

L00A1111
Department of Agriculture – PAYGO

Pay-As-You-Go Capital Budget Summary

(\$ in Thousands)

	<i>FY 2006 Approp.</i>	<i>FY 2007 Approp.</i>	<i>FY 2008 Allowance</i>	<i>Percent Change</i>	<i>DLS Recommd.</i>
Maryland Agricultural Land Preservation Program	\$45,259	\$89,554	\$69,962	-21.9%	\$69,962
Tobacco Transition Program	9,525	7,650	9,880	29.2%	9,880
Total	\$54,784	\$97,204	\$79,842	-17.9%	\$79,842
Fund Source					
Special	\$43,749	\$90,619	\$74,842	-17.4%	\$74,842
Federal	6,035	5,000	2,000	-60.0%	2,000
PAYGO Subtotal	\$49,784	\$95,619	\$76,842	-19.6%	\$76,842
GO Bonds	5,000	1,585	3,000	89.3%	3,000
Total	\$54,784	\$97,204	\$79,842	-17.9%	\$79,842

Summary of Issues

Implementation of the Agricultural Stewardship Act of 2006: The Agricultural Stewardship Act of 2006 (Chapter 289 of 2006) sought to help farmers implement sound agricultural practices while enhancing the viability of farming in the State. The Act includes several provisions related to agricultural land conservation. **The Maryland department of Agriculture (MDA) should discuss the status of its efforts to implement the Agricultural Stewardship Act provisions related to land conservation, as well as the resources that have been made available in the fiscal 2008 allowance to do so.**

New Agricultural Land Conservation Strategies Emerge: Over the past few years, some of the Maryland Agricultural Land Preservation Foundation's (MALPF) biggest challenges have been securing adequate funding to meet general demand, purchase large conservation easements, and acquire easements on farms that would otherwise be sold for nonagricultural uses. To address these challenges and respond to legislative mandates, the Maryland Agricultural Land Preservation Program (MALPP) is working with partners to establish an Installment Purchase Agreement (IPA) Program as well as a Critical Farms Program. **MDA should be prepared to discuss the status of its**

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

For further information contact: Amanda M. Mock

Phone: (410) 946-5530

IPA and Critical Farms Program development efforts as well as the potential impact these approaches could have on MALPP’s implementation and future funding.

New Federal Funding Rules Flummox MALPF: Due to recent and significant changes in federal requirements for committing U.S. Department of Agriculture (USDA) program funds, MALPF has not been able to apply federal funds to its easement offers since late 2005. MDA advises that it is working with USDA and other states to resolve pending issues and allow grant funds to be committed to MALPF easement offers during the fiscal 2007 easement acquisition cycle. **MDA should brief the committees on (1) the status of resolving these federal funding issues; (2) the impact of these difficult federal funding requirements; and (3) whether MALPF will be able to spend its \$2.0 million fiscal 2008 federal fund allowance.**

Tobacco Transition Program Debt Repayment Proposal Developed: Section 9 of Chapter 103 of 2001 requires reimbursement for “...the principle and issuance costs of any debt issued...” for the Tobacco Transition Program. In response to this requirement, a report was submitted in January 2007 outlining a repayment proposal. **MDA and the Tri-County Council (TCC) should be prepared to discuss whether this repayment strategy provides adequate program flexibility and allows for sufficient program funding increases over time.**

Summary of Recommended Actions

1. Concur with Governor’s allowance.

Overview Issues

Implementation of the Agricultural Stewardship Act of 2006

During the 2005 interim, the Presiding Officers formed the Agricultural Stewardship Commission, a joint legislative commission, to examine and identify incentives to help farmers implement sound agricultural practices while enhancing the viability of farming in the State. In response to the commission’s recommendations, the General Assembly passed the Agricultural Stewardship Act of 2006 (Chapter 289 of 2006). The Agricultural Stewardship Act addressed a variety of issues, including the State’s agricultural land conservation efforts. Provisions of the Act that relate to agricultural land conservation include:

- authorizing the implementation of a Priority Preservation Area Program that seeks to concentrate the acquisition of agricultural easements in priority preservation areas, which are large areas in which much of the land is engaged in agricultural production and is also rich in productive soils;

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- appropriating \$20.0 million in general funds annually to MALPF; and
- authorizing MALPF to provide grants to the Maryland Agricultural and Resource-Based Industry Development Corporation to facilitate the purchase of specified easements.

