Cigarette Restitution Fund
Fiscal 2006 Budget Overview

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Annapolis, Maryland

March 2005

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Cigarette Restitution Fund Overview

History of the Cigarette Restitution Fund

On November 23, 1998, the five major tobacco companies agreed to settle all outstanding litigation with 46 states, five territories, and the District of Columbia. Under the Master Settlement Agreement, the settling manufacturers will pay the litigating parties approximately $206 billion over the next 25 years and beyond, as well as conform to a number of restrictions on marketing to youth and the general public.

The distribution of funds among the states was determined using a formula that assigned equal weight to the Medicaid and non-Medicaid smoking-related costs of each state; subsequent adjustments to this formula were made to allow smaller states to achieve economies of scale in providing tobacco prevention programs. According to this formula, Maryland will receive 2.26% of Master Settlement Agreement monies. In addition, the State will collect 3.3% of monies from the Strategic Contribution Fund, distributed according to each state's contribution toward resolution of the state lawsuits against the major tobacco manufacturers. Funds from these revenue streams, in addition to smaller payments related to the settlement, are estimated to result in annual variable payments of $150 million to $200 million.

In anticipation of receiving tobacco settlement revenue, the State established the Cigarette Restitution Fund (CRF) in Chapter 173, Acts of 1999 as a special nonlapsing fund to be used for a variety of programs and initiatives. The Act specified nine health- and tobacco-related priorities, listed in **Exhibit 1**, to which no less than 50% of funds must be appropriated annually. To support this goal, the General Assembly created the Tobacco Use Prevention and Cessation Program and the Cancer Prevention, Education, Screening, and Treatment Program as programs within the Family Health Administration (FHA) to address both the causes and effects of tobacco use. As these programs have grown, emphasis has shifted to these programs from other CRF recipients, such as primary and secondary education enhancements. The fund also supports existing health programs such as substance abuse treatment and Medicaid.

Exhibit 1

Spending Priorities in the Cigarette Restitution Act

1. Reduction in tobacco use by youth
2. Tobacco control campaigns in schools
3. Smoking cessation programs
4. Enforcement of tobacco sales restrictions
5. Primary health care in rural areas
6. Programs concerning cancer, heart disease, lung disease and tobacco control
7. Substance abuse treatment and prevention
8. Maryland Health Care Foundation
9. Crop conversion

Source: Chapter 173, Acts of 1999

Governor's Proposed Budget

The fiscal 2006 allowance provides $123 million for programs supported by the CRF, an increase of $5 million over the fiscal 2005 working appropriation. Although the amount of revenue is roughly equal to the amount of revenue in fiscal 2005, the anticipated size of the fund balance rolled over to fiscal 2006 is greater than the amount available the year before, allowing for increased appropriations from the fund. The amount of revenue available in fiscal 2006 is detailed in **Exhibit 2**.

The Governor's proposed budget includes few changes to program activity. The majority of programs receive the same amount of funding available in fiscal 2005, with several notable exceptions. The largest change is in funds for Medicaid, which increases from $52 million to $67 million in fiscal 2006. The increase is offset by an $8 million reduction to the Cancer Prevention, Education, Screening, and Treatment Program which restricts the amount of grants available to the State's academic health centers. Changes in expenditures are detailed in **Exhibit 3**.

Exhibit 2
Cigarette Restitution Fund Revenue
Fiscal 2002 – 2006

	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Working Appropriation	FY 2006 Allowance
Beginning Fund Balance	$10.0	$103.6	$51.0	$10.4	$11.4
Settlement Payments	168.7	173.9	150.7	148.8	149.0
Less 25% in Escrow	-43.1				
Available Revenue	**$135.6**	**$277.5**	**$201.7**	**$159.2**	**$160.4**
Available from Escrow	$123.1	$4.7			
Payment to Law Offices	-30.0	-30.0	-30.0	-30.0	-29.9
Prior Year Recoveries	7.5	3.9	4.1		
To/From Special Reserve Fund	-13.5		13.5		
Total Available Revenue	**$222.7**	**$256.1**	**$189.3**	**$129.2**	**$130.5**
Total Expenditures	**$119.0**	**$201.4**	**$178.9**	**$117.9**	**$122.7**
Transfer to the General Fund		-$3.8			
Ending Balance	**$103.6**	**$51.0**	**$10.4**	**$11.4**	**$7.7**

Source: Department of Budget and Management

Exhibit 3
Cigarette Restitution Fund
Fiscal 2002 – 2006
($ in Millions)

	FY 2002 Actual Spending	FY 2003 Actual Spending	FY 2004 Actual Spending	FY 2005 Working Appropriation	FY 2006 Allowance
Health					
Management	$0.0	$0.4	$0.5	$0.4	$0.3
Tobacco	16.9	19.6	13.8	9.5	9.2
Cancer	34.6	37.2	30.8	28.0	20.1
Substance Abuse	16.9	18.5	17.1	17.1	17.1
Breast and Cervical Cancer Program	0.0	0.0	0.3	2.5	0.0
Mental Hygiene Administration	1.6	0.0	0.0	0.0	0.0
Maryland Health Care Foundation	1.0	1.0	0.0	0.0	0.0
Medicaid	0.0	104.0	108.3	51.5	66.8
Subtotal	**$71.0**	**$180.7**	**$170.7**	**$109.0**	**$113.5**
Education					
Baltimore City Partnership	$3.2	$0.0	$0.0	$0.0	$0.0
Academic Intervention	19.1	0.0	0.0	0.0	0.0
Aid to Nonpublic Schools	4.9	3.6	3.0	3.0	3.0
Judy Hoyer Centers	2.9	4.0	0.0	0.0	0.0
Teacher Mentoring	2.5	2.5	0.0	0.0	0.0
Teacher Certification	3.4	1.6	0.0	0.0	0.0
Technology Academy	1.7	1.7	0.0	0.0	0.0
Readiness and Accreditation	3.0	0.0	0.0	0.0	0.0
Access/Success	1.0	1.0	0.0	0.0	0.0
Subtotal	**$41.7**	**$14.4**	**$3.0**	**$3.0**	**$3.0**
Crop Conversion	**$6.3**	**$6.3**	**$5.1**	**$5.7**	**$6.0**
Attorney General	**$0.1**	**$0.0**	**$0.0**	**$0.2**	**$0.2**
Total Expenses	**$119.0**	**$201.4**	**$178.9**	**$117.9**	**$122.7**
Transfer to the General Fund		-$3.8			

