

LA11
Department of Agriculture – Capital

Capital Budget Summary

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

<i>Program</i>	<i>FY 2014 Approp.</i>	<i>FY 2015 Approp.</i>	<i>FY 2016 Request</i>	<i>FY 2017 Estimate</i>	<i>FY 2018 Estimate</i>	<i>FY 2019 Estimate</i>	<i>FY 2020 Estimate</i>
Maryland Agricultural Land Preservation Program ¹	\$34.296	\$24.785	\$31.826	\$15.721	\$20.427	\$39.135	\$39.533
Tobacco Transition Program ²	2.236	2.216	0.868	0.868	0.868	0.868	0.868
Maryland Agricultural Cost-Share Program	3.750	6.190	2.000	6.000	6.000	6.000	6.000
Total	\$40.282	\$33.191	\$34.694	\$22.589	\$27.295	\$46.003	\$46.401

¹ The fiscal 2016 request does not include \$9.8 million in transfer tax special funds reduced contingent upon the Budget Reconciliation and Financing Act of 2015 redirecting the revenues to the general fund since under the Governor’s proposed budget, these funds are not available for program use.

² The fiscal 2015 appropriation reflects the \$0.5 million reduction approved as part of the July 2, 2014 Board of Public Works actions.

<i>Fund Source</i>	<i>FY 2014 Approp.</i>	<i>FY 2015 Approp.</i>	<i>FY 2016 Request</i>	<i>FY 2017 Estimate</i>	<i>FY 2018 Estimate</i>	<i>FY 2019 Estimate</i>	<i>FY 2020 Estimate</i>
PAYGO SF	\$24.380	\$11.813	\$9.968	\$16.589	\$21.295	\$40.003	\$40.401
GO Bonds ¹	15.902	21.378	24.726	6.000	6.000	6.000	6.000
Total	\$40.282	\$33.191	\$34.694	\$22.589	\$27.295	\$46.003	\$46.401

GO: general obligation
 PAYGO: pay-as-you-go
 SF: special funds

¹ Pre-authorizations of general obligation bonds for the Maryland Agricultural Land Preservation 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 2016 (\$22.7 million), 2017 (\$21.9 million), 2018 (\$22.6 million), 2019 (\$17.7 million), and 2020 (\$9.0 million).

Summary of Issues

Maryland Agricultural Land Preservation Program Repeat Audit Finding: The Maryland Agricultural Land Preservation Program (MALPP) is audited annually by the Office of Legislative Audits. The most recent audit came out on June 19, 2014, and covers the period beginning July 1, 2012, and ending June 30, 2013. MALPP had one finding – a repeat finding that the Maryland Agricultural Land Preservation Foundation (MALPF) did not ensure that all easement violations were resolved in a timely manner. The total number of unresolved easement violations has increased from 348 through June 30, 2013 (the most recent audit data), to 561 as of January 12, 2015. **The Department of Legislative Services (DLS) recommends that the Maryland Department of Agriculture (MDA) comment on why the number of unresolved violations has increased substantially from 348 in the most recent audit to 561 as of January 12, 2015.**

Food Hub Plans Still Vague: The General Assembly added budget bill language to the fiscal 2015 capital and operating budget bills restricting funding provided for three food hub projects – the Baltimore Food Hub, the Eastern Shore Food Hub, and the Regional Food Hub in Southern Maryland – until reports were submitted on how efforts were being coordinated. The report was submitted and funding released, but it is still unclear how the Southern Maryland Agricultural Development Commission (SMADC) will pursue its food hub vision. **DLS recommends that SMADC comment on how the proposed food hub will work with local farmers to improve both availability of locally grown produce and the economic conditions of local farmers. SMADC should also describe a business plan, including a capital schedule, for its proposed food hub vision using its fiscal 2015 and 2016 funding.**

Summary of Updates

Request for Easement Termination Denied: The Howard County Commissioners denied the requests to terminate the Mullinix Brothers Partnership’s easements in January 2014, and the MALPF Board of Trustees denied the petitions for all easement termination applications on December 2, 2014. Subsequently, the Mullinix Brothers Partnership has filed a petition for judicial review in the Circuit Court of Howard County. MALPF is waiting to receive the petition from the circuit court. MDA notes that there are no other requests for termination.

Summary of Recommended PAYGO Actions

1. Maryland Agricultural Land Preservation Program

Concur with the contingent reduction of \$9,830,434 in special finds in the Maryland Agricultural Land Preservation Program.

2. Concur with Governor’s allowance for the Tobacco Transition Program of \$868,000 in special funds for agricultural land preservation.

Summary of Recommended Bond Actions

	<u>Funds</u>
1. Maryland Agricultural Land Preservation Program	\$11,406,910
Reduce authorization to reflect equitable replacement funding with Program Open Space.	GO
2. Maryland Agricultural Cost-Share Program	
Approve the \$2,000,000 general obligation bond authorization for the Maryland Agricultural Cost-Share Program.	
Total Reductions	\$11,406,910

Program Description

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

- **Maryland Agricultural Land Preservation Program** – The General Assembly created MALPP to preserve productive agricultural land and woodland, which provides for the continued production of food and fiber; limit the extent of urban development; and protect agricultural land and woodland as open space. MALPP, with the assistance and cooperation of landowners and local governments, purchases development rights easements as a means of protecting agricultural land and woodland production activities. Chapter 12 of 2014 (MALPP – Value of Easement) modified the maximum price MALPP may pay for an easement. Formerly the maximum price was the landowner’s asking price or the easement value, whichever is lower. Chapter 12 of 2014 prohibited MALPP from purchasing an easement for more than 75% or less than 25% of the fair market value of the land. MALPP is authorized to purchase an easement for less than 25% of the fair market value of the land only if the owner’s asking price is less than 25% of the fair market value of the land. The easement value is determined by subtracting the agricultural value from the appraised fair market value of the property. Once the development rights have been sold, the property is perpetually protected from further development, with certain rights available only to the owners who originally sold the easement.
- **Tobacco Transition Program** – In 1999, the General Assembly created the Cigarette Restitution Fund (CRF). Under the legislation, one purpose of the CRF is to fund the implementation of the Southern Maryland Regional Strategy Action Plan for Agriculture adopted by the Tri-County Council (TCC) for Southern Maryland with an emphasis on alternative crop uses for agricultural land used for growing tobacco. Funds are appropriated to MDA, which then issues grants to TCC. TCC is a nonprofit, quasi-governmental body that works with SMADC to develop programs to stabilize the region’s agricultural economy as Maryland growers transition away from tobacco production. TCC’s Strategy Action Plan has three main components: the tobacco buyout (first priority), agricultural land preservation (second priority), and infrastructure/agricultural development (third priority). Final tobacco buyout funding was budgeted for fiscal 2014.
- **Maryland Agricultural Cost-Share Program** – The MACS Program provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized best management practices (BMP) that reduce soil and nutrient runoff from farmland. The program requires a minimum 12.5% cost-share match from grantees. Animal waste treatment and containment projects are funded up to \$200,000 per project, with a maximum of \$300,000 per farm for all animal waste management practices and up to \$450,000 per farm when combined with other BMPs, and up to \$200,000 per project under a pooling agreement to solve a pollution

