Program Open Space: An Overview of Land Preservation Programs in Maryland

Introduction

Maryland is committed to conserving and preserving natural lands, waters, and habitats, and maximizing outdoor recreation opportunities for its citizens. The State's nationally recognized Program Open Space (POS) is its leading land conservation program. Generally, POS acquires and improves outdoor recreation and open space areas for public use. The program also preserves unique natural areas that are home to rare and endangered species. The State's goal is to conserve these lands before unaffordable land prices or development makes the task impossible.

POS is funded by the real estate transfer tax, through a statutory formula, but a significant amount of that funding has been transferred away from the program and other land preservation programs in recent years to help balance the State's operating budget. Those funds have been partially replaced with general obligation (GO) bond funding. The Department of Natural Resources (DNR) administers the program and allocates funding for State and local projects.

This report begins with a brief description of the history of POS. Next, it provides a discussion of the funding sources for POS, the distribution of funds within the program, and an overview of the State and local components of the program. The report continues with a description of other State land conservation programs, some of which are financed with funds derived from the transfer tax. The report concludes with a description of POS accomplishments and an outlook for the future of the program.

History of Program Open Space

POS was initially established under a State debt authorization (authorizing debt to fund the program) in 1969 and was codified in 1970. The General Assembly declared that the program was needed "(1) to expedite the acquisition of outdoor recreation and open space areas before the escalating costs of land prevents its purchase for public use and before potential areas are devoted to some other use; and (2) to accelerate development of needed outdoor recreation facilities."

The authorized uses and distribution of POS funding have evolved over time. The program's initial focus was land conservation through acquisition. Land acquisition is still a significant focus of the program, but statutory changes have allowed for a greater amount of funding to be used for other purposes under the program, and some statutory changes have effectively directed funding outside of the program to other related programs or uses. The authorized uses of the State component now include, among other things, capital improvements to State-owned land, critical maintenance, the elimination of health and safety hazards and the protection of water quality on acquired lands, and the provision of public access to recreational and open space sites. Other legislative actions have authorized the use of local funds for indoor recreation facilities and have authorized certain local governments to use a greater portion of their funding for development projects. In addition, a portion of POS overall funding is authorized to be transferred to the Maryland Heritage Areas Authority Financing Fund, a portion of POS State component funding is authorized to be transferred to the Rural Legacy Program (another land conservation program), and a significant portion of what was previously local component funding, along with a smaller portion of State component funding, is now used for the operation of State parks.

Appendix 1 contains a summary of the major changes that have affected POS since its establishment.

Funding for Program Open Space

Transfer Tax

When POS was first established in 1969, State debt (the Outdoor Recreation Land Loan of 1969) was authorized to fund the program and the State real estate transfer tax (0.5% of the consideration paid for the transfer of real property) was established to repay the principal and interest on the debt. Today, there is a statutory formula for transfer tax revenues to be allocated directly to POS and other land conservation programs. The formula has been revised over the years, with the revisions including a number of transfers of funding, mostly to the general fund, in specific fiscal years to help balance the operating budget. POS also receives a certain amount of federal funding each year.

Appropriations of transfer tax revenues are based on annual collection estimates. Before program-specific allocations are made, (1) approximately $6 million to $7 million is allocated each fiscal year to debt service on GO bonds issued under the Program Open Space Acquisition Opportunity Loan of 2009 (Chapter 419 of 2009, amended by Chapter 372 of 2010), for which transfer tax revenues were pledged to pay the principal and interest on the bonds (with payments continuing through fiscal 2026); and (2) 3% of the reconciled revenue estimate for a fiscal year is distributed to DNR for administration. Most of the GO bond funding used for POS and other transfer tax-funded programs (in place of transfer tax revenues transferred away from the programs to help balance the operating budget) has been authorized in the capital budget bill and has not required the use of transfer tax revenues for debt service on the bonds. The Program Open Space Acquisition Opportunity Loan of 2009 was an exception, in which the bonds were authorized in a separate bond enabling act and transfer tax revenues were pledged for debt service on the bonds.

Statutory provisions then divide and subdivide the funding among POS, the Maryland Agricultural Land Preservation Foundation (MALPF), the Rural Legacy Program, the Heritage Conservation Fund, the Heritage Areas Authority Financing Fund, and the operation of State forests and parks (in practice, this funding has been directed to the Maryland Park Service), through required allocations or authorizations to use certain amounts for certain programs or uses. **Exhibit 1** shows the allocation of funding among those programs and uses in fiscal 2016, reflecting significant use of GO bond funding in place of transfer tax revenues that were transferred to the general fund.