Source: Maryland Operating Budget

Tobacco Use Prevention and Cessation

Funding for the Tobacco Use Prevention and Cessation Program decreases $0.3 million in the fiscal 2006 allowance. This program, established by Chapter 17, Acts of 2000, is charged with developing initiatives to reduce tobacco use in Maryland and otherwise benefit public health. This program and the Cancer Prevention, Education, Screening, and Treatment Program are the basis of the State's CRF Program. Changes to program funding, detailed in **Exhibit 4**, include the following:

- ***Statewide Public Health:*** The general fund has supported tobacco prevention efforts since development of the Maryland Cancer Plan in 1991. The program provides grants to local health departments to reduce tobacco use among youth, reduce exposure to second-hand smoke, and reduce tobacco-related health disparities. The Governor's proposed budget includes $0.4 million in the CRF for the program in fiscal 2006, offset by a $0.6 million reduction in general funds for this purpose.

- ***Countermarketing:*** The countermarketing component of the Tobacco Use Prevention and Cessation Program supports development of media campaigns to counteract tobacco industry advertising. In addition to program development, funds provide for purchase of print space and air time. The fiscal 2006 allowance provides $0.5 million for countermarketing, a 50% reduction in funds from fiscal 2005 levels. The reduction will limit the media campaign as well as limit certain community and business-related programs. Funding for this program has been reduced by more than 90% since fiscal 2003. The amount of funds remaining – $0.5 million – will provide for a limited anti-tobacco campaign in fiscal 2006.

- ***Administration:*** Administration of the tobacco program, supported solely with CRF in prior years, is supported with a combination of CRF and general funds in fiscal 2006. The amount of CRF for administration decreases $0.2 million to comply with the law limiting these expenditures to 5% of allocations from the fund. The reduction is offset by an increase of $0.1 million in general funds available due to reductions in statewide tobacco prevention efforts.

Funding for the Tobacco Use Prevention and Cessation Program totals $9.2 million in fiscal 2006, significantly less than the amount recommended by the Centers for Disease Control and Prevention (CDC). The CDC recommends a minimum amount of spending of $5.55 per capita for tobacco prevention activities, equivalent to $30.6 million. The amount of CRF tobacco program funding provides 30% of the total amount of CDC-recommended funding in fiscal 2006.

Exhibit 4
Tobacco Use Prevention and Cessation
Fiscal 2002 – 2006
($ in Millions)

	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Working Approp.	FY 2006 Allowance
Surveillance and Evaluation	$1.4	$2.5	$0.0	$0.0	$0.0
Local Public Health	8.8	9.1	8.0	7.0	7.0
Statewide Public Health					
Minority outreach and technical assistance	1.4	1.0	0.9	0.9	0.9
Statewide enforcement	0.0	0.2	0.0	0.0	0.0
University of Maryland School of Law	0.2	0.4	0.3	0.2	0.2
Maryland Occupational Safety and Health Administration	0.0	0.1	0.0	0.0	0.0
Tobacco prevention and cessation	0.0	0.0	0.0	0.0	0.4
Subtotal	**$1.6**	**$1.8**	**$1.2**	**$1.1**	**$1.5**
Countermarketing	4.3	5.7	4.0	1.0	0.5
Administration	0.8	0.6	0.6	0.4	0.2
Total	**$16.9**	**$19.6**	**$13.8**	**$9.5**	**$9.2**

Source: Maryland Operating Budget; Department of Health and Mental Hygiene

The funding provided in the Governor's proposed budget also does not meet minimum spending levels established in State law. The Governor is required to include a minimum of $21 million for tobacco prevention activities in the annual budget. Funding from all sources, including CRF, general funds, and federal funds, totals $11.6 million in fiscal 2006, less than the $21 million required. Budget reconciliation legislation proposes to permanently reduce the required appropriation to $10 million beginning in fiscal 2006.

Cancer Prevention, Education, Screening, and Treatment Program

Funding for the Cancer Prevention, Education, Screening, and Treatment Program decreases $7.9 million in the fiscal 2006 allowance. This program, established by Chapter 17, Acts of 2000, is charged with developing initiatives to reduce morbidity and mortality rates for cancer- and tobacco-related diseases and otherwise benefit public health. This and the Tobacco Use

Prevention and Cessation program are the basis of the State's CRF Program. Changes to program funding, detailed in **Exhibit 5**, include the following:

- ***Administration:*** Administration of the cancer program, supported solely with CRF in prior years, is supported with a combination of CRF and general funds in fiscal 2006. The amount of CRF for administration decreases $0.2 million to comply with the law limiting these expenditures to 5% of allocations from the fund. The reduction is offset by an increase of $0.2 million in general funds available due to reductions in statewide tobacco prevention efforts.

- ***University of Maryland Medical Group:*** There are four research and program grants from the cancer program to the University of Maryland Medical Group (UMMG). Three of four grants decrease by half in the fiscal 2006 allowance, resulting in reductions of $6.5 million. The largest of these reductions occurs in the UMMG research grant, which supports recruitment and retention of cancer researchers. The reduction of $4 million will result in the loss of recently recruited faculty as well as curtail certain clinical applications of newly discovered therapies and breast cancer research. The university also notes that reductions in funding will reduce the amount of funds available from sources such as the National Cancer Institute and the National Institutes of Health.

  Funds from the CRF also provide for the Statewide Health Network administered by UMMG. The network supports community-based health partnerships that increase awareness of and access to prevention and education related to cancer and other tobacco-related disease. Efforts include expanding participation in clinical trials, educating health providers on best practices, and increasing access to University of Maryland physicians through 26 videoconference sites. The network operates through a central office located in Baltimore City and six regional offices. Funding reductions of $1.5 million will result in the closing of several regional offices as well as limit the amount of program activity, including community partnerships, research grants, continuing education for health providers, and videoconferencing.

  The UMMG tobacco-related disease grant is reduced to $1 million. This grant, like the cancer research grant, supports individual research projects as well as faculty recruitment and retention. Funding also supports programs that complement the work of the Statewide Health Network. Reductions in funding will reduce the number of research projects funded and will prevent recruitment of additional faculty. Data analysis and staff support will also be reduced.