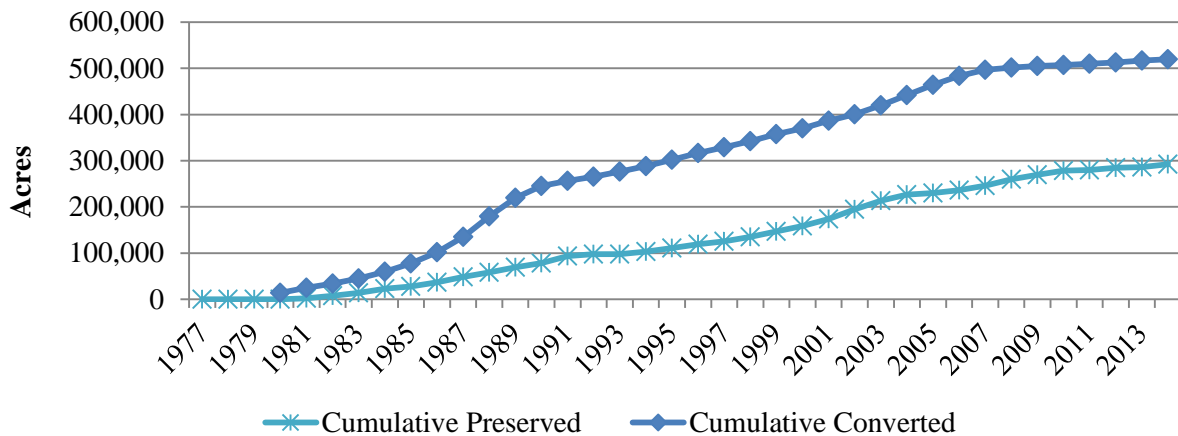
problem on two or more farms. All other BMPs are funded up to \$50,000 per project, with a maximum of \$150,000 per farm per person, and up to \$100,000 per project under a pooling agreement to solve a pollution problem on two or more farms.

Performance Measures and Outputs

Maryland Agricultural Land Preservation Program

Agricultural land is desirable for conversion to other uses, such as residential development. MALPP is one tool for keeping farmland in agriculture, as is the agricultural use assessment for taxation purposes. **Exhibit 1** reflects the cumulative agricultural land preserved by MALPP versus the agricultural land converted from fiscal 1980 to 2014. During this time period, the amount of cumulative agricultural land converted has exceeded the cumulative amount conserved. **Exhibit 2** shows that, with the exception of fiscal 1991 and 2002, there was a net decrease in the annual amount of farmland preserved between fiscal 1980 and 2007. Between fiscal 2008 and 2010, there were annual net increases in farmland preserved. Since fiscal 2010, there has been no real trend, although fiscal 2014 does reflect an increase in net annual acres preserved. MDA notes that through fiscal 2014, it has conserved 292,357 acres as its contribution to the statewide goal for all land conservation programs to preserve 1,030,000 acres by calendar 2022.

Exhibit 1
Cumulative Agricultural Land Preserved by MALPP versus Converted
Fiscal 1977-2013

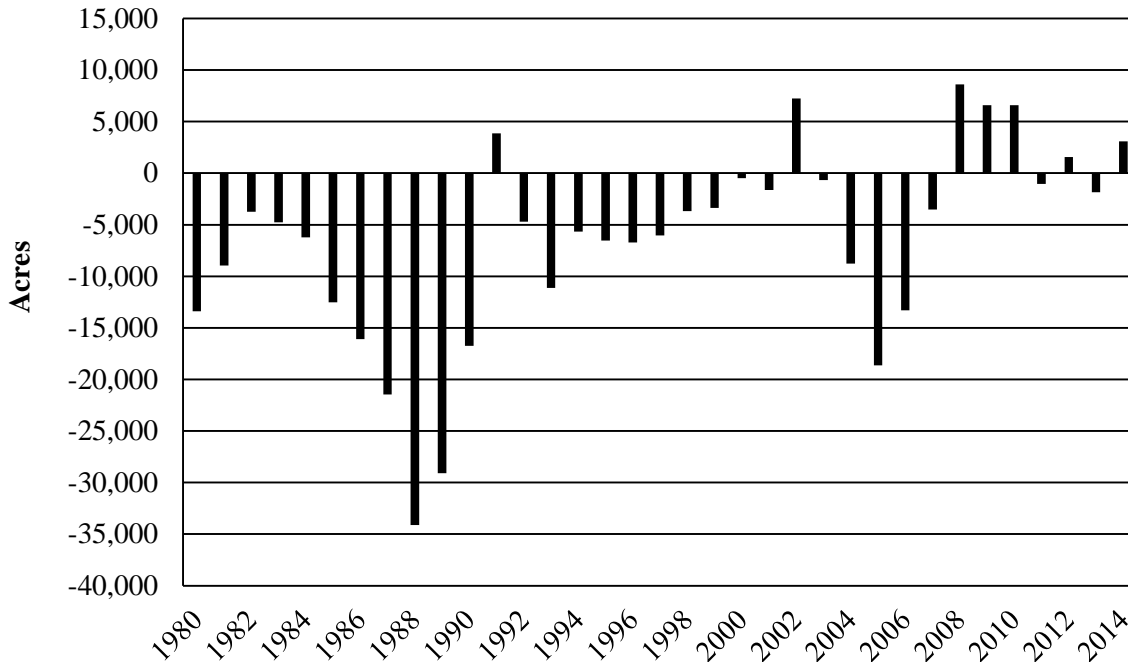


MALPP: Maryland Agricultural Land Preservation Program

Note: Includes easements under the Maryland Agricultural Land Preservation Foundation and the now defunct GreenPrint Program. State records do not exist for agricultural land converted before fiscal 1980.

