

## CAPITAL BUDGET HIGHLIGHTS

DNR’s FY10 Capital Budget allowance was about \$64 million, including both General Obligation (GO) bonds and Pay-As-You-Go (PAYGO) funds. Our Capital Budget sustained some program modifications in the form of authorizing both GO and revenue bonding of certain Program Open Space (POS) projects that would otherwise have been funded via PAYGO. The intent was to try to keep as much of POS whole as possible, knowing that its revenue source of the transfer tax is once again down due to the declines in the housing market, while also providing for some cash to be transferred to the State’s General Fund to help balance the State’s budget. What PAYGO cash was taken was replaced with some form of bonding in both the Capital Budget and through the BRFA. The bonding provision provided through the BRFA establishes a framework and authority to use bonds in place of transfer tax revenues for capital-eligible POS programs for three years. The legislature GO bond funded \$71.3 million from FY09 to cover prior land purchases (the recent Foster and Jesuit property acquisitions), as well as \$11.8 million for Rural Legacy (formerly PAYGO) and \$6.2 million for capital development projects. The \$5 million in GO Bonds for Rural Legacy was mostly redirected to certain capital development projects on DNR properties, with about \$4.6 million for this purpose and the remaining \$400,000 transferred to the State’s General Fund. This makes for a total of about \$10.8 million in State appropriations for capital development. \$70 million of prior years’ unencumbered Stateside POS balance is transferred to the General Fund, with an accompanying authorization through a separate bill for DNR to issue up to \$70 million in revenue bonds for which the debt service is pledged with future transfer tax revenues. This authorization for DNR to issue revenue bonds was done via [HB 783](#), which is discussed in further detail in the “Natural Resources/Environment/Agriculture” section of this report. The FY10 Stateside and local share of POS is kept as PAYGO at about \$13 million and \$6 million respectively. Additionally, the Aquatic Life Restoration Program (formerly the Oyster Restoration Program) within the Fisheries Service, originally recommended for deletion by DLS, was maintained at \$3 million in GO Bonds. The Waterway Improvement Fund is proposed to be funded at a total of \$6 million in PAYGO funds. Community Parks and Playgrounds is funded at the full \$5 million level in GO Bond allowance. Pertinent excerpts from the JCR  are included below. Items of interest, aside from the DNR items, include the outcome of individual related bond bills; as well as language modifying and clarifying Maryland Historical Trust (MHT) requirements for appropriate Capital grant authorizations.

### **Joint Chairmen’s Report**

#### **K – Department of Natural Resources**

##### **K00A – Capital Grants and Loans Administration**

KA05 (B) Rural Legacy Program.....\$0

<b>Allowance</b>	<b>Change</b>	<b>Authorization</b>
5,000,000	-5,000,000	0

**Explanation:** The write-down in the fiscal 2010 transfer tax revenue estimate and the inclusion of funding for the Harriet Tubman Underground Railroad State Park – Visitor Center has inhibited the initiation and completion of Department of Natural Resources capital development

projects that are ready for construction funding in fiscal 2010. This language deletes the Rural Legacy Program general obligation bond authorization and allows for a new separate authorization for three capital development projects that are ready to receive construction funding in fiscal 2010, but for which reduced State transfer tax revenue preclude fiscal 2010 construction funding. The three capital development projects mentioned are listed below. The remaining approximately \$400,000 was transferred for other unrelated projects.

