0.7	0.4	0.9	2.0
Expended	17.1	5.1	0.5	22.6
To Be Expended	21.0	31.5	24.5	77.0

Source: Department of Natural Resources; Department of Legislative Services

4. Harriet Tubman Underground Railroad State Park Update

The fiscal 2015 budget analysis noted that there was a contract appeal for the Harriet Tubman Underground Railroad State Park project in Dorchester County and that this could jeopardize federal funding. DNR notes that the contract appeal was denied by the Maryland State Board of Contract Appeals and that the federal funding is secure and reimbursements are being provided as invoices are paid. In addition, DNR notes that the project is under construction and approximately 25% complete as of January 29, 2015. The anticipated completion of construction is December 2015, after which the exhibits will be installed.

Operating Budget Impact Statement

**Executive’s Operating Budget Impact Statement – State Owned Projects
(\$ in Millions)**

	<i>FY 2016</i>	<i>FY 2017</i>	<i>FY 2018</i>	<i>FY 2019</i>	<i>FY 2020</i>
Cunningham Falls State Park – Day Use and Beach Improvements					
Estimated Operating Cost	\$0.000	\$0.000	\$0.003	\$0.009	\$0.009
Estimated Staffing (FTE Positions and Contractuals)	0	0	0	0	0
Elk Neck State Park Improvements					
Estimated Operating Cost	\$0.000	\$0.012	\$0.006	\$0.007	\$0.009
Estimated Staffing (FTE Positions and Contractuals)	0	1	1	1	1
Point Lookout State Park – Lighthouse Restoration					
Estimated Operating Cost	\$0.000	\$0.000	\$0.005	\$0.013	\$0.018
Estimated Staffing (FTE Positions and Contractuals)	0	0	0	0	0
Total Operating Impact					
Estimated Operating Cost	\$0.000	\$0.012	\$0.014	\$0.029	\$0.036
Estimated Staffing	0	1	1	1	1

FTE: full-time equivalent

The Cunningham Falls State Park – Day Use and Beach Improvements include the need for funding for fuel and utilities and salaries and wages associated with a seasonal naturalist that would oversee the new nature center. The new contractual full-time equivalent (FTE) is not formally reflected in the CIP’s personnel impacts of construction projects at State-owned facilities.

The Elk Neck State Park Improvements reflect a net increase in operating expenses after accounting for an increase in revenues generated. The actual costs include funding for a new