Source: Maryland Department of Agriculture; Department of Legislative Services

**Exhibit 2
Net Difference in Annual Farmland Preserved and Converted
Fiscal 1980-2014**



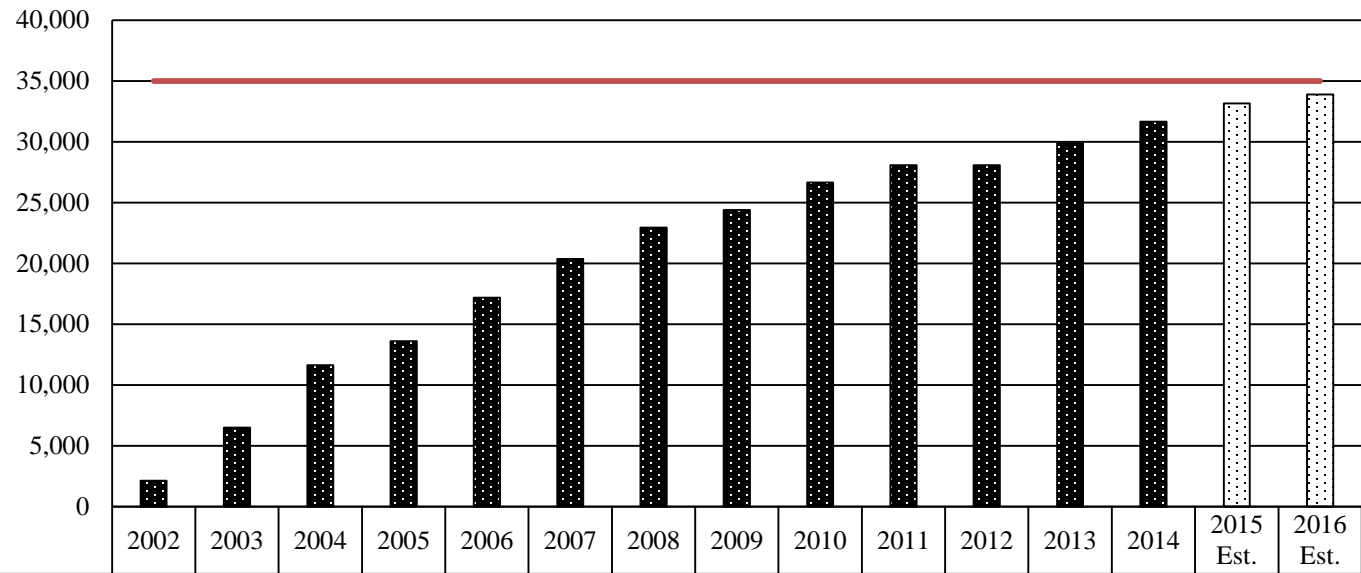
Note: State records do not exist for agricultural land converted before fiscal 1980. Therefore, to avoid skewing the comparison, the 68 acres preserved in fiscal 1977 is not shown.

Source: Maryland Department of Agriculture; Department of Legislative Services

Tobacco Transition Program

The Tobacco Transition Program’s performance measures may be divided into its agricultural land preservation work and its work with agricultural businesses. The 10-year agricultural land preservation goal established in 2001 for the Tobacco Transition Program is to protect 35,000 acres. SMADC indicates that as of fiscal 2014, 270 farms and 31,636 acres have been preserved using its own funding and leveraged funds from counties over the 13 years of the program. Of this amount, 145 farms and 14,980 acres have been preserved with solely SMADC funding. SMADC’s fiscal 2015 goal is to preserve an estimated total of 288 farms on an estimated 33,135 cumulative acres. SMADC’s fiscal 2016 goal is to preserve an estimated 296 farms on 33,885 acres. SMADC notes the fiscal 2015 and 2016 goals are estimated based on availability of matching funds and include the State funding reductions. **Exhibit 3** shows the history of agricultural land preservation.

Exhibit 3
Tobacco Transition Program Agricultural Land Preservation
Fiscal 2002-2016 Est.



Cumulative Acres Preserved	2,109	6,487	11,616	13,593	17,166	20,370	22,946	24,393	26,638	28,060	28,060	29,893	31,635	33,135	33,885
Acreage Goal	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000
Cumulative Farms Preserved	16	49	73	92	125	164	190	203	221	237	237	254	270	288	296

Note: No funding was provided for agricultural land preservation in fiscal 2012.

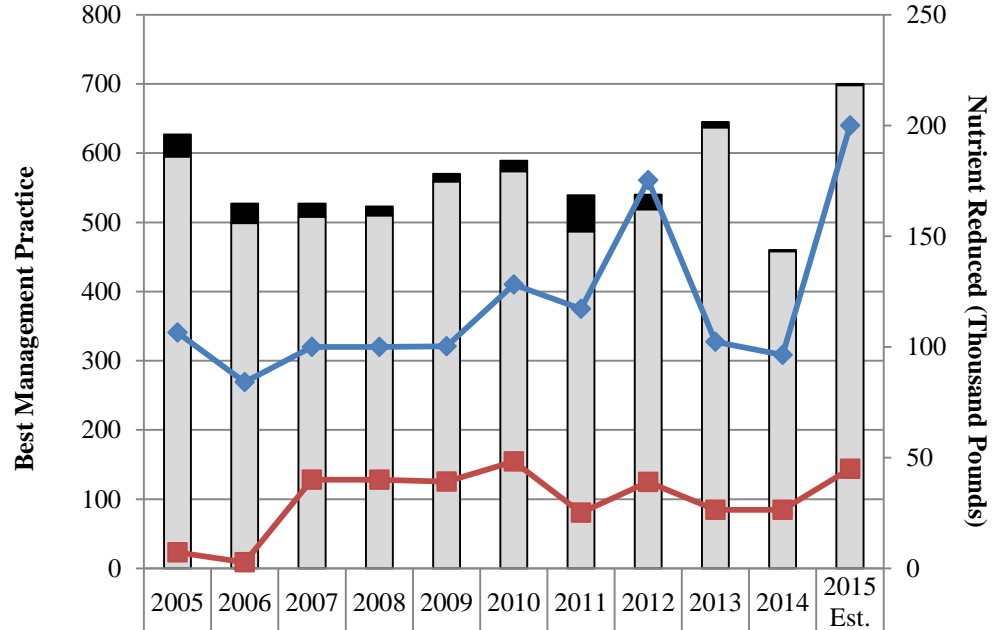
Source: Maryland Department of Agriculture