KA05 (C) Capital Development Projects .....\$4,569,877  
Add the following language: (C) Program Open Space Capital Development. Provide funds to design, construct, and equip Department of Natural Resources capital development projects in accordance with § 5-903(g) of the Natural Resources Article. Funds may only be spent on the projects listed below: ..... 4,569,877  
 (1) Black Walnut Point Shoreline Erosion Control  
 (Talbot County).....1,653,877  
 (2) Janes Island Nature Center Renovations  
 (Somerset County) .....1,550,000  
 (3) Point Lookout Administration Office Renovations  
 (St. Mary’s County) ..... 1,366,000

<b>Allowance</b>	<b>Change</b>	<b>Authorization</b>
0	4,569,877	4,569,877

**Explanation:** The write-down in the fiscal 2010 transfer tax revenue estimate and the inclusion of funding for the Harriet Tubman Underground Railroad State Park – Visitor Center has inhibited the initiation and completion of Department of Natural Resources capital development projects that are ready for construction funding in fiscal 2010. This language provides construction funding for three capital development projects that are ready to receive construction funding in fiscal 2010, but for which reduced State transfer tax revenue preclude fiscal 2010 construction funding. These three projects listed have been funded with approximately \$4.6 million of the original \$5 million slated as GO bonds for Rural Legacy.

KA05 (D) Rural Legacy Program.....\$11,812,252  
Add the following language: (D) Rural Legacy Program. Provide funds for the purchase of conservation easements and the acquisition of land. The funds appropriated for this purpose shall be administered in accordance with §§ 5-9A-01 through 5-9A-09 of the Natural Resources Article..... 11,812,252

<b>Allowance</b>	<b>Change</b>	<b>Authorization</b>
0	11,812,252	11,812,252

**Explanation:** This language adds general obligation bond funds to fund the purchase of conservation easements and the acquisition of land in the Rural Legacy Program. These funds replace transfer tax revenues proposed to be transferred to the general fund through a provision in the Budget Reconciliation and Financing Act of 2009.

KA05 (E) Program Open Space .....\$71,300,000  
Add the following language: (E) Program Open Space. Provide funds for the purchase of conservation easements and acquisition of land..... 71,300,000

<b>Allowance</b>	<b>Change</b>	<b>Authorization</b>
0	71,300,000	71,300,000

**Explanation:** This language adds general obligation bond funds to fund the purchase of two properties in fiscal 2009. These funds replace transfer tax revenues to be transferred to the general fund through a provision in the Budget Reconciliation and Financing Act of 2009.

KA05 (F) State Capital Improvements .....\$6,159,107  
Add the following language: (F) Program Open Space Capital Development. Provide funds to design, construct, and equip Department of Natural Resources capital development projects in accordance with § 5-903(g) of the Natural Resources Article. Funds may only be spent on the projects listed below:..... 6,159,107

- (1) Harriet Tubman Underground Railroad State Park – Visitor Center and Site Improvements. Provide funds to design and construct a visitor center, access roads, parking, memorial garden, picnic pavilion, informational kiosks, walking paths, on-site wastewater treatment system, and well (Dorchester County) ..... 4,409,107
- (2) Critical Maintenance Program. Provide funds to construct capital improvements such as planned maintenance and repair projects at public use facilities on State-owned property (Statewide)..... 1,250,000
- (3) Dam Rehabilitation Program. Provide funds to construct improvements to dams on State-owned property (Statewide) ..... 500,000

<b>Allowance</b>	<b>Change</b>	<b>Authorization</b>
0	6,159,107	6,159,107

**Explanation:** This language adds general obligation bond funds to fund the design and construction of Harriet Tubman Underground Railroad State Park – Visitor Center and Site Improvements, the Critical Maintenance Program, and the Dam Rehabilitation Program. These funds replace transfer tax revenues proposed to be transferred to the general fund through a provision in the Budget Reconciliation and Financing Act of 2009.

**KA17 – Fisheries Service**

KA17 (A) Aquatic Life Restoration Program. .... \$3,000,000  
Amend the following language: (A) Blue Crab Program. Aquatic Life Restoration Program. Provide grants for the design and construction of oyster habitat restoration projects, wetland restoration projects, and aquaculture development projects..... 3,000,000

**Explanation:** This language changes the name of the Blue Crab Program to the Aquatic Life Restoration Program to better describe the expanded scope of the program.