Exhibit 1
Programs Historically Funded by the Transfer Tax, Including Other Sources of Funding
Fiscal 2016
($ in Millions)

	Transfer Tax SF	Other SF	FF	GO	Total
Debt Service	$6.4	$0.0	$0.0	$0.0	**$6.4**
Administrative Expenses	5.2	0.0	0.0	0.0	**5.2**
Program Open Space					
State	6.7	0.0	3.0	30.7	**40.4**
Local	0.0	0.0	0.0	30.1	**30.1**
Agricultural Land Preservation	0.0	9.1	0.0	17.0	**26.1**
Rural Legacy Program	0.7	0.0	0.0	9.4	**10.1**
Heritage Conservation Fund	0.0	0.0	0.0	0.0	**0.0**
Heritage Areas Authority	3.0	0.0	0.0	0.0	**3.0**
Maryland Park Service	24.1	8.7	0.1	0.0	**32.9**
Total	**$46.2**	**$17.8**	**$3.1**	**$87.3**	**$154.3**

FF: federal funds
GO: general obligation bond proceeds/premiums
SF: special funds

Note: The other special funds reflected for the Maryland Agricultural Land Preservation Foundation primarily reflects local jurisdiction contributions. The other special funds and federal funds for the Maryland Park Service reflect the remainder of its budget.

Source: Department of Legislative Services

Diversions and Transfers

From fiscal 2002 through 2006, transfer tax revenue was diverted to the general fund, limiting the revenue available for POS and other land conservation programs. GO bonds were used to partially replace the diverted transfer tax revenue in fiscal 2004 and 2005. Legislation enacted in 2005 required that, beginning in fiscal 2012, previous transfers of the transfer tax to the general fund in fiscal 2006 and subsequent fiscal years be reimbursed under specified circumstances. This requirement has since been delayed twice and now does not apply until fiscal 2019, and certain transfers have been exempted from the requirement. From fiscal 2009 through 2016, transfer tax revenue was again diverted to the general fund – and in one case, to the Budget Restoration Fund – and partially replaced with GO bond funding. In the fiscal 2016 capital budget, all pre-authorizations of GO bond replacement funding for prior year and planned future year diversions of the transfer tax to the general fund were deleted to help eliminate the State's structural deficit.

Exhibit 2 shows the amount of the proceeds of the transfer tax transferred to the general fund from fiscal 2006 through 2016.

Exhibit 2
Transfer Tax Transferred to the General Fund
Fiscal 2006-2016
($ in Millions)

Fiscal Year	Transfers	Replacements	Difference
2006	$90.0	$0.0	-$90.0
2007	0.0	0.0	0.0
2008	0.0	0.0	0.0
2009	136.5	0.0	-136.5
2010	188.5	130.6	-57.9
2011	23.5	156.3	132.7
2012	94.5	45.8	-48.7
2013	96.9	86.6	-10.3
2014	89.2	59.4	-29.8
2015	154.7	67.1	-87.6
2016	115.4	87.3	-28.1
Total	**$989.2**	**$633.0**	**-$356.2**

Note: This exhibit reflects all $70.0 million of Program Open Space Acquisition Opportunity Loan of 2009 funding split between fiscal 2010 and 2011. Funds transferred under the Budget Reconciliation and Financing Act (BRFA) of 2012 went to the Budget Restoration Fund rather than the general fund; even so, these fund transfers are reflected above. The fiscal 2015 transfer of $154.7 million includes $10.5 million transferred as part of the BRFA of 2015.

Source: Department of Legislative Services

Program Open Space – State Component

Distribution of Funds

Excluding the portions of POS funding distributed to the Rural Legacy Program and State park operations, the State component of POS includes land acquisition funding, a direct grant of at least $1.5 million to Baltimore City for park projects (which is in addition to funding the city receives under the local component of POS) and capital development funding. Capital development under the POS State component consists of DNR maintenance and repair projects at public use facilities (Critical Maintenance Projects), design and construction of development projects on DNR property (Natural Resource Development Fund), and Ocean City beach replenishment (the costs of which are shared with the federal government, Worcester County, and Ocean City). **Exhibit 3** shows the distribution of fiscal 2016 funding among the different parts of the State component, along with the local component total. **Exhibit 4** shows recent levels of funding for land acquisition under the State component of POS (the portion of the State component that POS is most identified with).