Maryland Agricultural Cost-Share Program

MDA's Resource Conservation Grants program has the goal of controlling and reducing agriculturally related water pollution through the implementation of BMPs. MDA recently implemented a tracking system that reflects both BMPs installed with State funding and federal financial assistance through the U.S. Environmental Protection Agency's Chesapeake Bay Implementation Grant and processed through MACS. In contrast, BMPs funded by U.S. Department of Agriculture money are not tracked. MDA has noted that it backfills funding with federal cost-share dollars when federal funding is available. Outside of the State budgeting process, the 2008 Farm Bill authorized additional funding through the Chesapeake Bay Watershed Initiative, which increased to \$20 million for the Environmental Quality Incentives Program in fiscal 2013. MDA notes that there is federal funding expected via the Regional Conservation Partnership Program, which involves a regional contract with Delaware and Virginia that will target cost-share funding for animal waste management practices in Maryland. While the contract is currently being negotiated, Maryland farmers may receive \$1.5 million in cost-share funding for two years under the regional contract.

Exhibit 4 reflects the new BMPs installed by MACS between fiscal 2005 and 2015; no additional information was provided for the fiscal 2016 estimate. As can be seen, the majority of BMPs are installed with State funds and range between 100,000 and 200,000 pounds of nitrogen reduced per year. The anomalous data from fiscal 2007 and 2008 reported in the fiscal 2015 analysis, which MDA noted was due to a change in Chesapeake Bay model BMP efficiencies, has been corrected in the exhibit. In terms of the maintenance of BMPs, MDA indicates that it inspects 10% of all contracts every year and that in a recent three-year period, it conducted over 500 inspections annually. Unsatisfactory reviews occur in approximately 10% of its inspections. Common reasons for unsatisfactory reviews include the lack of maintenance of BMPs or the lack of transfer of responsibility when ownership changes. Since property transfers make up 50% of the unsatisfactory reviews, MDA has instituted a policy whereby BMPs, for which the State cost share is \$5,000 or greater, are recorded as a lien on the property. If maintenance issues are not resolved within a certain period of time, then MDA may require payback of the State share. MDA notes that it is beginning to see a decline in unsatisfactory status inspections due to property transfers.

**Exhibit 4
MACS New Best Management Practices Installed
Fiscal 2005-2015 Est.**



■ Federal (EPA grant) Funded BMPs	32	28	19	13	11	15	52	21	8	2	2
■ State-funded BMPs	595	499	508	510	559	574	487	519	637	458	698
◆ Reduction in Nitrogen for New BMPs Installed (Thousand Pounds)	106.5	84.2	100.0	100.0	100.2	128.2	117.2	175.2	102.2	96.4	200.0
■ Reduction in Phosphorus for New BMPs Installed (Thousand Pounds)	7.2	2.8	40.0	40.0	39.2	48.3	25.2	39.0	26.4	26.4	45.0

BMP: best management practice
 EPA: Environmental Protection Agency
 MACS: Maryland Agricultural Cost-Share Program

Note: The nitrogen and phosphorus reductions have been modified since the fiscal 2015 budget analysis to reflect the correction of anomalous fiscal 2007 and 2008 nitrogen reductions that were due to a change in Chesapeake Bay model best management practice efficiencies.

Source: Maryland Department of Agriculture

Budget Overview

Fiscal 2015 Actions

The July 2, 2014 Board of Public Works (BPW) actions reduced the Tobacco Transition Program’s fiscal 2015 appropriation by \$500,000. This reduction was reflected as a reduction of agricultural land preservation spending in the Tobacco Transition Program’s pay-as-you-go (PAYGO) budget in order to redirect the special funds to Medicaid and thus backfill a general fund reduction.