MDA should discuss the status of its efforts to implement the Agricultural Stewardship Act provisions related to land conservation, as well as the resources that have been made available in the fiscal 2008 allowance to do so.

Maryland Agricultural Land Preservation Program (Statewide)

PAYGO SF	\$67,961,820	Recommendation:	Approve
PAYGO FF	\$2,000,000		

Program Description: The General Assembly created the Maryland Agricultural Land Preservation Program (MALPP) to preserve productive agricultural land and woodland which provides for the continued production of food and fiber; limit the extent of urban development; and protect agricultural land and woodland as open space. The Maryland Agricultural Land Preservation Foundation (MALPF), with the assistance and cooperation of landowners and local governments, promotes the creation of agricultural land preservation districts and purchases development rights easements as a means of protecting agricultural land and woodland production activities.

Participation in MALPP is voluntary on the part of landowners. In order for a landowner to participate in the program, they must establish an Agricultural Land Preservation District. To be eligible for district status, a property must have at least 50 contiguous acres with at least 50% of the total soils classified as U.S. Department of Agriculture soil capability Class I, II, III, or woodland group one or two. Landowners also agree to maintain the land in agricultural use for a minimum of five years and not subdivide the land for residential, commercial, or industrial use while under district status. Landowners who include their land within a district become eligible to receive tax credits (if the county where the property is located has a tax credit program) and may submit an application to sell development rights to the State. There is no guarantee that an offer will be made by MALPF.

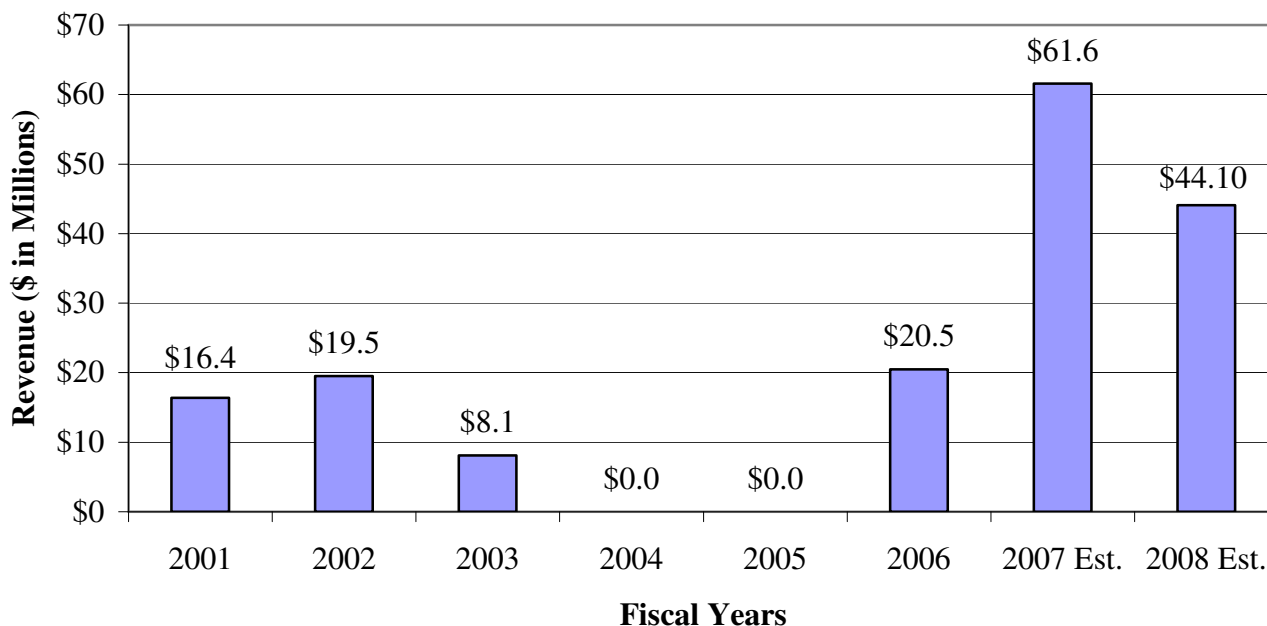
The maximum price MALPF may pay for an easement is the landowner's asking price or the easement value, whichever is lower. The easement value is determined by subtracting the agricultural value from the appraised fair market value of the property. Once the development rights have been sold, the property is perpetually protected from further development, with certain rights available only to the owners who originally sold the easement.