- ***Johns Hopkins Institutions:*** The cancer research grant to the Johns Hopkins Institutions (JHI) decreases to $1.2 million in fiscal 2006. Reductions to this grant, which supports recruitment and retention of cancer researchers, will end recruitment efforts and limit the number of new projects funded in the coming year. Two developing projects may also be compromised by the reduction in funds. Plans to recruit an Associate Director for Cancer Prevention and Control as well as collect biomedical samples for population-based cancer research may be delayed.

Exhibit 5
Cancer Prevention, Education, Screening, and Treatment
Fiscal 2002 – 2006
($ in Millions)

	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Working Approp.	FY 2006 Allowance
Surveillance and evaluation	$0.8	$1.6	$1.4	$1.2	$1.2
Local public health	10.9	12.2	8.6	7.5	7.5
Statewide academic health centers					
University of Maryland Medical Group					
Tobacco-related disease research	3.0	3.0	2.3	2.0	1.0
Cancer research	9.0	9.0	8.6	8.0	4.0
Statewide network	4.0	4.0	3.2	3.0	1.5
Baltimore City public health	1.4	1.4	1.4	1.2	1.2
Subtotal	**$17.4**	**$17.4**	**$15.5**	**$14.2**	**$7.7**
The Johns Hopkins Health System					
Cancer research	3.0	3.0	2.6	2.4	1.2
Baltimore City public health	1.4	1.4	1.4	1.2	1.2
Subtotal	**$4.4**	**$4.4**	**$4.0**	**$3.6**	**$2.4**
Administration	1.0	1.0	1.0	1.0	0.8
Cancer screening database	0.0	0.6	0.4	0.4	0.4
Total	**$34.6**	**$37.2**	**$30.8**	**$28.0**	**$20.1**

Source: Maryland Operating Budget; Department of Health and Mental Hygiene

Cancer program funds for the academic health centers are awarded after a grant proposal and review process. The full impact of reductions to academic health center programs will not be known until UMMG and JHI submit fiscal 2006 grant applications.

Other Cigarette Restitution Fund Initiatives

In addition to the tobacco and cancer programs, CRF provides support for other health and tobacco-related priorities. In fiscal 2006, funding for Medicaid increases $15.3 million to a total of $66.8 million, reducing the need for that amount of general funds for the program. In addition, funding for the Maryland Department of Agriculture's (MDA) tobacco transition program increases to $6.0 million, allowing for expansion of non-capital grants for infrastructure and agricultural development programs.

Future Tobacco Settlement Revenue

The Master Settlement Agreement established three types of payments: initial, annual, and strategic contribution payments.

- **Initial payments** are scheduled from fiscal 1999 through 2003. Maryland received initial payments of approximately $60 million annually for each of five years.

- **Annual payments** began in fiscal 2000 and will continue as long as the settling manufacturers continue to ship tobacco products domestically. These payments are adjusted annually based on domestic consumption of tobacco products and inflation. Maryland's annual payment is expected to vary from $140 million to $150 million in the near future.

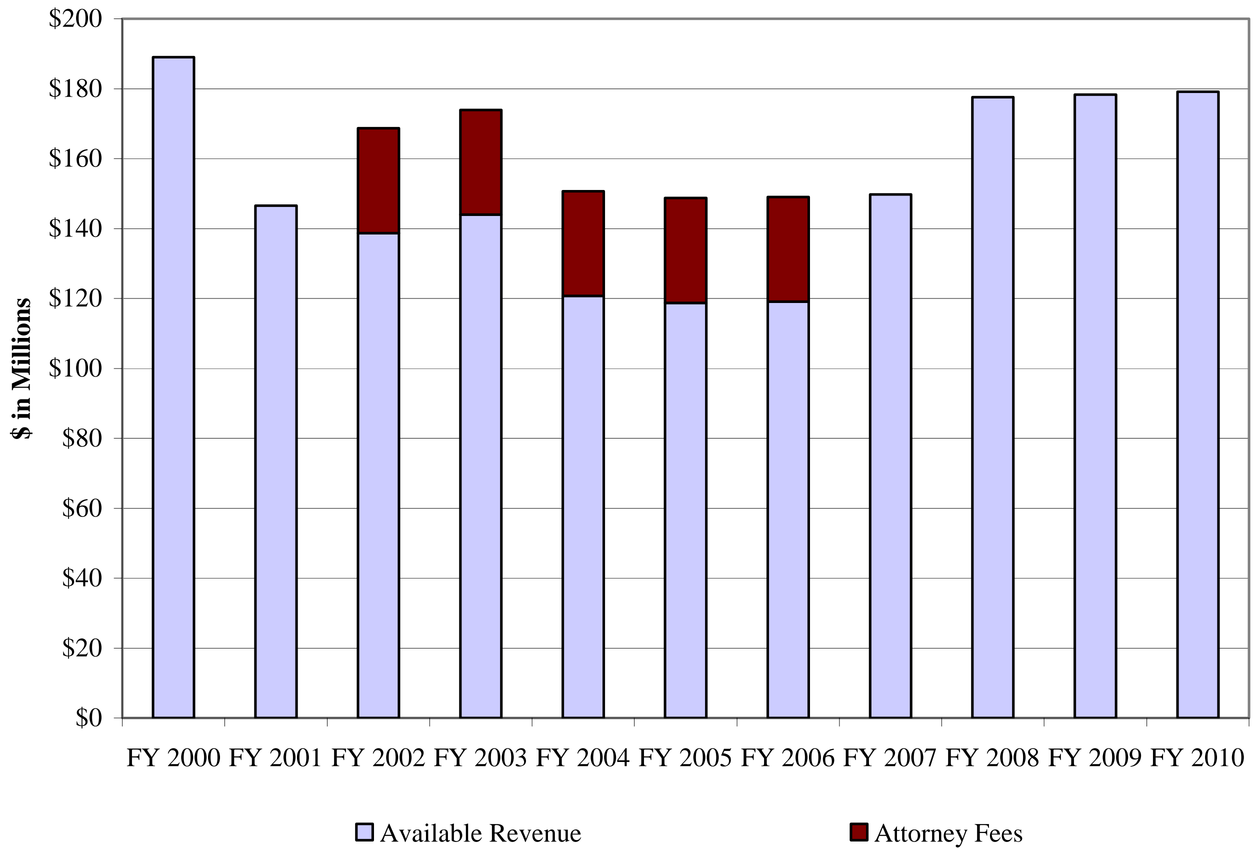
- **Strategic contribution payments**, beginning in fiscal 2008 and continuing through fiscal 2017, reflect states' legal contributions to the tobacco settlement. Maryland's share of these payments is estimated at $28 million annually.