Exhibit 3

Program Open Space State and Local Funded by the Transfer Tax, Including Other Sources of Funding

Fiscal 2016

($ in Millions)

	Transfer Tax SF	FF	GO	Total
POS – State Component	**$6.7**	**$3.0**	**$30.7**	**$40.4**
State Land Acquisition	0.0	3.0	21.6	**24.6**
Baltimore City Direct Grant	1.5	0.0	0.0	**1.5**
Capital Development				
Critical Maintenance Program	3.3	0.0	2.8	**6.1**
Natural Resources Development Fund	1.9	0.0	5.3	**7.2**
Ocean City Beach Maintenance	0.0	0.0	1.0	**1.0**
POS – Local Component	**$0.0**	**$0.0**	**$30.1**	**$30.1**
Total	**$6.7**	**$3.0**	**$60.9**	**$70.6**

FF: federal funds
GO: general obligation bonds
POS: Program Open Space
SF: special funds

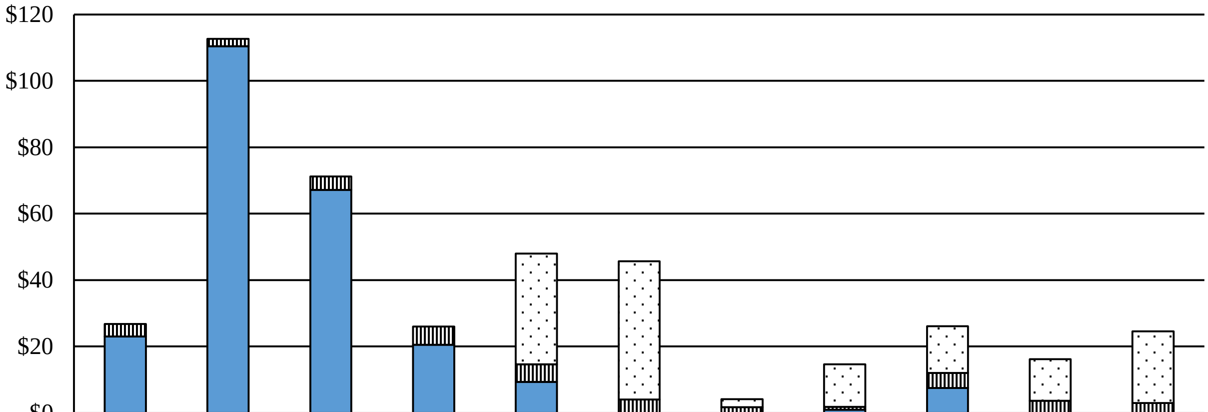
Source: Department of Legislative Services

Exhibit 4

Program Open Space State Land Acquisition Funding

Fiscal 2006-2016

($ in Millions)



	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
GO	$0.0	$0.0	$0.0	$0.0	$33.3	$41.7	$2.3	$12.8	$14.1	$12.6	$21.6
FF	$3.7	$2.3	$4.0	$5.5	$5.3	$4.0	$1.8	$0.9	$4.5	$3.6	$3.0
SF	$23.1	$110.4	$67.2	$20.5	$9.4	$0.0	$0.0	$1.0	$7.5	$0.0	$0.0

FF: federal funds
GO: general obligation bonds
SF: special funds

Source: Department of Legislative Services

Evaluation of Potential Land Acquisitions

DNR has implemented a two-step process for targeting the most desirable lands for conservation. The first step prioritizes the most ecologically valuable lands and watersheds in the State as “targeted ecological areas,” and identifies the areas on the State’s interactive GreenPrint map. The GreenPrint map combines color-coded maps, information layers, and aerial photography to show the relative ecological importance of every parcel of land in the State. The second step is a parcel-specific assessment of the public benefits and management considerations of a potential acquisition. DNR verifies the various benefit and cost factors through onsite inspections.

DNR also uses State component funds to acquire lands outside the targeted ecological areas for exceptional recreational, cultural, historical, educational, water access, resource-based economic, or in-holding management purposes. In addition, some State component funding is used for special projects that leverage federal funds, including activities conducted as part of the Conservation Reserve Enhancement Program (CREP).

Program Open Space – Local Component

Distribution of Funds

DNR allocates local component funds among the counties according to a formula established in 1982 that is based on past grant amounts, population change, and transfer tax revenue collections in each jurisdiction. To participate in the grant process, a county submits an annual program of proposed acquisition and development projects to DNR for approval. The annual program becomes the basis for a grant agreement for the county's total annual allocation.

A municipality may receive POS funds through its county. The municipality must apply to its county for consideration of proposed municipal projects along with other county projects.