Fiscal 2016 Budget

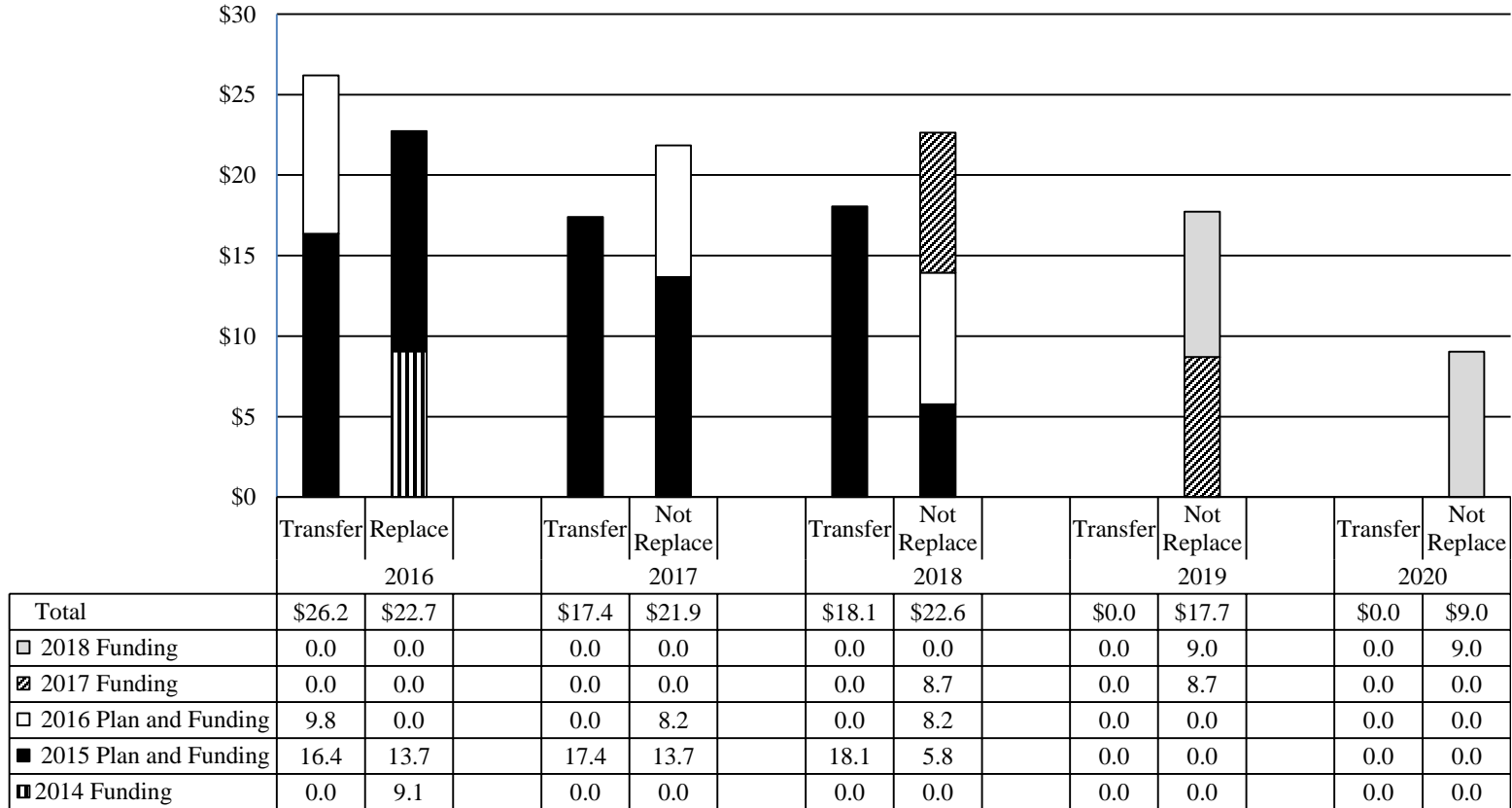
The fiscal 2016 allowance includes \$10.0 million in special funds and \$24.7 million in general obligation (GO) bonds, which account for the reduction of \$9.8 million in special funds that are contingent on the enactment of a Budget Reconciliation and Financing Act (BRFA) of 2015 provision to redirect the transfer tax special fund revenue to the general fund.

Contingent Reductions and Deletion of Pre-authorized Multi-year GO Bond Replacement

As shown in **Exhibit 5**, 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) redirects an additional \$9.8 million in estimated transfer tax revenue to the general fund in fiscal 2016.
- **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 \$103.0 million between fiscal 2014 and 2018 and replace it with \$103.0 million in GO bond authorizations. Instead, the fiscal 2016 capital budget provides for \$22.7 million in fiscal 2016, which may be interpreted as the replacement planned for fiscal 2016, and strikes the remaining pre-authorizations. As a result, MALPP planned GO bond funding through fiscal 2020 is reduced by \$71.2 million, as shown in Exhibit 7.

Exhibit 5
Special Fund Transfers and Modification of GO Bond Replacement
Fiscal 2016-2020
(\$ in Millions)



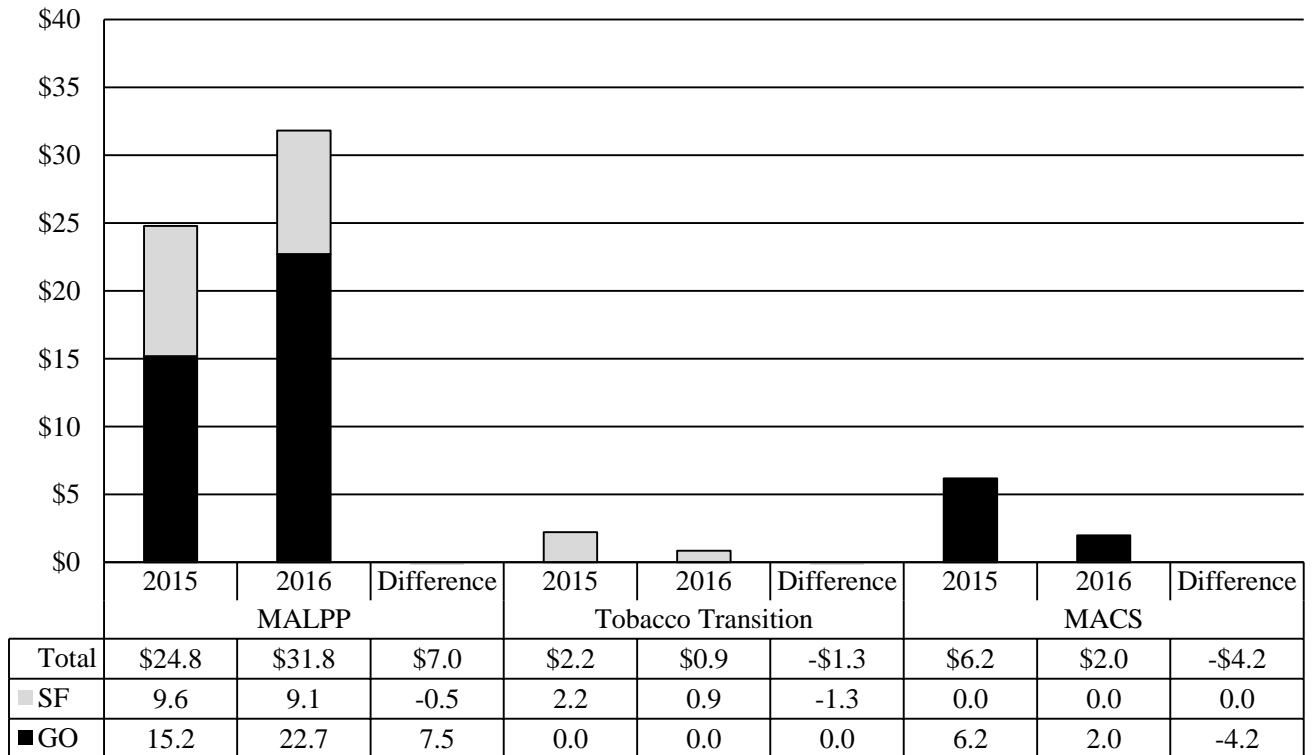
Note: The fiscal 2015 plan and funding refers to the plan through the 2014 legislative session and funding for fiscal 2015. The fiscal 2016 plan and funding refers to the plan through the 2015 legislative session and funding for fiscal 2016.