Year Program Began: 1977

Comments: The Administration's total proposed fiscal 2008 funding for MALPP is \$70.0 million and is comprised of \$68.0 million in special funds and \$2.0 million in federal funds. The proposed level of funding for fiscal 2008 is \$19.6 million, or 21.9% lower than the fiscal 2007 appropriation due to federal grant funding reductions and a decrease in estimated property transfer tax revenue. The PAYGO special fund allowance includes \$44.1 million in property transfer tax revenue, \$8.2 million in estimated agricultural land transfer tax revenues, and \$18.0 million in matching funds from local jurisdictions. Based on an average cost of \$6,500 per acre, the fiscal 2008 allowance would allow MALPF to acquire easements on approximately 10,800 acres.

As shown in **Exhibit 1**, the fiscal 2008 allowance reflects a decrease in anticipated property transfer tax revenue for MALPP. However, significantly more revenue is available in fiscal 2008 than was available annually in fiscal 2001 through 2006.

Exhibit 1
Property Transfer Tax Revenue Dedicated to MALPP

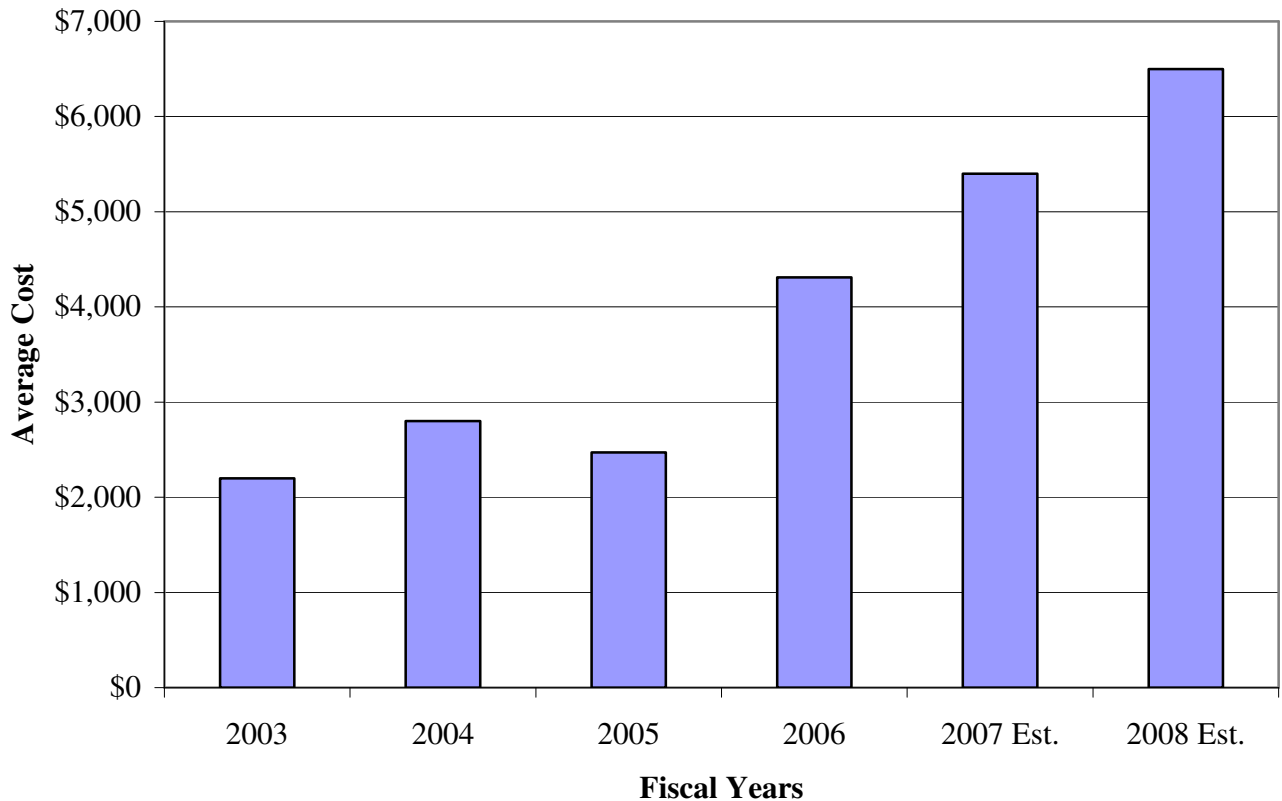


Note: Estimated fiscal 2007 transfer tax revenues were adjusted downward in December 2006 from \$264.5 million to \$201.3 million. As a result, it is likely that less revenue than anticipated will be available in fiscal 2009 for MALPP.

Source: Department of Budget and Management

While MALPF revenues have grown in recent years, so has the price of conservation easements. **Exhibit 2** illustrates that between fiscal 2003 and 2008, the price per acre for a MALPF easement is anticipated to increase by \$4,301, or nearly 200%.

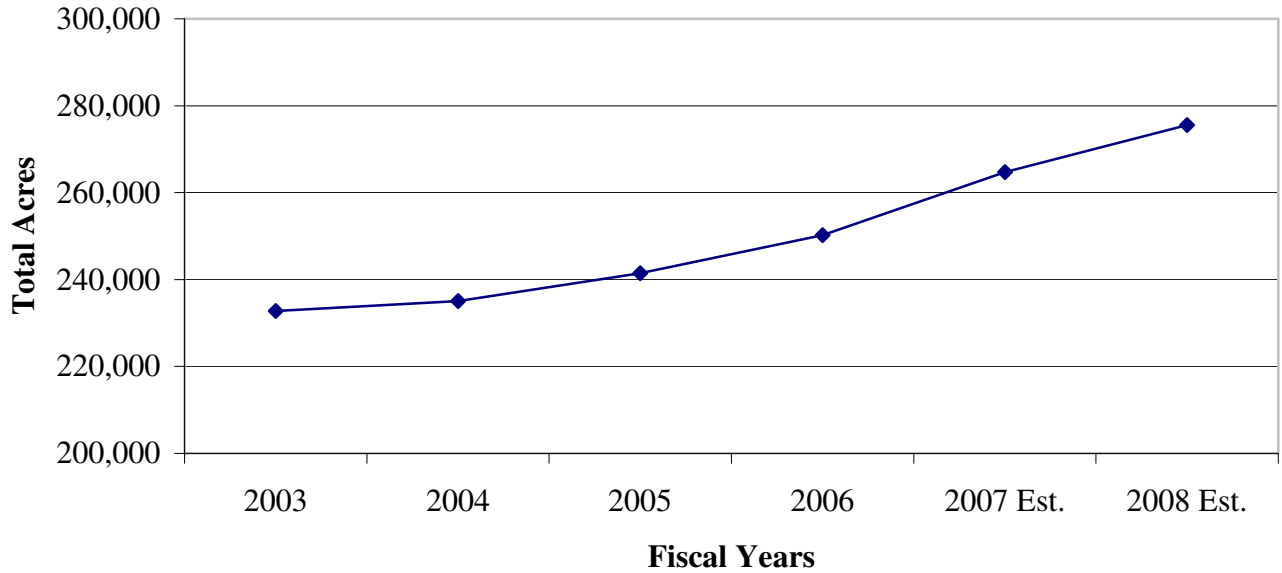
Exhibit 2
Average Cost Per MALPF Acre



Source: Maryland Department of Agriculture

Program Performance Analysis: MALPP continues to steadily increase the total agricultural acres under protective easements. As shown in **Exhibit 3**, between fiscal 2005 and 2006, there was an 8,711 acre, or 3.6% increase in total MALPP easement acreage. The Maryland Department of Agriculture projects that the increase in easement acreage will grow by 34,076 acres, or 14.1% between fiscal 2005 and 2008.