Generally, a local jurisdiction, except Baltimore City, must use at least 50% of its annual allocation of POS funds for land acquisition projects. Up to 20% of the remaining funds may be used for capital renewal. Baltimore City may use any portion of its annual apportionment for acquisition or development projects.

Attainment of Local Land Acquisition Goals

Each county also must have a local land preservation and recreation plan that specifies land acquisition goals based on population data. The plan must be updated every five years and approved by DNR and the Maryland Department of Planning (MDP). Similarly, every five years, the State develops a Maryland Land Preservation and Recreation Plan (MLPRP) to identify issues impacting outdoor recreation and natural resource protection in the State. The MLPRP recommends a minimum local recreational goal (30 acres of recreational land per 1,000 persons). However, a county's land acquisition goals may differ from the minimum recommended acreage goals developed under the MLPRP (most recently updated in spring 2014).

If DNR and MDP certify that the acquisition goals set forth in the county's current approved land preservation and recreation plan have been met and that the acreage attainment equals or exceeds the minimum recommended acreage goals developed for the county under the State's plan, the county may use up to 75% of its future annual allocation for development projects for a period of five years. In this circumstance, up to 20% of the funds authorized for use for development projects may be used for capital renewal.

Matching Funds, Federal Funds, and Unencumbered Funds

In addition, a county must provide matching funds for development projects and must apply for federal funds for both acquisition and development projects or verify that a project is not eligible for federal funds. The percentage requirement for the local match varies based on the type of project, whether federal funds are provided, and whether the county has met its land acquisition goals.

Finally, if any portion of an annual allocation is not encumbered within five years, and the county does not demonstrate to DNR that the funds are designated for a specified purpose, the unencumbered funds revert to DNR and are added to the subsequent year's local share of POS funding for reapportionment among the counties.

Exhibit 5 shows POS funding allocated through the local component formula, by county, for fiscal 2016.

Exhibit 5
Program Open Space Local Component Formula Funding by County
Fiscal 2016

	POS Local Component Formula Funding	Baltimore City Direct Grant	Per Capita Aid	Per Capita Ranking
Allegany	$242,307	$0	$3	15
Anne Arundel	2,579,956	0	5	4
Baltimore City	2,313,512	1,500,000	6	1
Baltimore	2,918,918	0	4	10
Calvert	255,804	0	3	21
Caroline	113,536	0	3	11
Carroll	579,723	0	3	12
Cecil	298,413	0	3	20
Charles	525,484	0	3	14
Dorchester	96,883	0	3	19
Frederick	599,465	0	2	24
Garrett	119,523	0	4	6
Harford	858,465	0	3	13
Howard	1,521,717	0	5	3
Kent	72,514	0	4	8
Montgomery	3,833,479	0	4	7
Prince George's	3,297,816	0	4	9
Queen Anne's	154,374	0	3	16
St. Mary's	290,716	0	3	23
Somerset	69,703	0	3	22
Talbot	161,929	0	4	5
Washington	456,994	0	3	17
Wicomico	304,542	0	3	18
Worcester	287,728	0	6	2
Total	**$21,953,501**	**$1,500,000**	**$4**	

POS: Program Open Space

Note: The exhibit does not reflect $8.2 million in general obligation bonds (included in the Program Open Space Local totals in Exhibits 1 and 3) that were authorized by the General Assembly to replace prior year unencumbered balances (accumulation of yet to be used prior year appropriated funding) transferred to the State's general fund in fiscal 2015. Those funds are allocated among the counties in the fiscal 2016 capital budget bill according to the specific unencumbered balance amounts that were transferred from each county's account in fiscal 2015 and not through the local component formula.

Source: Department of Natural Resources; Department of Legislative Services

Other Land Conservation Programs Funded by the Transfer Tax

State transfer tax revenue is also distributed to other land conservation programs, as described below.

- **MALPF:** MALPF's mission is to preserve productive agricultural land and woodland, curb the expansion of random urban development, curb the spread of urban blight and deterioration, and protect agricultural land and woodland as open space. MALPF also has an ancillary mission to protect wildlife habitat and enhance the quality of the Chesapeake Bay and its tributaries. To these ends, MALPF purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. At the end of fiscal 2014, MALPF had purchased easements on a total of 2,154 properties preserving about 292,357 acres of farmland, representing a public investment of more than $645 million.