Other Items of DNR Interest in the Joint Chairmen’s Report – Capital Section

**FB04 – Department of Information Technology**

FB04 (A) High Speed Data Network.....\$950,000  
Add the following language: , provided that it is the intent of the General Assembly that if any funding under the American Recovery and Reinvestment Act of 2009 for broadband expansion is

available to the State, this proposed upgrade shall be undertaken with that funding. Further provided that the Department of Information Technology may not expend funds on this proposed upgrade until August 1, 2009, or until it has submitted a report to the budget committees explaining why it has been unable to use American Recovery and Reinvestment Act broadband funding for this upgrade, whichever is later. The budget committees shall have 30 days from the receipt of the report to review and comment. Further provided that if the Department of Information Technology is able to use American Recovery and Reinvestment Act broadband funding for this proposed upgrade, these funds shall be placed in the Facilities Renewal Fund and used in accordance with the purposes of that fund.

**Explanation:** The language asks the Department of Information Technology (DoIT) to seek federal stimulus funding for this project given the significant allocation of stimulus funds for broadband expansion; establishes legislative intent that, to the extent that federal stimulus is available, this project receive funding; asks DoIT to submit a report; and to the extent federal stimulus funding is available for the project, authorizes the funding to be transferred to the Facilities Renewal Fund.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Use of federal stimulus funds for networkMaryland upgrade	DoIT	30 days prior to the expenditure of funds

## **L00A – Maryland Department of Agriculture**

### **Committee Narrative**

**Easement Monitoring Compliance Report:** The committees are concerned that the Maryland Agricultural Land Preservation Foundation (MALPF) has had multiple audit findings concerning the lack of procedures for ensuring that required annual inspections of easement properties are performed. MALPF has two inspection policies: the Board of Trustees policy for inspections of State-funded purchases and the federal grant agreement policy for federal-funded purchases. By December 1, 2009, MALPF shall submit a report on the current status of its compliance with the Board of Trustees and federal grant agreement inspection policies, including how it will come into compliance with these two policies.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Easement monitoring compliance report	MALPF	December 1, 2009

## **WA01 – Department of State Police**

WA01 (B) Helicopter Replacement .....\$52,500,000

<b>Allowance</b>	<b>Change</b>	<b>Authorization</b>
40,000,000	12,500,000	52,500,000

**Explanation:** This action increases the authorization for the replacement of Medevac helicopters by \$12.5 million. It is estimated that this action would permit, at a minimum, the purchase of three helicopters.

**Bond Bills** – There was a total of \$15 million authorized for both House and Senate bond bills in the State’s Capital Budget for FY10 – split evenly between the two chambers. Below are examples of projects related to DNR.

**ZA02 – Local House Initiatives**

Add the following language:

**(Z) Exploration of Captain John Smith Exhibit.** Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Bayside History Museum, Inc. for the planning, design, construction, and capital equipping of the Exploration of Captain John Smith Exhibit, located in North Beach. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Calvert County) .50,000

**(AA) Adkins Arboretum Native Garden Gateway.** Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Adkins Arboretum, Ltd. for the construction, restoration, capital equipping, and site improvements of the Adkins Arboretum Native Garden Gateway, located in Ridgely (Caroline County)..... 100,000  
This appropriation is in addition to the \$25,000 received through a local Senate initiative cited below.

**ZA03 – Local Senate Initiatives**

Add the following language:

**(T) Parks and People Headquarters at Auchentoroly Terrace.** Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Parks and People, the Foundation of Baltimore Recreation and Parks, Inc. for the construction, renovation, and reconstruction of the Parks and People Headquarters at Auchentoroly Terrace, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust (Baltimore City)..... 50,000

**(AB) Todd’s Inheritance.** Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Baltimore County for the renovation, reconstruction, and capital equipping of Todd’s Inheritance, located in Edgemere (Baltimore County)..... 50,000

**(AD) Adkins Arboretum Native Garden Gateway.** Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Adkins Arboretum, Ltd. for the construction, restoration, capital equipping, and site improvements of the Adkins Arboretum Native Garden Gateway, located in Ridgely (Caroline County) ..... 25,000  
This appropriation is in addition to the \$100,000 received through a local House initiative cited above.