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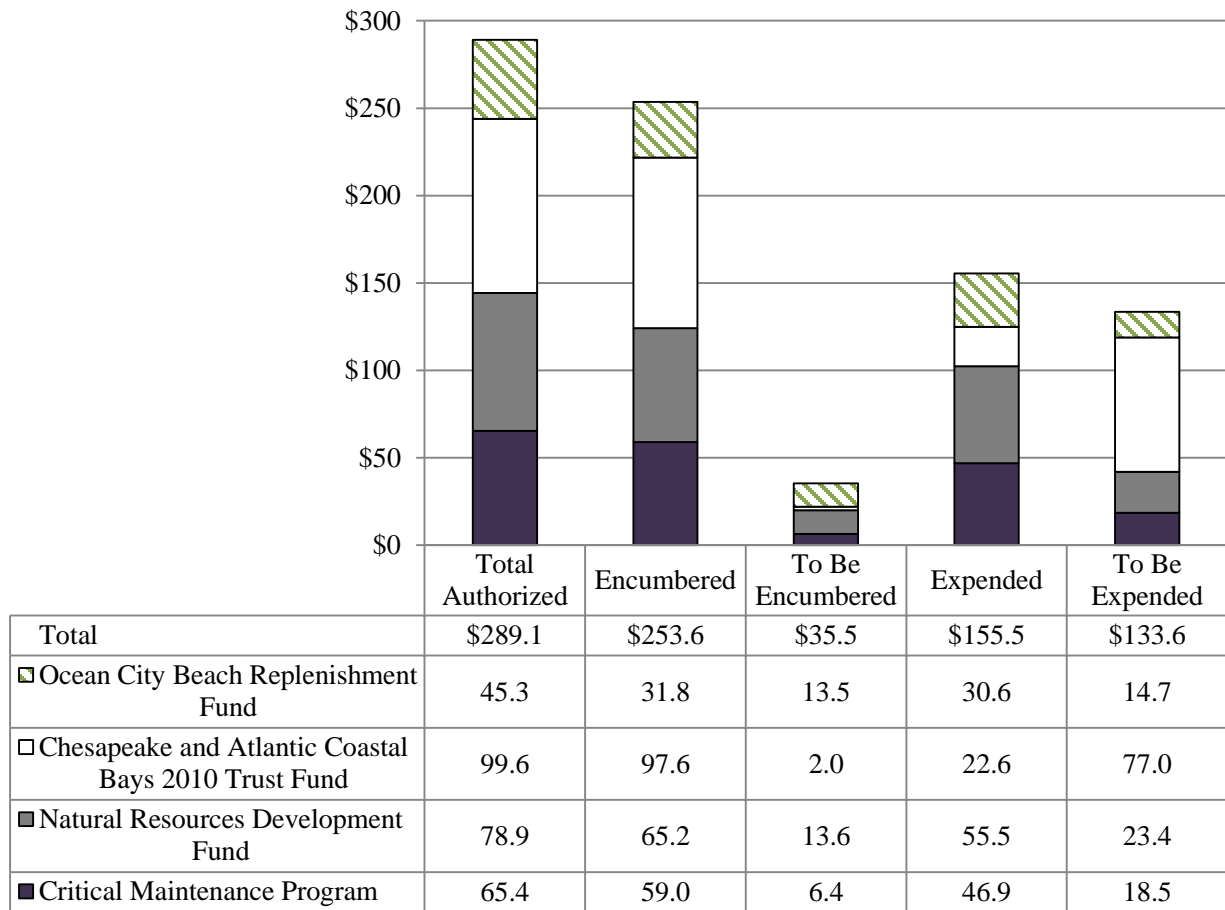
maintenance technician position to maintain and repair five additional structures. There is also a funding need reflected for contractual FTEs to perform cleaning work; fuel and utilities for heaters in bathhouses, electricity and air conditioning for cabins; and supplies and materials for cleaning and outfitting cabins.

The Point Lookout State Park – Lighthouse Restoration project reflects funding needed for fuel and utilities due to new displays and lighting requirements and funding for a seasonal staff to provide interpretative/administrative duties needed at the lighthouse. Once again the new contractual FTE is not formally reflected in the CIP's personnel impacts of construction projects at State-owned facilities.