- **Rural Legacy Program:** The Rural Legacy Program preserves large blocks of working rural lands for future generations. The program protects natural, cultural, agricultural, forest, and environmental resources from urban sprawl and development and promotes land conservation statewide by granting funds to local governments and conservation organizations (such as land trusts) to conserve land through the purchase of easements within designated rural legacy areas. The program is distinguishable from MALPF in three ways: (1) it is not restricted to preserving agricultural land; (2) it pays landowners extra for implementing active conservation measures such as planting naturally vegetated stream buffers; and (3) it is more amenable to use near population centers and areas surrounded by blocks of preserved land. The program uses an objective scoring approach similar to POS targeting to review applications for and allocate its limited funds. As of May 2015, the program had designated 33 rural legacy areas in 23 counties, awarded more than $239 million in grants for the purchases of easements or the acquisition of land, and preserved 82,847 acres of land.

- **Heritage Conservation Program:** The Heritage Conservation Program acquires land specifically for the protection of rare, threatened, or endangered plant or animal species and significant habitats. Program sites are located on land owned by DNR and managed by the Maryland Park Service, the Wildlife and Heritage Service, or the Maryland Forest Service. As of 2014, DNR managed 32 Heritage Conservation Program sites on a total of 9,757 acres.

- **Maryland Heritage Areas Program:** The Maryland Heritage Areas Program is governed by the Maryland Heritage Areas Authority and administered by the Maryland Historic Trust. Heritage areas are required to reflect the cultural themes of Maryland's development and provide educational, inspirational, economic, and recreational benefits to present and future generations. The authority provides targeted financial and technical assistance to heritage areas. As of August 2015, 13 heritage areas had been established.

Other Methods of Land Conservation

The State also conserves land using other methods that are not funded by the State's transfer tax. These methods are described in further detail below.

- **Maryland Environmental Trust:** The Maryland Environmental Trust protects the natural resource, environmental, cultural, rural, agricultural, woodland, wetland, and scenic characteristics of the State primarily through the acceptance of donated conservation easements. More than 1,000 individual easements covering more than 131,000 acres are protected and managed by the trust. The trust also has assisted in the formation and operation of more than 50 local nonprofit land trusts through the Local Land Trust Assistance Program and an informal network known as the Maryland Land Trust Alliance.

- **Wildlands:** Wildlands are limited areas of land or water that have retained their wilderness character, although not necessarily completely natural and undisturbed, or have rare or vanishing plant or animal life or similar features of interest worthy of preservation. The State wildlands preservation system devotes State-owned wildlands to public purposes for recreational, scenic, scientific, educational, conservation, and historic use. Commercial activities, permanent or temporary roads, and the use of motorized equipment, vehicles, boats, or structures are not allowed in wildlands, subject to existing private rights and certain limited exceptions. The system has been expanded many times since its creation, most recently in 2014. There are currently 38 separate designated wildlands in the State, consisting of a total of approximately 66,000 acres.

- **CREP:** CREP is a federal-state partnership that compensates farm owners who agree to take environmentally sensitive farmland out of production for 10 to 15 years and, instead, implement conservation management practices such as planting streamside buffers, establishing wetlands, protecting highly erodible soils, or establishing wildlife habitat. CREP, a voluntary program, offers the farm owner an initial signing bonus of up to $250 per acre, annual rental and incentive payments, and cost share assistance for the implementation of the conservation management practices. Permanent easements are available in some areas. In Maryland, as of June 2015, approximately 61,000 acres of farmland were subject to conservation management practices under the program.