Source: Department of Legislative Services

New Funding in the Fiscal 2016 Allowance

Exhibit 6 shows the available fiscal 2016 funding for the three programs in the allowance. The figures are adjusted to account for the contingent reduction in the fiscal 2016 appropriation. After accounting for this adjustment, the proposed fiscal 2016 funding level is \$1.5 million higher than what was provided in fiscal 2015. This primarily reflects an increase of \$7.5 million in GO bond authorization for MALPP, which is offset partially by a reduction of \$4.2 million in GO bond authorization for MACS and \$1.3 million in special funds for Tobacco Transition agricultural land preservation.

Exhibit 6
Department of Agriculture Capital Budget Changes by Fund
Fiscal 2015-2016
(\$ in Millions)



GO: general obligation
 MACS: Maryland Agricultural Cost-Share
 MALPP: Maryland Agricultural Land Preservation Program
 SF: special fund

Source: Department of Legislative Services

Maryland Agricultural Land Preservation Program

MALPF's fiscal 2016 allowance reflects \$9.1 million in special funds and \$22.7 million in GO bond authorization, which account for the \$9.8 million special fund reduction contingent on the BRFA of 2015 redirecting the transfer tax revenue to the general fund. The \$22.7 million in GO bond authorization is not labeled as prior year replacement funding, but it does sum to the plan for fiscal 2016 as of the 2014 legislative session: replacement of \$9.1 million in fiscal 2014 funding and \$13.7 million in fiscal 2015 funding. The remaining special fund appropriation reflects local subdivision participation, agricultural transfer tax revenues, and other income sources, such as various settlement adjustments and child or owner lot reimbursements. Due to funding reductions, the MALPF Board of Trustees voted to combine fiscal 2015 and 2016 funds into one easement cycle. The estimated cost per acre for MALPF easement is projected to be \$4,200 in fiscal 2016, which is a slight increase relative to the \$4,000 per acre in fiscal 2015. MDA notes that there has been no change in the availability of federal Farm and Ranch Lands Protection Program funding for MALPF due to the restrictive requirements on the funding.

In terms of the MALPF funding plan, MDA estimates that \$13.0 million will be available from fiscal 2015 in order to fund fiscal 2016 projects. In fiscal 2016, there is \$13.0 million available from fiscal 2015 as well as \$22.7 million in GO bond authorization reflected above and \$5.5 million in county participation special funds, for a total of \$41.2 million. The county participation funding is only \$5.5 million because MALPF is not actually planning on receiving the full \$9.1 million noted above but instead will split this appropriation over fiscal 2015 and 2016. In terms of encumbrances, for fiscal 2016, MALPF plans on using \$41.0 million to conserve approximately 9,800 acres, representing the acreage associated with the 160 applicants for fiscal 2015 and 2016 funding. This leaves \$0.2 million available for fiscal 2017.

As noted above, the fiscal 2016 funding for MALPF includes \$22.7 million in GO bond funding that essentially replaces prior year funding redirected to the general fund. However, there appears to be an inequitable distribution of this replacement funding for land preservation programs in the fiscal 2016 capital budget. As shown in **Exhibit 7**, both MALPF and the Rural Legacy Program – budgeted with the Department of Natural Resources (DNR) – receive full replacement funding for prior funds, while Program Open Space – also budgeted with DNR – receives only 49.8% of the programmed replacement funding. **DLS recommends that the MALPF GO bond authorization be reduced by \$11.4 million to reflect the same replacement funding percentage received by Program Open Space.**

Exhibit 7
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

Tobacco Transition Program

As in prior years, the CRFs supporting the Tobacco Transition Program are budgeted in both MDA’s operating and PAYGO budgets. As shown in **Exhibit 8**, the \$6,041,000 in CRF special funds are budgeted as follows: administrative expenses (\$600,000), noncapital grants for infrastructure/agricultural development programs (\$750,000), tobacco bond repayment (\$3,823,000), and agricultural land preservation (\$868,000). As noted above, there was a reduction of \$500,000 in the fiscal 2015 appropriation as part of the July 2, 2014 BPW actions. This reduction was made in the agricultural land preservation funding. Similarly, the \$498,000 reduction between fiscal 2015 and 2016 funding was made in agricultural land preservation funding as well. There are increases of \$100,000 for administrative expenses and \$250,000 for noncapital grants for infrastructure/agricultural development programs in MDA’s operating budget.

Exhibit 8
Tobacco Transition Program Funding
Fiscal 2015-2016
(\$ in Thousands)

	Operating Budget			PAYGO Capital Budget		<u>Total</u>
	<u>Administration</u>	<u>Infrastructure Grants</u>	<u>Bonds Repaid</u>	<u>Buyout Payment</u>	<u>Land Preservation</u>	
2015						
Legislative						
Appropriation	\$500.0	\$500.0	\$3,323.0	\$0.0	\$2,716.0	\$7,039.0
Working						
Appropriation	500.0	500.0	3,323.0	0.0	2,216.0	6,539.0
Difference	\$0.0	\$0.0	\$0.0	\$0.0	-\$500.0	-\$500.0
2016						
SMADC Plan	\$600.0	\$750.0	\$3,823.0	\$0.0	\$1,866.0	\$7,039.0
Allowance	600.0	750.0	3,823.0	0.0	868.0	6,041.0
Difference	\$0.0	\$0.0	\$0.0	\$0.0	-\$998.0	-\$998.0
2015-2016						
Difference	\$100.0	\$250.0	\$500.0	\$0.0	-\$1,348.0	-\$498.0

PAYGO: pay-as-you-go

SMADC: Southern Maryland Agricultural Development Commission

Note: The Maryland Department of Agriculture provided the \$319,000 final tobacco buyout payment in fiscal 2014.

Source: Maryland Department of Agriculture

Authorization of GO bonds for the Tobacco Transition Program began in fiscal 2004 and ended with the \$5.0 million authorization in fiscal 2010; the funding was authorized by a provision in the Maryland Consolidated Capital Bond Loan of 2006, which altered the use of GO bonds for the tobacco buyout funding plan that were originally laid out in Chapter 103 of 2001. The payment schedule is \$1.8 million in fiscal 2011, \$3.3 million from fiscal 2012 through 2015, and payments of \$3.8 million from fiscal 2016 to 2018 to round out the \$26.6 million required payment.