**Section 1**

Amend the following language: (6) (a) Prior to the issuance of the bonds, unless the Maryland Historical Trust determines that the property to be assisted by a grant under Section 1(3) Items

ZA02 and ZA03 (i.e. – local House and Senate initiatives – bond bills) of this Act is not significant, is significant only as a contributing property to a historic district listed in the Maryland register of historic properties, is a type that is already adequately represented among the Trust’s existing easement properties, or is already subject to a perpetual historic preservation easement acceptable to the Trust (like most of the properties associated with DNR), the grantee shall grant and convey to the Maryland Historical Trust a perpetual preservation easement to the extent of its interest:

- (i) On the land or such portion of the land acceptable to the Trust; and
- (ii) On the exterior and interior, where appropriate, of the historic structures.

**Explanation:** This language modifies and clarifies Maryland Historical Trust requirements for capital grant authorizations for local House and Senate initiatives, or bond bills.

Add the following language: (7) (a) Except as provided in subparagraph (b) of this paragraph, the proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, 2016. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2016, the amount of the unexpended or unencumbered authorization shall be canceled and be of no further force and effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article. (b) The proceeds of a loan authorized under Section 1(3) Items ZA02 and ZA03 of this Act must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, 2011. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2011, the amount of the unexpended or unencumbered authorization shall be canceled and be of no further force and effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in §8–129 of the State Finance and Procurement Article.

**Explanation:** This language will provide for a two-year termination on local initiative capital grant authorizations (i.e. – bond bills).

### **Section 13**

Add the following language: SECTION 13. AND BE IT FURTHER ENACTED, That notwithstanding any other provision of law, except for the Seagirt terminal and the State Center transit oriented development project, for fiscal 2010 only, no State agency may enter into a public-private partnership agreement for a capital project except subject to the following provisions:

- (1) Not less than 30 days before issuance of the solicitation for a public-private partnership for a capital project, an agency shall submit a preliminary project plan to the budget committees that describes and justifies the capital project; any buildings and land involved; the involvement and role of any units of State government or local governments; an analysis of the justification for pursuing a public-private partnership rather than traditional State construction and financing; and, to the extent known, the sources and uses of State funds for predevelopment costs and private sector predevelopment costs.
- (2) Not less than 45 days before entering into a master development agreement, an agency shall submit to the budget committees for review and comment a pro forma analysis outlining the capital project financing plan, including any cash or in-kind contributions, general obligation or

other debt to be issued by any private, State, and non-budgeted agency (including interest rate and maturity assumptions); two independent appraisals of any land or buildings involved; proposed use of tax credits; grants or other funding from the Department of Business and Economic Development or any other State agency; tax increment financing; investor equity from any source; and assumptions of the impact on the State operating budget; and

(3) An assessment by the State Treasurer, after consultation with bond counsel, the Comptroller and bond rating agencies as to whether the capital project represents a capital lease and is subject to State debt affordability limits.

**Explanation:** This provision institutes legislative oversight procedures for public-private partnerships (P3) in fiscal 2009 and 2010 only. Under these provisions, the budget committees are to receive at least 30 days notice and justification for any proposed P3 project. Additionally, for proposed P3 agreements, the budget committees are to receive a pro forma financial plan for 45 days review and comment.

<b>Information Request</b>	<b>Authors</b>	<b>Due Date</b>
Public-private partnership preliminary report plan	Any applicable State agency	30 days prior to issuance of solicitation
Public-private partnership pro-forma analysis	Any applicable State agency	45 days prior to entering into a master development agreement