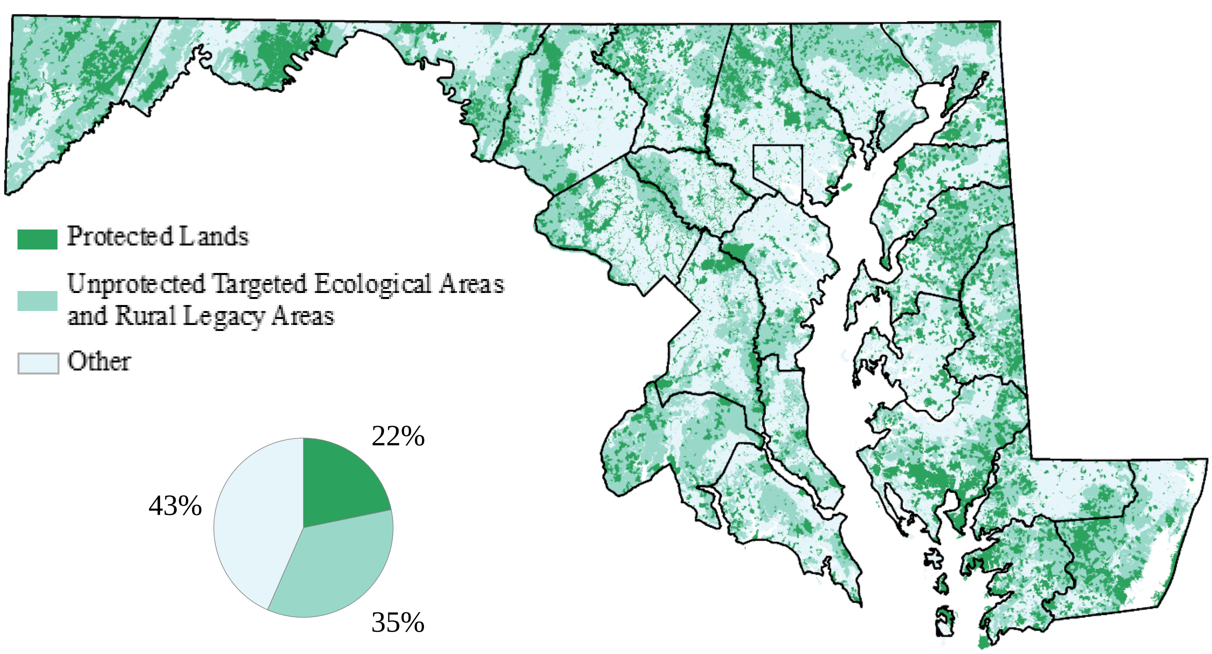
- **Forest Conservation Program:** The State's Forest Conservation Program minimizes the loss of forestland due to development pressure and ensures that priority areas for forest retention and forestation are identified and protected before development. Priority areas include nontidal floodplains, streams and accompanying buffers, steep slopes, and critical habitats. Under the program, a developer that clears forestland must meet established afforestation and reforestation requirements. The amount of afforestation or reforestation required is determined by a statutory formula that takes into account the land use classification of the site, the amount of forest cover initially present at the site, and the amount of forest to be cleared or retained for the project. Under specified circumstances, a developer may pay a sum of money to the State Forest Conservation Fund or a local forest conservation fund for mitigation purposes instead of performing the necessary afforestation or reforestation. All forestland retained, afforested, or reforested is subject to long-term protective measures.

Program Open Space Accomplishments and Outlook

Accomplishments

As of August 2015, POS has protected over 370,000 acres of land, including the acquisition of more than 325,000 acres for State parks and natural resource areas and more than 46,000 acres of local parkland. More than 6,400 local park and land conservation projects have been assisted through POS grants. POS has supported State and local efforts to establish greenways and a green infrastructure network; conserve natural areas, forests, wildlife habitats, and historic and cultural sites; and provide State parks, local parks, or other public open space within 15 minutes of most Maryland residents. **Exhibit 6** depicts lands already under protection through State and other programs along with lands identified by DNR as targeted ecological areas and rural legacy areas identified under the Rural Legacy Program, the unprotected portions of which represent priorities for future protection. POS funds, however, are also used to protect land outside of these areas that might have value for recreational, cultural, historic, or other reasons.

Exhibit 6
Protected Lands and Unprotected Targeted Ecological Areas and Rural Legacy Areas



Note: This map and pie graph were created using geographic information system data available on the Department of Information Technology's MD iMAP website. Changes to the land acreages, since the data was created, could slightly affect the percentages shown.

Source: Department of Natural Resources; Department of Information Technology; Department of Legislative Services

A total of $1,535.7 million has been authorized for POS from its inception through January 2015. A total of $1,372.4 million has been expended under the program during the same period.

Outlook

In the 2015 *Joint Chairmen's Report*, the budget committees of the General Assembly requested an evaluation of the State's land preservation and easement acquisition programs and all capital and operating programs funded with the transfer tax. A workgroup comprised of representatives of DNR, MDP, the Maryland Department of Agriculture, the Department of Budget and Management, county parks and recreation agencies, and other interested stakeholders began the evaluation process in June 2015.

The workgroup is required to evaluate the land preservation and easement acquisition programs in the State in regards to the roles the programs play relative to each other and in statute, and the funding each receives through the transfer tax. The programs required to be evaluated include POS (State and local), MALPF, and the Rural Legacy Program, all of which receive funding through the transfer tax and the Maryland Environmental Trust. The workgroup is also required to examine the feasibility of combining some or all aspects of the programs. The workgroup's final report is due December 1, 2015.