Encumbrances and Expenditures

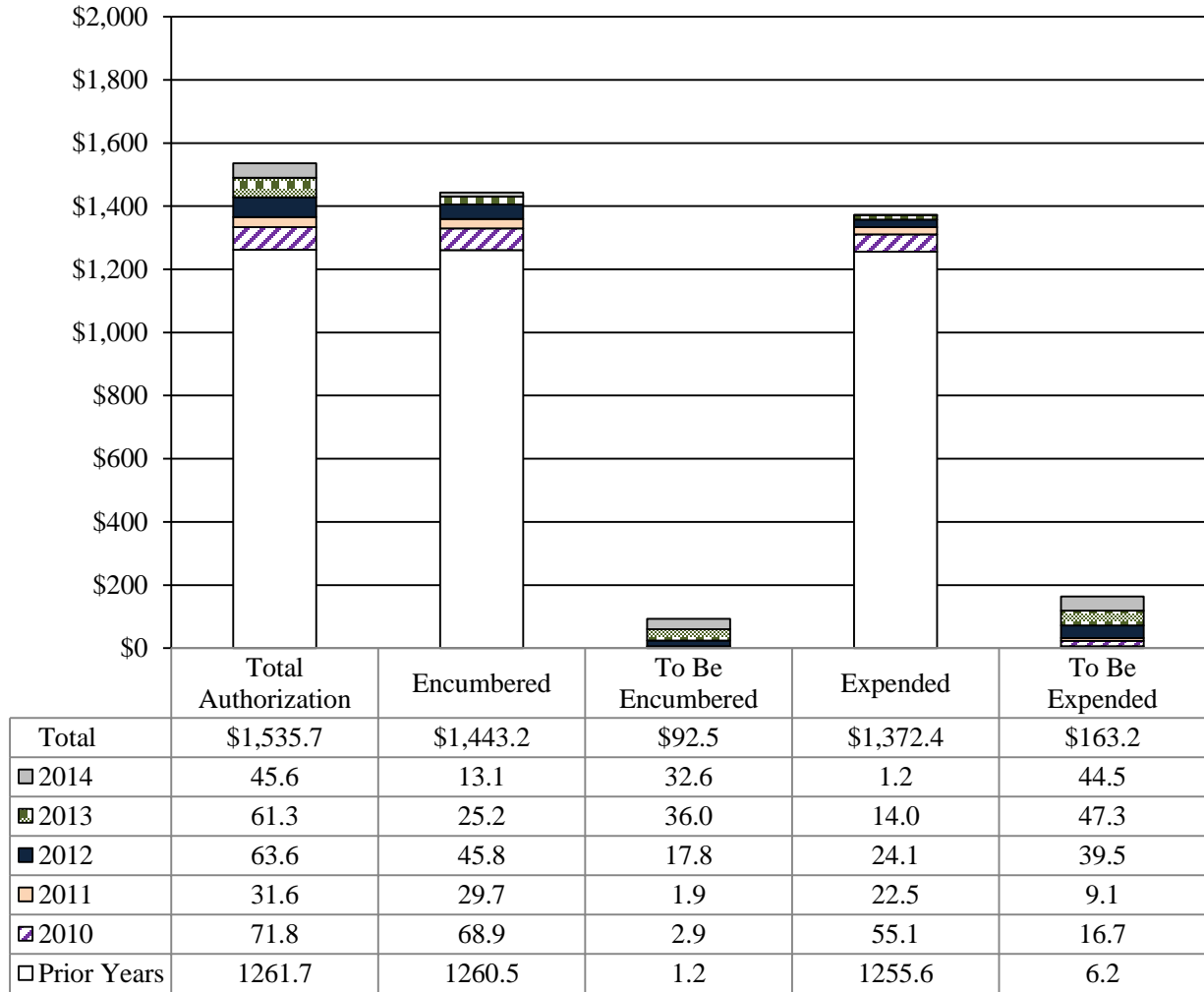
Progress toward encumbering and expending funding by program is shown in **Exhibits 21** and **22** followed by a discussion of encumbrances and expenditures for selected programs.

Exhibit 21
Critical Maintenance Program, Natural Resources Development Fund,
Chesapeake and Atlantic Coastal Bays 2010 Trust Encumbrances, and
Expenditures
Program Inception through January 2015
(\$ in Millions)



Source: Department of Budget and Management; Department of Natural Resources

Exhibit 22
Program Open Space Encumbrances and Expenditures
Program Inception through January 2015
(\$ in Millions)



Source: Department of Budget and Management; Department of Natural Resources

- **POS** – DNR notes that the authorized POS funding amount still includes the \$10.5 million in unencumbered special funds to be transferred to the general fund by the BRFA of 2015 since the funding has not yet been transferred.
- **Ocean City Beach Maintenance** – There is \$13.5 million still to be encumbered for Ocean City Beach Maintenance due to the U.S. Army Corps of Engineers paying for the entire cost of the most recent nourishment project, thus defraying the need for State and local funds.

- **Natural Resources Development Fund** – There has been a substantial decrease in the amount to be encumbered from \$35.3 million to \$13.6 million between this time last year and now, which appears to be related to the encumbering of a substantial portion of the remaining fiscal 2010 authorization of \$18.0 million.
- **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund** – There has been a substantial reduction in the amount to be encumbered from \$28.5 million to \$2.0 million between this time last year and now. DNR cautions that the \$77.0 million to be expended reflects that projects may have completed work but not yet invoiced DNR for the costs. Also, local partners have been encouraged to match the State’s contribution as much as possible and thus local match funding may be spent first before State funding.

Pre-authorizations and De-authorizations

There are two modifications to the fiscal 2016 capital budget bill. First, the Administration has modified the language on the Capital Development Projects funding for the MCCBL of 2008 through 2014 in order to allow more flexibility in how project funding is used. The need for greater flexibility is due to projects being shifted out of their original appropriation years as a result of the switch from special funds to GO bond authorizations. **DLS recommends that the modification to the MCCBL of 2008 through 2014 be approved.**

Second, as shown in **Exhibit 23**, there has been an elimination of the fiscal 2017 through 2020 pre-authorization of funding to replace transfer tax that has been or will be redirected to the general fund between fiscal 2015 and 2018.