Exhibit 3
Maryland Agricultural Land Preservation Program Easements



Source: Governor's Budget Books, Fiscal 2006-2008

Maryland Agricultural Land Preservation Program Fund Data

Fund History

	<i>FY 2006 Actual</i>	<i>FY 2007 Estimated</i>	<i>FY 2008 Estimated</i>
Beginning Balance	\$0	\$2,230,787	\$0
REVENUE			
Transfer Tax	20,534,015	61,552,000	44,061,820
Agricultural Transfer Tax	8,337,822	7,000,000	8,195,651
County Participation	13,844,220	18,000,000	18,000,000
Federal Grant	51,449	5,064,025	2,111,642
Other Income*	62,185	102,000	90,000
TOTAL REVENUE	\$42,829,691	\$91,718,025	\$72,459,113
TOTAL AVAILABLE	\$42,829,691	\$93,948,812	\$72,459,113
ENCUMBRANCES			
Foundation Commitments**	\$39,275,464	\$89,407,098	\$69,961,820
Operating Expenses	1,148,440	1,926,714	2,297,293
Indirect Expenses	175,000	200,000	200,000
Grant to the Tri-County Council	0	2,415,000	0
TOTAL ENCUMBRANCES	\$40,598,904	\$93,948,812	\$72,459,113
Ending Balance	\$2,230,787	\$0	\$0

*Other income includes various settlement adjustments and old revenue from counties.

**Foundation commitments represent pending agreements (encumbered funds) for the current fiscal year and usually result in easement purchases in future fiscal years.

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(\$ in Millions)

<i>Description</i>	<i>2006 Approp.</i>	<i>2007 Approp.</i>	<i>2008 Request</i>	<i>2009 Estimate</i>	<i>2010 Estimate</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>
PAYGO SF	\$39.224	\$84.554	\$67.961	\$46.750	\$55.850	\$57.050	\$58.000
PAYGO FF	6.035	5.000	2.000	2.000	2.000	2.000	2.000
Total	\$45.259	\$89.554	\$69.961	\$48.750	\$57.850	\$59.050	\$60.000

Issues

1. New Agricultural Land Conservation Strategies Emerge

Over the past few years, some of MALPF's biggest challenges have been securing adequate funding to meet general demand, purchase large conservation easements, and acquire easements on farms that would otherwise be sold for nonagricultural uses. To address these challenges and respond to legislative mandates, MALPP is working with partners to establish an Installment Purchase Agreement (IPA) Program as well as a Critical Farms Program. These two efforts are described in greater detail below.

IPA Program

IPAs are a conservation easement financing strategy that may advance the State's short-term land conservation efforts. IPAs spread out payments so that landowners receive semi-annual, tax-exempt interest over a term of 10 to 30 years. The principal is due at the end of the contract term. In 2004, the General Assembly authorized MALPF to:

- purchase easements on eligible properties under IPAs up to a maximum of 15 years (Agriculture Article, Section 2-510(k)); and
- make grants to county partners with approved IPA programs, to purchase co-held easements on farmland and woodland properties (Agriculture Article, Section 2-510.1).

MDA-retained financial consultants (Evergreen Capital Advisors) are in the process of establishing an IPA program and developing IPA implementation and funding recommendations. Also, MDA is currently seeking the outside counsel necessary to establish the program's legal framework. MDA advises that the IPA option should be available in late fiscal 2007. Until dedicated funding is provided, MDA intends for the IPAs to be self-funded by investing a small portion of the principal.

Critical Farms Program

In accordance with Chapter 155 of 2005, MDA and the Maryland Department of Planning released a February 2007 report proposing a statewide Critical Farms Program. This program would provide interim or emergency financing for (1) easement acquisition; or (2) fee simple acquisition and resale with an easement, to permanently protect farmland that would likely be sold for nonagricultural uses. The report recommends legislation to authorize and fund a Critical Farms Program. Specifically, it recommends that the General Assembly establish a Critical Farms Revolving Account by providing \$4.0 million in general funds annually, over a four-year period. The report proposes draft program implementation legislation.

MDA should be prepared to discuss the status of its IPA and Critical Farms Program development efforts as well as the potential impact these approaches could have on MALPP's implementation and future funding.