The workgroup will likely spend most of its time addressing funding for land preservation and easement acquisition programs. Initial workgroup meetings suggest that, in the coming months, the workgroup may consider the following:

- ways to stop the diversion of transfer tax revenue to the general fund;
- given that there is still a structural deficit for fiscal 2017, a recommendation that transfer tax revenues only be diverted in that fiscal year to assist in balancing the general fund and requiring the diverted revenue to be replaced by bond revenue;
- the creation of mechanisms, including a "lockbox," requiring a supermajority vote of the General Assembly, before transfer tax may be diverted (as was done for the Transportation Trust Fund in 2013) to ensure that, once the structural deficit is closed, transfer tax revenues return to fully funding the conservation programs for which they are intended; and
- issues related to the repayment of transfer tax revenues diverted to the general fund in previous and future fiscal years.

History of Major Changes

1969	Chapter 403 established Program Open Space (POS) under an authorization for State debt to be issued to fund the program.
1970	Chapter 606 codified POS.
1984	Chapter 665 capped transfer tax revenues dedicated to POS at $24.0 million.
1987	Chapter 303 increased the cap to $29.0 million in fiscal 1988 and $32.0 million in subsequent years. Chapter 450 established new requirements related to the funding of local acquisition and development projects, allowing local governments that meet or exceed acreage acquisition goals to use a greater portion of their funds for development projects.
1990	Chapter 63 made various changes to the program, including phasing out the cap on the program by fiscal 1996, expanding the allowable uses of the State's share of funding (to include capital improvements to State-owned land, among other uses), and requiring certain local POS funds that are unencumbered after five years from the original date of allocation to revert to the State and be reapportioned among the local governments in the next fiscal year. Chapter 63 also provided for over or underattainment of State transfer tax revenues (in relation to the revenue estimates used as the basis for budget appropriations) in a given fiscal year to be reconciled by an increase or reduction in the following year's allocations.
1991	The Legislative Policy Committee of the General Assembly established the Joint Subcommittee on Program Open Space and Agricultural Land Preservation to oversee and monitor the progress of POS and the Maryland Agricultural Land Preservation Program. The joint subcommittee is also charged with evaluating legislation affecting the two programs.
1993	Chapter 204 altered the allocation of transfer tax revenues between the program and the general fund and delayed the phase-out of the cap until fiscal 1997.
1996	Chapter 600 delayed the dedication of 100% of the transfer tax to POS and related programs until fiscal 1998. Chapter 600 also required that reconciliation of over or underattainment of transfer tax revenues occur in the second, rather than the first, subsequent fiscal year. Chapter 601 authorized the Governor to transfer $1.0 million in POS funds to the Maryland Heritage Areas Authority Financing Fund. Chapter 659 authorized the Department of Natural Resources (DNR) to use up to 12.5% ($800,000), in fiscal 1997 only, of the State's share of POS funds available for capital improvements, to operate State forests and parks.
1997	Chapter 672 authorized DNR to use up to $1.0 million of the State's share of POS funds available for capital improvements to operate State forests and parks in fiscal 1998 and to use up to $1.2 million for State forest and park operations in

subsequent years. Chapters 757 and 758 established the Rural Legacy Program and altered the distribution of State transfer tax revenue among POS and related programs, providing for a percentage to be distributed to the Rural Legacy Program.

2001 Chapter 658 temporarily increased, from 75.0% to 100.0%, the amount a local government can spend on development projects once it has been certified by DNR and the Maryland Department of Planning (MDP) as having attained its acreage acquisition goals. Chapter 658 terminated September 30, 2006.

2002-2005 As a result of budget reconciliation legislation in each of these years, $479.2 million in State transfer tax revenue was redirected to the general fund from fiscal 2002 through 2006, limiting revenue available for POS and other land conservation programs. An additional $39.8 million in fund balances from transfer tax-funded programs, including POS, was transferred to the general fund in fiscal 2002 and 2003 through budget reconciliation legislation. General obligation (GO) bonds were used to partially replace redirected transfer tax funding in fiscal 2004 and 2005.