Exhibit 23
De-authorizations
Fiscal 2017-2020
(\$ in Millions)

<u>Project</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Reason</u>
Program Open Space	\$57.1	\$59.4	\$47.5	\$24.3	Capital budget constraints.
Rural Legacy Program	11.6	11.8	9.3	4.7	Capital budget constraints.

Note: This exhibit only reflects the amounts that were programmed as pre-authorizations and does not reflect the additional funding that was anticipated to be replaced as shown in the *Capital Improvement Program*.

Source: Department of Budget and Management, 2015 *Capital Improvement Program*

PAYGO Recommended Actions

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

Notwithstanding the appropriations above, the Special Fund appropriation for the Outdoor Recreation Land Loan shall be reduced by \$27,882,266 contingent on the enactment of legislation crediting \$37,712,700 of the transfer tax revenue to the General Fund. The reduction shall be distributed in the following manner:

Program Open Space –	
State Acquisition	\$8,792,264
Program Open Space –	
Local Share	\$12,851,229
Rural Legacy	\$6,238,773
Total	<u>\$27,882,266</u>

Explanation: This action concurs with the reduction of the transfer tax allocation for capital programs contingent upon the Budget Reconciliation and Financing Act of 2015 redirecting the revenues to the general fund, as proposed by the Governor.

2. Concur with the Governor’s allowance of \$500,000 in special funds for the Ocean City Maintenance Program.
3. Concur with Governor’s allowance of \$6,000,000 in special funds and \$587,000 in federal funds for Waterway Improvement Capital Projects.

GO Bond Recommended Actions

1. Approve the \$2,500,000 general obligation bond authorization for Community Parks and Playgrounds to provide grants to local governments to design and construct capital-eligible park and playground improvement projects.

2. This action adds \$1,544,870 in general obligation bond authorization to the Critical Maintenance Program.

KA05B Critical Maintenance Projects \$ 2,294,870

<u>Allowance</u>	<u>Change</u>	<u>Authorization</u>
750,000	1,544,870	2,294,870

Explanation: This action adds \$1,544,870 in general obligation bond authorization to the Critical Maintenance Program authorization of \$750,000 to construct capital improvements such as planned maintenance and repair projects at public use facilities on State-owned property. The additional funding is repurposed from the Rural Legacy Program and is intended to backfill a portion of the proposed \$2,088,000 fiscal 2015 negative deficiency.

3. This action adds \$1,544,870 in general obligation bond authorization to the Natural Resources Development Fund.

KA05C Natural Resources Development Fund \$ 2,293,870

Add the following language:

- (C) Natural Resources Development Fund. Provide funds to design, construct, and equip capital development projects on Department of Natural Resources property in accordance with Section 5-903(g) of the Natural Resources Article. Funds may be spent only on the project listed below, ~~or~~ on projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development projects, or on any of the following projects deferred from fiscal 2015: Bloede Dam Removal, Garrett County State Parks – Trail Construction, Point Lookout State Park Water System Infrastructure Improvements, Point Lookout State Park Charge Collection Station, Rocky Gap Parking Lot Improvements, and Wellington Wildlife Management Area Building Renovation.....

749,000
2,293,870

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(1) Elk Neck State Park Improvements (Cecil County)..... 749,000

<u>Allowance</u>	<u>Change</u>	<u>Authorization</u>
749,000	1,544,870	2,293,870

Explanation: This action adds \$1,544,870 in general obligation bond authorization to the Natural Resources Development Fund authorization of \$749,000 to design, construct, and equip the Elk Neck State Park Improvements capital development project or other authorized projects. The additional funding is repurposed from the Rural Legacy Program and is intended to backfill a portion of the proposed \$4,535,821 fiscal 2015 negative deficiency.

4. Approve the \$500,000 general obligation bond authorization for Ocean City Beach Replenishment Fund for the maintenance and restoration of the beach at Ocean City.
5. Approve the \$14,500,000 general obligation bond authorization for Program Open Space – Stateside – Land Acquisition for the purchase of conservation easements and acquisition of land.
6. This action adds \$8,181,400 in general obligation bond authorization to the Program Open Space – Local authorization.