Maryland Agricultural Cost-Share Program

The fiscal 2016 allowance for MACS is \$2.0 million. MDA anticipates having \$3.0 million of unencumbered funds available at the end of fiscal 2015 to support fiscal 2016 BMP project awards. Therefore, the total available funding for fiscal 2016 would be the \$2.0 million new authorization plus the \$3.0 million rolled over authorization or \$5.0 million.

Issues

1. Maryland Agricultural Land Preservation Program Repeat Audit Finding

MALPP is audited annually by the Office of Legislative Audits. The most recent audit came out on June 19, 2014, and covers the period beginning July 1, 2012, and ending June 30, 2013. MALPP had one finding, which is a repeat of the previous audit finding. The audit found that MALPF did not ensure that all easement violations, such as an improper dwelling on the property, a subdivision problem, or debris issues, were resolved in a timely manner. For instance, a report generated by the violations database indicated that of 348 unresolved violations, 49 were considered relatively high-priority violations. The audit noted that these violations have remained unresolved for periods of up to seven years. In addition, the audit noted that State regulations allow MALPF to impose on landowners civil penalties of \$2,500 per day per violation up to \$50,000, as a result of uncorrected violations. No penalties were imposed during fiscal 2013.

Recommendations from the audit include that MALPF (1) perform appropriate and timely follow-up actions on outstanding easement violations to ensure that corrective actions are taken; (2) document periodic review of the database and related follow-up actions; and (3) determine the current status of the unresolved violations and impose penalties, if appropriate.

MDA mentioned in its response to the audit that it would seek guidance on whether it is allowed to withhold funding for cover crops or MACS program funding from landowners whose easements are in violation. MDA now notes that it has used this authority to withhold MACS program funding from violators until the violators come back into compliance. MDA also notes that this is a more timely way to address violations since the civil penalty process is a lengthy procedure, although the two processes may be used together. MDA issued one civil penalty in fiscal 2014, and the violation was resolved.

Recent unresolved violations are reflected in **Exhibit 9**. The total number of unresolved easement violations has increased from 348 through June 30, 2013 (the most recent audit data), to 561 as of January 12, 2015. However, the number of high-priority violations has decreased from 49 to 19. MDA notes that these violations range from fiscal 2001 to 2014, which is greater than the seven years noted in the audit. MDA indicates that it is instituting a number of practices to improve tracking, reporting, and documenting of easement violations for timely enforcement follow up. **DLS recommends that MDA comment on why the number of unresolved violations has increased substantially from 348 in the most recent audit to 561 as of January 12, 2015.**

Exhibit 9
MALPF Easement Unresolved Violations
As of January 12, 2015

<u>Type of Violation</u>	<u>Total</u>
Soil Conservation and Water Quality Plan	465
Forest Stewardship Plan	41
Other Violations	
High Priority	19
Medium Priority	21
Low Priority	15
<i>Subtotal</i>	55
Total	561

MALPF: Maryland Agricultural Land Preservation Foundation

Source: Maryland Department of Agriculture

2. Food Hub Plans Still Vague

The fiscal 2015 capital budget included funding for two food hub projects, and SMADC noted that it planned to use up to \$1.0 million in its PAYGO capital budget for a food hub project as well. Due to the concern that the projects were not being coordinated, the General Assembly added budget bill language to the fiscal 2015 capital and operating budget bills restricting funding provided for the three food hub projects – the Baltimore Food Hub, the Eastern Shore Food Hub, and the Regional Food Hub in Southern Maryland – until reports were submitted on how the food hubs were coordinating with the other food hub projects in Maryland, the Department of Housing and Community Development (DHCD) food desert initiative, and the Maryland Food Center Authority. The reports were to be submitted by the food hubs, in coordination with DHCD.

Food Hub Report

DHCD, in cooperation with the food hubs, submitted the food hub report. The report indicated that there were currently four food hubs in some stage of development in Maryland – the three food hub projects receiving State funding in fiscal 2015 and a food hub project in Howard County. The report indicated that stakeholder meetings have been held and that quarterly meetings are planned. Although the report provided little detail about the coordination efforts, it was evident that such efforts were underway. Therefore, the budget committees released the \$750,000 of GO bond funding for the

Baltimore Food Hub, \$500,000 of GO bond funding for the Eastern Shore Food Hub, and \$100,000 of special funds restricted in the Tobacco Transition Program.

Recent Food Hub Plans

SMADC notes that it has been working on transforming the local and State food system for years. One avenue being pursued is the acquisition of land for a regional agricultural business park, incubation farm, and center for innovation using the funding in its fiscal 2015 PAYGO budget. Furthermore, SMADC is planning on using an unspecified amount of fiscal 2016 funding to continue support for this agricultural concept, although funds will be repurposed to their original intent of farm land preservation if the agricultural concept does not transpire.

The overarching plan is to address the need to aggregate, process, and distribute local food and food products. The solution is a centrally located farm that would become an agricultural business park, incubation farm, and center for food innovation – a means to create an alternative food system for the region. SMADC notes that additional components of the vision could include a regional meat processing facility; aquaculture processing; land for new farmer incubation; a local farmers' market/store; and somewhat confusingly, a Southern Maryland food hub.

There are both structural and process aspects to the food hub idea. The structural aspect is captured by a central facility where agribusinesses could situate and produce and sell value-added food products. The process aspect is the aggregation of locally grown/produced food that could be sold to restaurants, stores, and other customers. The nonprofit Farming 4 Hunger, which works on fresh food distribution and providing hands-on social services, would be a partner in the food hub effort.

DLS recommends that SMADC comment on how the proposed food hub will work with local farmers to improve both availability of locally grown produce and the economic conditions of local farmers. SMADC should also describe a business plan, including a capital schedule, for its proposed food hub vision using its fiscal 2015 and 2016 funding.