2. Federal Funding Rules Flummox MALPF

While MALPF has been appropriated a significant amount of federal funding over the past few years – \$4.6 million in fiscal 2005, \$6.0 million in fiscal 2006, and \$5.0 million in fiscal 2007 – it has not been able to spend most of this funding. Due to recent and significant changes in federal requirements for committing U.S. Department of Agriculture (USDA) Federal Farm and Ranchlands Protection Program funds, MALPF has not been able to apply federal funds to its easement offers since late 2005. Some of the new federal funding requirements require that MALPF:

- revise Maryland's deed of easement to include federal language;
- implement new, expensive environmental reviews;
- develop an alternative easement valuation system for federally funded easements; and
- coordinate additional title review by the federal government.

MDA advises that it is working with USDA and other states to resolve pending issues and allow grant funds to be committed to MALPF easement offers during the fiscal 2007 easement acquisition cycle. However, MDA has serious concerns about the direction of the USDA program and whether new federal requirements will attract landowner participation.

MDA should brief the committees on (1) the status of resolving these federal funding issues, (2) the impact of these difficult federal funding requirements, and (3) whether MALPF will be able to spend its \$2.0 million fiscal 2008 federal fund allowance.

Recommended Actions

1. Concur with Governor's allowance.

Tobacco Transition Program (Statewide)

PAYGO SF	\$6,880,000	Recommendation:	Approve
GO Bonds	\$3,000,000		

Program Description: In 1999, the General Assembly created the Cigarette Restitution Fund (CRF). Part of this fund is to be earmarked to end tobacco growing in Maryland. Under the legislation, the CRF is to fund the “...implementation of the Southern Maryland Regional Strategy Action Plan for Agriculture adopted by the Tri-County Council for Southern Maryland (TCC) with an emphasis on alternative crop uses for agricultural land now used for growing tobacco.” Funds are appropriated to the Maryland Department of Agriculture, 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. A total of 854 farmers and 7.65 million pounds of tobacco are enrolled in the program and out of production.
- 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.

Year Program Began: 2000

Comments: The fiscal 2008 allowance includes a total of \$12.0 million in operating and capital funds for the Tobacco Transition Program. Funds are spread among three different areas of the Maryland Department of Agriculture’s allowance:

- \$2,149,000 in CRF special funds in the operating budget for administrative expenses (\$440,000) and noncapital grants for infrastructure/agricultural development programs (\$1,709,000);

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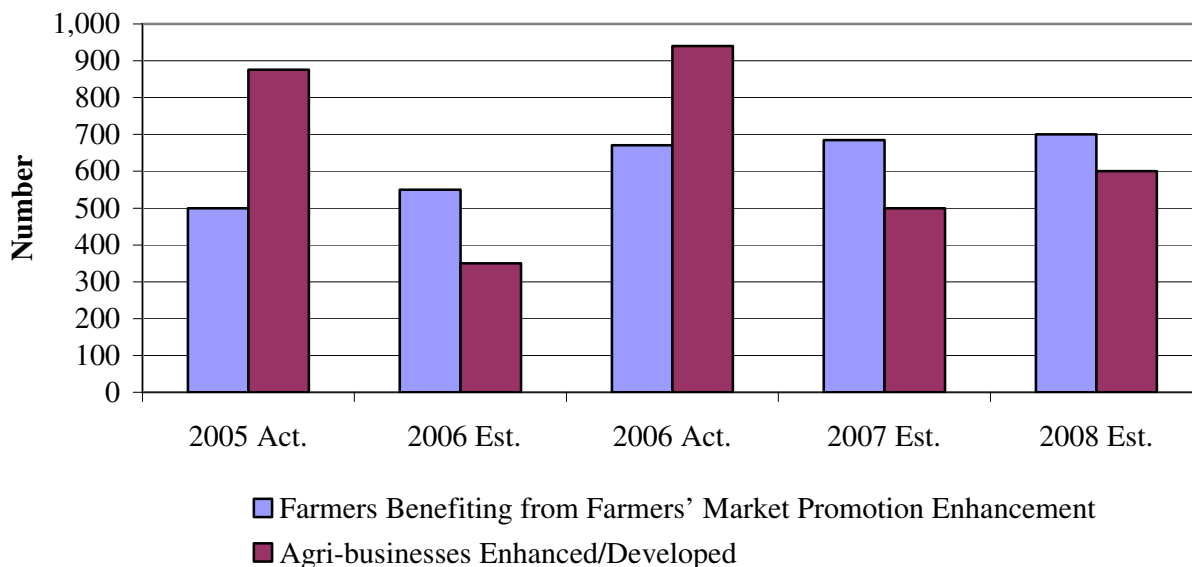
- \$6,880,000 in CRF special funds in the PAYGO budget for the tobacco buyout program; and
- \$3,000,000 in general obligation (GO) bonds in the capital budget for the tobacco buyout (\$770,000) and agricultural land conservation programs (\$2,230,000).