In addition to these three payment streams, the national arbitration panel established by the Master Settlement Agreement to compensate states for their legal costs is expected to award the State $132 million for the State's contribution to the legal settlement. Annual award payments, which began in fiscal 2003, are estimated between $5 million and $7 million over the next 20 years.

As detailed in **Exhibit 6**, the State's tobacco settlement revenue is at a low from the end of the initial payment stream in fiscal 2003 to the beginning of the strategic contribution payment stream in fiscal 2008. The release of funds previously held in escrow for attorneys' fees moderated the financial impact of the end of the initial payments; however, the infusion of escrow funds was a one-time occurrence and is insufficient to maintain current spending levels.

Since fiscal 2003, program funding has been reduced to reflect limited availability of funds, a situation exacerbated by settlement payments to the Law Offices of Peter Angelos, P.C. Settlement payments of $30 million were paid to the Law Offices each year from fiscal 2002 through 2006. Although tobacco settlement revenue is not expected to increase until fiscal 2008, the expiration of the State's obligation to the Law Offices will make an additional $30 million available to the CRF in fiscal 2007.

Exhibit 6
Net Revenue to the Cigarette Restitution Fund
Fiscal 2000 – 2010



Source: Department of Budget and Management

Review of CRF Statutory Requirements

Chapter 17, Acts of 2000 was prescriptive in the development and implementation of the CRF tobacco and cancer programs. The statute establishes specific requirements of the Department of Health and Mental Hygiene in its development and review of the programs. It also establishes protocols for the local health departments and academic health centers that are the recipients of the majority of program funds. Since these programs were established in fiscal 2001, several provisions in the original statute have been amended to respond to concerns that have arisen during implementation. Budget reconciliation legislation proposes to make several more changes to the program at the 2005 session. A summary of these changes is included in **Exhibit 7**.

Exhibit 7
Proposed CRF Changes in 2005 Budget Reconciliation Legislation

Current Requirement	Proposed Changes	Comment
Tobacco study required in fiscal 2006	Tobacco study delayed until fiscal 2007	Tobacco study has not been funded since fiscal 2003
$21 million required for tobacco prevention	$10 million required for tobacco prevention	Governor has not included $21 million since requirement was established
Minimum of 25% of CRF appropriations support Medicaid	Minimum of 30% of CRF appropriations support Medicaid	Funding for Medicaid represents 54% of CRF appropriations in fiscal 2006
Minimum of $4 million required for Baltimore City cancer screening	$2.4 million required for Baltimore City cancer screening in fiscal 2006 only	Funding has not met minimum threshold due to funding restrictions in prior years
CRF evaluation conducted at the end of fiscal 2005	CRF evaluation delayed until the end of fiscal 2006	CRF evaluation was originally to be conducted at the end of fiscal 2004

Source: Department of Legislative Services

Budget reconciliation legislation has allowed the administration opportunities to address many of the more restrictive provisions of the CRF statute. The General Assembly has generally adopted the proposed changes with the provision that the changes would apply for a single year only. As a result, the Administration includes many of the same provisions year after year in budget reconciliation legislation, with no indication that a permanent change will be made. In some cases, the Administration has circumvented provisions of the statute the General Assembly

was unwilling to amend. Several provisions in the enabling legislation do not correspond to current practice. Examples of these provisions follow.

Baltimore City Public Health Grant

Health-General § 13-1115 establishes statewide academic health center public health grants to UMMG and JHI. The section establishes the two institutions as recipients of the CRF to provide cancer prevention, education, screening, and treatment services to low-income Baltimore City residents; these programs are provided by local health departments in all other jurisdictions.

Current law establishes the minimum amount of the grant to each institution at $2 million. This amount of spending has not occurred due to initial implementation delays and restrictions to fiscal 2002 and 2003 appropriations. In fiscal 2004 the Administration included a provision in budget reconciliation legislation that would calculate the academic health center public health grant as a percentage of total local health funds. The General Assembly amended the provision to apply only to the fiscal 2005 appropriation. The fiscal 2006 allowance includes $1.2 million for each of the institutions to conduct cancer screening and treatment programs, less than the $2 million required by law. Budget reconciliation legislation would reduce the amount required for fiscal 2006 only.