KA05E2	Program Open Space – Local.....	\$ 22,681,400
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Add the following language:

- | | | |
|-----|--|--|
| (E) | Program Open Space. Provide funds for the purchase of conservation easements and acquisition of land, and to make grants to local jurisdictions for the purchase of conservation easements and acquisition of land, and development of recreational facilities. Funds appropriated for local grants shall be administered in accordance with Sections 5-905 and 5-906 of the Natural Resources Article | 29,000,000
<u>37,181,400</u> |
| | (1)) Program Open Space – Stateside – Land Acquisition..... | 14,500,000 |
| | (2) Program Open Space – Local – Acquisition and Development Projects, <u>provided that \$8,181,400 of this authorization may only be allocated as follows:</u> | 14,500,000
<u>22,681,400</u> |

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(a)	<u>Allegany</u>	<u>132,025</u>
(b)	<u>Anne Arundel</u>	<u>1,430,335</u>
(c)	<u>Baltimore</u>	<u>2,604,691</u>
(d)	<u>Calvert</u>	<u>71,413</u>
(e)	<u>Caroline</u>	<u>61,548</u>
(f)	<u>Carroll</u>	<u>233,640</u>
(g)	<u>Cecil</u>	<u>164,862</u>
(h)	<u>Charles</u>	<u>370,102</u>
(i)	<u>Frederick</u>	<u>335,651</u>
(j)	<u>Harford</u>	<u>237,958</u>
(k)	<u>Kent</u>	<u>39,946</u>
(l)	<u>Prince George's</u>	<u>1,821,787</u>
(m)	<u>Queen Anne's</u>	<u>86,819</u>
(n)	<u>St. Mary's</u>	<u>162,462</u>
(o)	<u>Somerset</u>	<u>37,830</u>
(p)	<u>Talbot</u>	<u>219,658</u>
(q)	<u>Washington</u>	<u>6,165</u>
(r)	<u>Worcester</u>	<u>164,508</u>

Allowance
14,500,000

Change
8,181,400

Authorization
22,681,400

Explanation: This action adds \$8,181,400 in general obligation bond authorization to the Program Open Space – Local authorization of \$14,500,000 to make grants to local jurisdictions for the purchase of conservation easements and acquisition of land, and development of recreational facilities. The additional funding is repurposed from the Rural Legacy Program and is intended to

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backfill the Program Open Space – Local fiscal 2015 unencumbered balance proposed to be transferred to the general fund. The additional authorization shall be allocated by jurisdiction based on the amount of unencumbered balance transferred.

7. Reduce Rural Legacy Program funding commensurate with Program Open Space replacement amount and by the mandated funding amount in statute.

KA05F	Rural Legacy Program	\$ 6,222,860
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<u>Allowance</u>	<u>Change</u>	<u>Authorization</u>
17,494,000	-11,271,140	6,222,860

Explanation: The Rural Legacy Program is authorized \$12,494,000 in general obligation bonds in fiscal 2016, which is equivalent to the entirety of the amount programmed as a pre-authorization in the Maryland Consolidated Capital Bond Bill of 2014 to replace \$5,364,000 in fiscal 2014 funding and \$7,130,000 in fiscal 2015 funding redirected to the general fund. However, this is an inequitable distribution of funding since Program Open Space – a similar land preservation program – receives only \$29,000,000 or 49.8% of its \$58,225,000 pre-authorization to replace prior year funding. Therefore, this action reduces the Rural Legacy Program funding by \$6,271,140 to the same percent replacement as provided to Program Open Space and reduces the funding by an additional \$5,000,000 attributable to the mandated funding amount in statute.

8. Approve the \$7,600,000 general obligation bond authorization for the Oyster Restoration Program to design and construct oyster habitat restoration projects and provide grants for aquaculture development projects.
9. Approve the modification of Chapter 336 of 2008, as amended by Chapter 485 of 2009, Chapter 424 of 2013, and Chapter 463 of 2014, to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.
10. Approve the modification of Chapter 485 of 2009, as amended by Chapter 424 of 2013, and Chapter 463 of 2014, to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.
11. Approve the modification of Chapter 483 of 2010, as amended by Chapter 444 of 2012, to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.

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12. Approve the modification of Chapter 396 of 2011 to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.
13. Approve the modification of Chapter 444 of 2012 to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.
14. Approve the modification of Chapter 424 of 2013 to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.
15. Approve the modification of Chapter 463 of 2014 to allow funds to be reallocated to projects authorized under the Natural Resources Development Fund or Department of Natural Resources Capital Development Projects.