Updates

1. Request for Easement Termination Denied

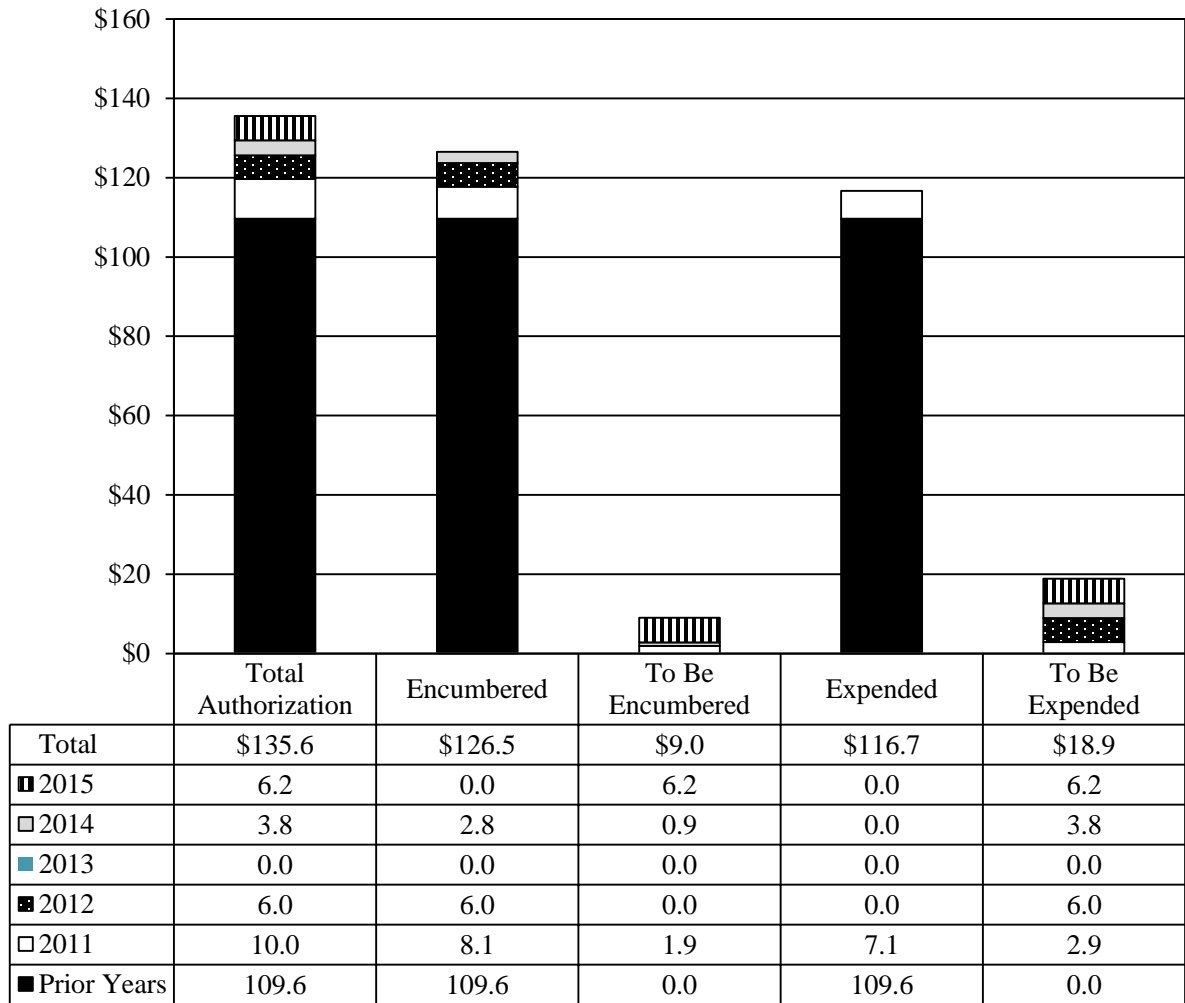
Before September 30, 2004, MALPP easements approved for purchase by BPW allowed for landowners to request that the easement be reviewed for possible termination. MALPP has indicated that an easement may only be terminated if (1) the county governing body, after receiving the recommendation of the county agricultural preservation advisory board, approves it; (2) MALPP determines that profitable farming is no longer feasible on the land; and (3) BPW approves termination. Furthermore, MALPP has indicated that if an easement is terminated, then the current and any future landowner would have the ability to subdivide and develop the land as provided under local zoning laws and regulations. Easements approved for purchase after September 30, 2004, are perpetual.

The Mullinix Brothers Partnership in Howard County requested the termination of easements on several of the farms owned by the partnership on which easements were purchased over 25 years ago. The Howard County Commissioners denied the requests to terminate the easements in January 2014, and the MALPF's Board of Trustees denied the petitions for all easement termination applications on December 2, 2014. Subsequently, the Mullinix Brothers Partnership has filed a petition for judicial review in the Circuit Court of Howard County. MALPF is waiting to receive the petition from the circuit court. MDA notes that there are no other requests for termination.

Authorization Encumbrance and Expenditure Data

Exhibit 10 reflects the encumbrance and expenditure history for MACS. The total authorization through fiscal 2014 is \$135.6 million, of which \$9.0 million remains to be encumbered. If MDA's spending plan holds, then there will be \$3.0 million available for fiscal 2016.

Exhibit 10
Maryland Agricultural Cost-Share Program
Encumbrances and Expenditures
Program Inception through December 2014
(\$ in Millions)



Note: For prior years, \$980,000 of the \$8 million appropriation are special funds in fiscal 2010.

Source: Maryland Department of Agriculture; Department of Budget and Management

PAYGO Recommended Actions

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

, provided that this appropriation shall be reduced by \$9,830,434 contingent upon the enactment of legislation crediting transfer tax revenues to the General Fund.

Explanation: This action concurs with the Governor’s proposed contingent reduction to the transfer tax portion of the Maryland Agricultural Land Preservation Program’s special fund appropriation.

2. Concur with Governor’s allowance for the Tobacco Transition Program of \$868,000 in special funds for agricultural land preservation.

GO Bond Recommended Actions

1. Reduce authorization to reflect equitable replacement funding with Program Open Space.

LA11A Maryland Agricultural Land Preservation Program \$ 11,319,090

Allowance
22,726,000

Change
-11,406,910

Authorization
11,319,090

Explanation: The Maryland Agricultural Land Preservation Program is authorized \$22,726,000 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 \$9,053,000 in fiscal 2014 funding and \$13,673,000 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 budgeted in the Department of Natural Resources – 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 Maryland Agricultural Land Preservation Program funding to the same percent replacement as provided to Program Open Space.

2. Approve the \$2,000,000 general obligation bond authorization for the Maryland Agricultural Cost-Share Program.

Total General Obligation Bonds Reduction

\$11,406,910