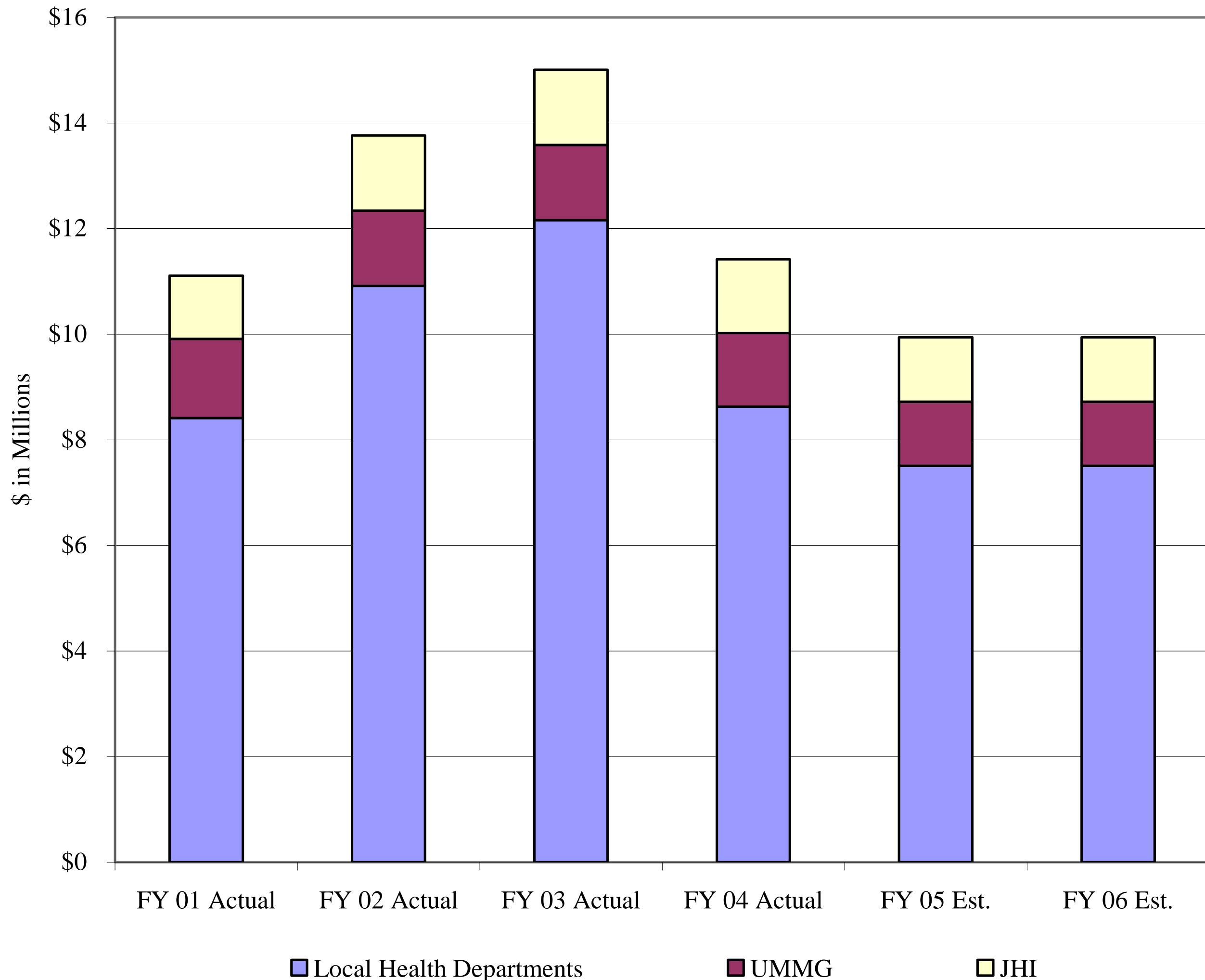
Exhibit 8 shows spending by the academic health centers relative to spending by the local health departments for local public health programs. Even though allocations have not reached minimum required levels, the Baltimore City program has consumed a growing percentage of local health resources. In fiscal 2003, academic health center programs comprised 19% of local health spending; in fiscal 2006, appropriations to these programs represent nearly 25% of local health funds. **The Department of Legislative Service (DLS) recommends permanently amending the CRF statute to establish Baltimore City cancer screening and treatment appropriations as a percentage of total public health spending.**

Administrative Spending

Health-General § 13-1014 and 13-1119 establish the administrative components of the tobacco and cancer programs. According to statute:

> "Unless otherwise specified in the annual budget bill as enacted, the amount of funds that are allocated to the Administrative Component in the State budget may not exceed five percent of the total amount that is allocated to the Program in the State budget."

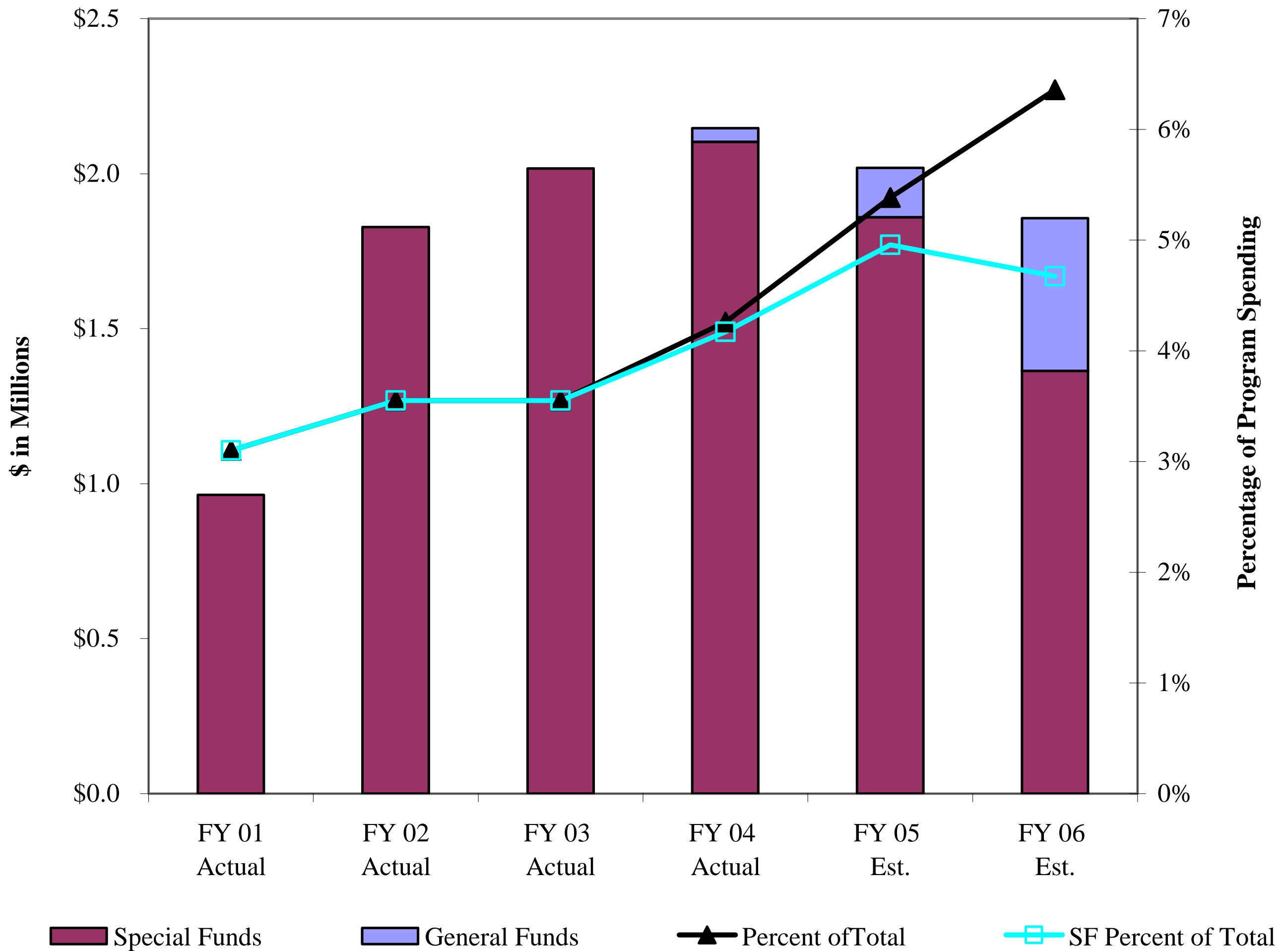
Exhibit 8
Local Public Health Spending
Cancer Prevention, Education, Screening, and Treatment Program
Fiscal 2001 – 2006