This allocation assumes that a total of \$7,650,000 will be dedicated to buyout payments and \$2,230,000 to agricultural land conservation.

The 2007 *Capital Improvement Program* (CIP) reflects several adjustments that were made last year to the program’s preauthorized GO bond funding in fiscal 2008 through 2011. Specifically, the bond authorization period extends to fiscal 2010 and new pre-authorized appropriation amounts are reflected in fiscal 2008 (\$3.0 million), fiscal 2009 (\$3.0 million), and fiscal 2010 (\$5.0 million).

Program Performance Analysis: The performance data associated with TCC’s efforts to help farmers transition to other agricultural opportunities continues to suggest some success. As shown in **Exhibit 4**, the number of farmers and agri-businesses benefiting from TCC’s marketing efforts increased slightly in 2006. However, agri-business enhancement and development efforts are expected to be far less successful in fiscal 2007 and 2008. **TCC should be prepared to discuss why there was a sharp increase in agri-businesses enhance/developed in fiscal 2006, and why it expects significantly less success in fiscal 2007 and 2008.**

Exhibit 4
Tobacco Transition Program Performance Measurements
Fiscal 2005-2008



Source: Governor’s Budget Books, Fiscal 2007-2008

Tobacco Transition Fund Data**Fund History**

	<i>FY 2006 Actual</i>	<i>FY 2007 Estimated</i>	<i>FY 2008 Estimated</i>
Beginning Balance	\$0	\$0	\$0
REVENUE			
CRF Funds	5,956,000	7,565,000	9,029,000
GO Bonds	5,000,000	1,585,000	3,000,000
MALPF Grant	0	2,415,000	0
TOTAL REVENUE	\$10,956,000	\$11,565,000	\$12,029,000
TOTAL AVAILABLE	\$10,956,000	\$11,565,000	\$12,029,000
ENCUMBRANCES			
Buyout Program	\$7,649,586	\$7,650,000	\$7,650,000
Ag. Land Preservation Program	2,320,001	2,415,000	2,230,000
Infrastructure Grants	572,554	1,100,000	1,709,000
Operating Expenses	413,859	400,000	440,000
TOTAL ENCUMBRANCES	\$10,956,000	\$11,565,000	\$12,029,000
Ending Balance	\$0	\$0	\$0

(\$ in Millions)

<i>Description</i>	<i>2006 Approp.</i>	<i>2007 Approp.</i>	<i>2008 Request</i>	<i>2009 Estimate</i>	<i>2010 Estimate</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>
PAYGO SF	\$4.525	\$6.065	\$6.880	\$7.300	\$7.300	\$7.500	\$7.500
GO Bonds	5.000	1.585	3.000	3.000	5.000	0.000	0.000
Total	\$9.525	\$7.650	\$9.880	\$10.300	\$12.300	\$7.500	\$7.500

Analysis of the FY 2008 Maryland Executive Budget, 2007

Issues

1. Tobacco Transition Program Debt Repayment Proposal Developed

Chapter 103 of 2001, as amended by the 2006 Capital Bond Loan Bill provides \$30.0 million in general obligation (GO) bonding authority over seven consecutive years (fiscal 2004 through 2010) for the Southern Maryland Regional Strategy-Action Plan for Agriculture, commonly referred to as the Tobacco Transition Program.¹ These funds were authorized to supplement Cigarette Restitution Fund (CRF) revenue and help ensure that adequate funding is available for buyout payments and associated programs. Section 9 of Chapter 103 of 2001 requires reimbursement for “...the principle and issuance costs of any debt issued...” The Office of the Attorney General advises that since interest payments are not explicitly mentioned in the language, repayment of interest on the debt is not required.² This uncodified section of Chapter 103 stipulates that the source of the repayments shall come from an annual reduction in the appropriation from the Cigarette Restitution Fund. The timing of these repayments should correspond with reductions in tobacco buyout payments and thus not interfere with the other programs administered through the Southern Maryland Regional Strategy Action Plan for Agriculture.