Source: Maryland Operating Budget

The department has circumvented this requirement by using general funds for expenses that exceed the 5% limit established in law. These funds were made available by reducing general funds for tobacco prevention, making up the majority of the difference with the CRF. Administrative costs as a percentage of tobacco and cancer program expenditures are displayed in **Exhibit 9**.

Exhibit 9
CRF Administrative Expenses
Fiscal 2001 – 2006



Source: Maryland Operating Budget

Funding for the tobacco and cancer programs has declined nearly 50% since fiscal 2003. The CRF Program has reduced its administrative costs since that time, but not at a rate equal to the reduction in total program funds. With the variety of oversight functions assigned to the administration of the two programs, FHA has found it difficult to contain costs to 5% of program expenditures. Program administrators continue to oversee the same number of local and academic programs, each subject to a variety of administrative and reporting requirements established in statute.

The use of general funds for administrative purposes does not appear to be consistent with the intent of the General Assembly in establishing a limit on administrative expenditures. The fiscal condition of the State would seem to further contradict the use of general funds for CRF administrative expenses. **DLS recommends the reduction of $0.4 million in general funds for CRF administrative expenses. The department should comment on a maximum threshold for administrative expenses that would allow for adequate oversight of CRF program activity.**

Minimum Tobacco Funding

Health-General § 13-1015 requires the Governor to include at least $21 million in the annual budget for activities to reduce tobacco use, including public education campaigns, enforcement of tobacco laws for minors, and smoking cessation programs. The Governor has not included the required amount of funding in the budget since the law took effect June 1, 2003. **Exhibit 10** shows spending on tobacco prevention activities since fiscal 2001.

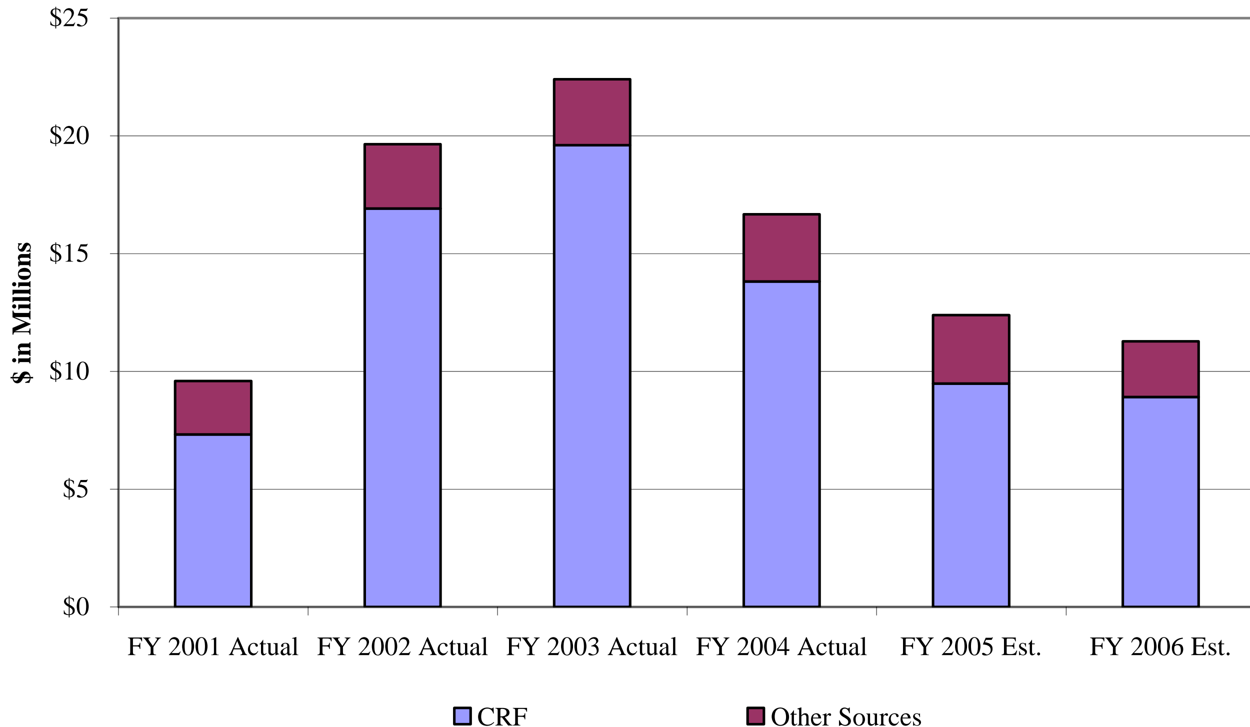
Budget reconciliation language temporarily reduced the required amount of tobacco prevention funding to $18 million for fiscal 2004 and $12 million for fiscal 2005. Proposed budget reconciliation legislation would permanently reduce the amount the Governor is required to include in the budget to $10 million beginning in fiscal 2006.

The fiscal 2006 budget bill includes language that would alter the distribution of the CRF in the event that budget reconciliation legislation altering minimum tobacco prevention funding is not enacted. The language redirects $10 million of the appropriation intended for the Cancer Prevention, Education, Screening, and Treatment Program to tobacco prevention activities if the minimum appropriation is not reduced. This would have the effect of reducing by half funds for the cancer program, from $20 million to $10 million in fiscal 2006. The language does not specify the programs to which the reductions would be applied.

Tobacco Surveillance

Health-General § 13-1004 requires the department to conduct a biennial tobacco study to determine the number of individuals using tobacco products, with the intent that this information would be compared to the department's baseline study to determine the State's progress in reducing tobacco use. The General Assembly required biennial studies, rather than annual studies, beginning in 2003 to reduce the administrative burden on the department. At the same time, the General Assembly required biennial, rather than annual, cancer incidence studies.

Exhibit 10
Funds for Tobacco Prevention
Fiscal 2001 – 2006



Source: Maryland Operating Budget

The last tobacco study was conducted in fiscal 2003. The General Assembly adopted a provision in 2004 budget reconciliation legislation to delay the scheduled fiscal 2005 tobacco study for one year. Proposed 2005 budget reconciliation language would delay the study for an additional year. If the study is funded in fiscal 2007, it will have been four years since data were last compiled. Given the infrequency of the tobacco studies, the General Assembly may want to consider whether use of funds for this purpose is still a priority use for funds.

Comprehensive Evaluation

The legislation establishing the tobacco and cancer programs included a provision for a comprehensive evaluation of the programs at the end of fiscal 2004. The evaluation was to include an analysis of the administration and effectiveness of the programs, including an assessment of whether the short- and long-term goals of the program had been met, with results

due to the Governor and the General Assembly by November 2004. Budget reconciliation legislation enacted in 2004 delayed the comprehensive evaluation to the end of fiscal 2005, with the final report due by November 2005. Proposed budget reconciliation legislation would delay the evaluation to the end of fiscal 2006.

DLS recommends that the General Assembly reject the delay of the comprehensive evaluation. A comprehensive evaluation is critical in determining the effect of the cancer and tobacco programs. Local and academic programs have been operational for nearly five years, a sufficient amount of time to evaluate the administration and public health impact of these activities. Fiscal 2006 is a pivotal time for assessing these programs, as additional funds will be available to the CRF beginning in fiscal 2007 and 2008. DLS recommends diverting funds from the tobacco countermarketing program, which is funded below amounts necessary for development and purchase of a statewide media message, for a comprehensive evaluation in fiscal 2006. **DLS recommends that the General Assembly reject the delay of the comprehensive evaluation of the CRF Program.**

Appropriations from the CRF

State Finance and Procurement § 7-317 establishes the CRF and priorities for its use. The section requires that expenditures from the fund must be appropriated through the State budget bill. Amendment 037-05 appropriated $23,316 in the CRF to the administrative component of the program to provide cost-of-living adjustments to the program's 29 employees. A similar situation will arise in fiscal 2006, as special fund costs associated with the general salary increase for State employees were not included in individual agency budgets. **DLS recommends the addition of these funds through a supplemental budget at the 2005 session or a deficiency appropriation at the 2006 session. The department should comment on appropriation of the CRF through budget amendment.**

Future Uses of Funds

The expiration of the State's obligation to the Law Offices of Peter Angelos, P.C. will make an additional $30 million available to the CRF in fiscal 2007. Another $28 million will be available beginning in fiscal 2008 to reflect the State's legal contributions to the Master Settlement Agreement. All appropriations from the fund must meet certain minimum requirements established in law; specifically, the Governor must include the lesser of $100 million, or 90% of available funds in the annual budget bill, with at least 50% of appropriations made for established health- and tobacco-related priorities. In addition, a minimum of 0.15% of appropriations must be made to the Office of the Attorney General for enforcement of provisions in the Master Settlement Agreement.

Several proposals address the use of the CRF beginning in fiscal 2007 with the increased availability of funds. Proposals include:

- ***Medicaid:*** Current law requires a minimum of 25% of appropriations from the CRF for fiscal 2003 through 2006 to be used for the Medicaid program. Appropriations for this purpose have exceeded 25% of appropriations in each of these four years. The Spending Affordability Committee recommended extending this requirement for an additional five years in its 2004 interim report. Budget reconciliation legislation proposes to make permanent a requirement that a minimum of 30% of all appropriations from the CRF be used for Medicaid beginning in fiscal 2006. This amount is less than the amount included in the allowance for the Medicaid program.

- ***Access to Health Care:*** House Bill 627 and Senate Bill 775 of 2005 would establish the Maryland Community Health Resources Commission to increase access to health care for low-income individuals. The legislation proposes that any funds realized from strategic contribution payments, estimated at $28 million for fiscal 2008 through 2017, be used to offset the cost of care for the uninsured.

- ***Community Placements for the Developmentally Disabled:*** The Waiting List Equity Fund is a special fund comprised of savings derived from the movement of individuals from State residential centers for the developmentally disabled to the community. Funds are used to provide services to individuals on the waiting list for community services. House Bill 1199 of 2005 would require a $5 million transfer from the CRF to the Waiting List Equity Fund in each of years 2007 through 2017. The legislation would authorize a transfer of up to $0.5 million of these funds to rural areas for provision of community services.

- ***Stem Cell Research:*** Two separate proposals would make funds from the CRF available for stem cell research. The first, House Bill 1356 of 2005, would require the Governor to include $25 million from the CRF in fiscal 2007 for grants for biomedical research using adult stem cells. The second, House Bill 1183 and Senate Bill 751 of 2005, would establish a Stem Cell Research Fund as one of the priorities for the CRF spending. The Governor would be required to annually include $25 million from the CRF to the Stem Cell Research Fund beginning in fiscal 2007.

The revenue in fiscal 2007 and 2008 cannot support all proposed uses without making reductions to current programs. **Exhibit 11** details the effect of 2005 legislative proposals on current program spending. The uses proposed are sustainable only if current spending is restricted. The most significant impact would be on appropriations to Medicaid; if reduced to 30% of appropriations, the minimum threshold proposed by the Governor, nearly $20 million in general funds would be required to resolve the difference. The appropriations proposed in legislation would also require established CRF programs, which have accommodated significant funding reductions in recent years, to further restrict activity in fiscal 2008.