To ensure that a Tobacco Transition Program GO bond repayment strategy was developed, the budget committees requested that MDA, the Department of Budget and Management (DBM), the Maryland State Treasurer’s Office, and TCC submit a report detailing a proposed repayment schedule for debt authorized for the Tobacco Transition Program. In response to this request, a letter was submitted in January 2007 outlining a repayment proposal (**Exhibit 5**). The letter proposed equal repayment amounts, spread over an eight-year period, beginning in fiscal 2011, the first year after the last request for bond funds. Furthermore, it proposed that issuance costs be repaid with the final repayment submission in fiscal 2018. Finally, the letter noted that since CRF revenue estimates fluctuate, the repayment plan should be revisited in fiscal 2010 when the revenue estimate is more reliable.

¹The General Assembly reduced the fiscal 2004 GO bond appropriation authorization to \$4.0 million. In fiscal 2007, the General Assembly provided \$1.6 million in GO bond funding, and earmarked \$2.4 million of the MALPF appropriation for TCC’s land conservation program.

²This finding is significant as over \$10.0 million in fees and interest on these tobacco bonds will effectively be paid by the Annuity Bond Fund.

Exhibit 5
Proposed Tobacco Transition Bond Repayment Strategy
 (\$ in Thousands)

<u>Fiscal Year</u>	<u>GO Bond Appropriation</u>	<u>Cumulative GO Bond Appropriation</u>	<u>Proposed Repayment Amount</u>	<u>Cumulative Repayment Amount</u>
2004	\$4,000	\$4,000	\$0	\$0
2005	5,000	9,000	0	0
2006	5,000	14,000	0	0
2007	1,585	15,585	0	0
2008	3,000	18,585	0	0
2009	3,000	21,585	0	0
2010	5,000	26,585	0	0
2011	0	26,585	3,323	3,323
2012	0	26,585	3,323	6,646
2013	0	26,585	3,323	9,969
2014	0	26,585	3,323	13,293
2015	0	26,585	3,323	16,616
2016	0	26,585	3,323	19,939
2017	0	26,585	3,323	23,262
2018	0	26,585	3,323*	26,585
Total	\$26,585	\$26,585	\$26,585*	\$26,585

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

Note: Assumes repayment using Maryland Cigarette Restitution Fund revenue, subject to modification in 2010, based upon the latest revenue projection.

Source: Maryland Department of Agriculture

MDA and TCC should be prepared to discuss whether this repayment strategy provides adequate program flexibility and allows for sufficient program funding increases over time.

Recommended Actions

1. Concur with Governor’s allowance.

**Fiscal Summary
Department of Agriculture – PAYGO**

<u>Program/Unit</u>	<u>FY06 Actual</u>	<u>FY07 Wrk Approp</u>	<u>FY08 Allowance</u>	<u>Change</u>	<u>FY07-FY08 % Change</u>
11 Capital Appropriation	\$ 39,275,464	\$ 89,554,000	\$ 69,961,820	-\$ 19,592,180	-21.9%
13 Tobacco Transition	4,525,000	6,065,000	6,880,000	815,000	13.4%
Total Expenditures	\$ 43,800,464	\$ 95,619,000	\$ 76,841,820	-\$ 18,777,180	-19.6%
Special Fund	\$ 43,749,015	\$ 90,619,000	\$ 74,841,820	-\$ 15,777,180	-17.4%
Federal Fund	51,449	5,000,000	2,000,000	-3,000,000	-60.0%
Total Appropriations	\$ 43,800,464	\$ 95,619,000	\$ 76,841,820	-\$ 18,777,180	-19.6%

Note: The fiscal 2007 appropriation does not include deficiencies, and the fiscal 2008 allowance does not reflect contingent reductions.