Exhibit 11

Projected CRF Uses

Fiscal 2006 – 2008

($ in Millions)

	FY 2006 Allowance	Low FY 2007 Projected	High FY 2007 Projected	Low FY 2008 Projected	High FY 2008 Projected
Fund balance	$11.4	$7.7	$7.7	$0.0	$0.0
Settlement revenue	149.0	149.8	149.8	177.6	177.6
Attorney fees	-29.9	0.0	0.0	0.0	0.0
Total	**$130.5**	**$157.5**	**$157.5**	**$177.6**	**$177.6**
Current Programs					
Management	$0.3	$0.3	$0.5	$0.3	$0.5
Tobacco	9.2	9.2	18.6	9.2	18.6
Cancer	20.1	20.1	29.5	20.1	29.5
Medicaid	66.8	47.3	66.8	53.3	66.8
Substance Abuse	17.1	17.1	17.1	17.1	17.1
Aid to Nonpublic Schools	3.0	3.0	3.0	3.0	3.0
Crop Conversion	6.0	6.0	6.0	6.0	6.0
Attorney General	0.2	0.2	0.2	0.3	0.3
Subtotal	**$122.7**	**$103.2**	**$141.7**	**$109.3**	**$141.8**
Proposed Uses					
DDA Waiting List (HB 1199)		*$5.0*	*$5.0*	*$5.0*	*$5.0*
Stem Cell Research (HB 1356/HB 1183/ SB 751)		*25.0*	*25.0*	*25.0*	*25.0*
Access to Health Care (HB 627/SB 775)				*28.0*	*28.0*
Subtotal		***$30.0***	***$30.0***	***$58.0***	***$58.0***

Cigarette Restitution Fund – Fiscal 2006 Budget Overview

	FY 2006 Allowance	Low FY 2007 Projected	High FY 2007 Projected	Low FY 2008 Projected	High FY 2008 Projected
Total Revenue	$130.5	$157.5	$157.5	$177.6	$177.6
Current and Proposed Uses	122.7	133.2	171.7	167.3	199.8
Difference	**$7.7**	**$24.4**	**-$14.2**	**$10.3**	**-$22.2**

Assumptions
High: Fully fund statutory mandates; Medicaid flat funded; restore fiscal 2006 reductions.

Low: Fund programs at fiscal 2006 level; reduce Medicaid to 30% minimum proposed in Budget Reconciliation Act.

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

Tobacco Transition Program

One of the established priorities for CRF dollars is the implementation of the Southern Maryland Regional Strategy Action Plan for Agriculture adopted by the Tri-County Council for Southern Maryland (TCC), with emphasis placed on alternative crop uses for agricultural land now used for growing tobacco." Funds are appropriated to MDA, which then issues grants to TCC. TCC is a nonprofit, quasi-governmental body that works with the Southern Maryland Agricultural Development Commission to develop programs to stabilize the region's agricultural economy as Maryland growers transition away from tobacco production.

TCC's Strategy Action Plan has three main components: the tobacco buyout, infrastructure/agricultural development, and agricultural land preservation.

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

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

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

Tobacco Transition Program Fiscal 2006 Funding

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

- $1.4 million in special funds in the operating budget for administrative expenses and non-capital grants for infrastructure/agricultural development programs;

- $4.5 million in special funds in the PAYGO budget for the tobacco buyout and land preservation programs; and

- $5.0 million in general obligation bonds in the capital budget for the tobacco buyout and land preservation programs.

This allocation assumes that a total of $7.8 million will be dedicated to buyout payments and $1.7 million to agricultural land preservation.

Participation in the Buyout Program

Participation in tobacco buyout program has been more successful than originally anticipated, as illustrated in **Exhibit 12**. Overall, it is estimated that 7.8 million pounds of tobacco and 877 growers will be taken out of tobacco production for human consumption. TCC has confirmed 850 growers/contracts totaling $7.7 million to date, but several growers may complete the application process later than anticipated. A majority of the growers not participating in the buyout are members of the Amish community.

Exhibit 12
Tobacco Buyout Program
Fiscal 2002 – 2006

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

Source: Tri-County Council for Southern Maryland

Growers who participate in the buyout program are paid $1.00 per pound of tobacco that they grew on average in the past for 10 years. Fiscal 2006 buyout payments are projected for 7.8 million pounds of tobacco which requires $7.8 million to fund. However, the estimated fiscal 2006 CRF revenues total $5.9 million, which is less than what is needed for the buyout and other programs. MDA intends to address this shortfall by supplementing the program with $5.0 million in general obligation bonds. Chapter 103, Acts of 2001 authorizes $5.0 million annually in general obligation bonds for six years beginning in 2003, a total authorization of $30 million. However, the bonds are to be issued each year only if the CRF are not sufficient to implement the Strategy Action Plan.

Language and Reductions for Consideration

- ***Consider Language to Tie Baltimore City Cancer Funds to Total Public Health Spending:*** UMMG and JHI receive CRF to provide cancer prevention, education, screening, and treatment services to low-income Baltimore City residents; these programs are provided by local health departments in all other jurisdictions. Current law establishes the minimum amount of the grant to each institution at $2 million. This amount of spending has not occurred due to funding restrictions in prior years. Even though allocations have not reached minimum required levels, the Baltimore City program has consumed a growing percentage of local health resources. In fiscal 2003, academic health center programs comprised 19% of local health spending; in fiscal 2006, appropriations to these programs represent nearly 25% of local health funds. **DLS recommends permanently amending the CRF statute to establish Baltimore City cancer screening and treatment appropriations as a percentage of total public health spending.**

- ***Consider Language Raising the Limit on Administrative Expenses:*** State law limits administrative expenses to 5% of appropriations from the CRF. The department has circumvented this requirement by using general funds for expenses that exceed the 5% limit. The CRF Program has reduced its administrative expenses with reductions to available funding, but not at the rate of the reduction in program expenses. With the variety of oversight functions assigned to the administration of the two programs, FHA has found it difficult to contain costs to 5% of program expenditures. Program administrators continue to oversee the same number of local and academic programs, each subject to a variety of administrative and reporting requirements established in statute. **DLS recommends the reduction of $0.4 million in general funds for CRF administrative expenses. DLS also recommends amending the CRF statute to increase the limit on administrative expenses.**

- ***Reject Language to Delay a Comprehensive Evaluation of the CRF Program:*** The legislation establishing the tobacco and cancer programs included a provision for a comprehensive evaluation of the programs at the end of fiscal 2004. Budget reconciliation legislation enacted in 2004 delayed the evaluation until the end of fiscal 2005; current year language proposes to delay the evaluation for another year. Funds for evaluation are critical in determining the effects of CRF programs. The results of the evaluation will be critical in maximizing the funds available with the increased availability of funds in fiscal 2007 and 2008. **DLS recommends that the General Assembly reject the delay of the comprehensive evaluation of the CRF Program. DLS further recommends the use of fiscal 2006 countermarketing funds for the cost of the evaluation.**