2005 Chapter 473 required, among other things, that, beginning in fiscal 2012, previous transfers of State transfer tax revenue to the general fund, occurring in fiscal 2006 and subsequent fiscal years, be reimbursed under certain circumstances. Chapter 473 also required that in fiscal years in which revenue was transferred or appropriated to the general fund, any overattainment of revenue in the preceding fiscal year be allocated in the subsequent fiscal year among POS and other programs (the excess revenue would otherwise be allocated in the second subsequent fiscal year). Chapter 473 also specified that an existing required allocation of “a portion” of the State’s share of POS funding to Baltimore City for park projects be “at least $1.5 million.” Chapter 209 increased the amount of POS funds authorized to be transferred to the Heritage Areas Authority Financing Fund from $1.0 million to $3.0 million. The Budget Reconciliation and Financing Act (BRFA) of 2005 (Chapter 444) authorized the use of up to $2.5 million of the State’s share of POS funds to operate State forests and parks in fiscal 2006 only.

2007 Chapter 2 of the 2007 special session amended the allocation of POS funds to require that, of the funds remaining after any distribution to the Maryland Heritage Areas Authority Financing Fund, 20.0%, or $21.0 million, whichever is greater, be appropriated for the operation of the State’s forests and parks. This new allocation reduced the share of POS funds distributed to the local component of the program

2008 Chapter 163 again temporarily increased from 75.0% to 100.0% the amount a local government can spend on development projects once it has been certified by DNR and MDP as having attained its acreage acquisition goals. Chapter 163 terminated May 31, 2010.

2009 The BRFA of 2009 (Chapter 487) authorized the transfer of $172.3 million in transfer tax funding to the general fund, but none of the transferred funds had been allocated for local POS projects. An equivalent amount of special and GO debt to replace the transferred funding was authorized through Chapter 419 and the fiscal 2010 capital budget (Chapter 485). Chapter 487 also required that, in fiscal 2011 through 2013, to the extent that additional bond proceeds were used to fund POS and other land conservation programs, an equivalent amount of State transfer tax funding be redirected from those programs to the general fund. The allocations of transfer tax funding to the general fund provided for under Chapter 487 were not subject to requirements established under Chapter 473 of 2005 that provide for reimbursement of State transfer tax revenue appropriated or transferred to the general fund in certain cases.

Chapter 206 authorized the use of local POS funds for both indoor and outdoor recreation and open space purposes, including the construction of indoor nature centers and indoor aquatic, golf, and community facilities. Funding had been used for indoor recreation projects prior to the enactment of Chapter 206, but uncertainty was raised regarding the consistency of those uses with the law.

2010 The BRFA of 2010 (Chapter 484) authorized the transfer of $211.6 million in transfer tax funding to the general fund, consisting of both unexpended prior year funding and fiscal 2011 funding for POS, the Rural Legacy Program, and the Maryland Agricultural Land Preservation Foundation. Unlike the BRFA of 2009, a significant amount of the funding transferred under Chapter 484 (more than $100.0 million) was from the local share of POS funding. The fiscal 2011 capital budget (Chapter 483) authorized and pre-authorized the replacement of almost all of the transferred funding (including all of the local POS funding) with GO debt over the course of fiscal 2011 through 2013. Like the transfers authorized under Chapter 487 of 2009, the allocations of transfer tax funding to the general fund provided for under Chapter 484 were not subject to requirements established under Chapter 473 of 2005 that provide for reimbursement of State transfer tax revenue appropriated or transferred to the general fund in certain cases.

Chapter 372 amended Chapter 419 of 2009, which originally authorized up to $70.0 million of special obligation debt (supported by transfer tax revenue), to allow for up to $70.0 million of either special or GO debt to be incurred.

2011 The BRFA of 2011 (Chapter 397) authorized the transfer of $5.6 million in transfer tax revenues to the general fund in fiscal 2011 and the transfer of $94.5 million in transfer tax revenues to the general fund in fiscal 2012 (including $20.8 million from the local share of POS funding). Although not required by Chapter 397, the transferred funds were partially replaced over a three-year period (fiscal 2012 through 2014) with GO bonds.

Chapter 470 again increased the maximum percentage (from 75.0% to 100.0%) of POS funds that a local government may spend on development projects once it has attained its acreage acquisition goals. Additionally, Chapter 470 repealed a five-year limit on the period of time during which POS funds may be used for such projects. Counties that qualified to use funds for development projects were required to use 25.0% of the funds only for land acquisition, repair or renovation of existing recreational facilities or structures, or capital renewal. Chapter 470 terminated on May 31, 2014.

2012 The BRFA of 2012 (Chapter 1 of the first special session of 2012) authorized the transfer of $96.9 million in transfer tax revenues to the Budget Restoration Fund in fiscal 2013 (including $13.6 million from the local share of POS funding). The transferred funds were partially replaced over a three-year period (fiscal 2013 through 2015) with GO bonds.

Chapters 235 and 236 of 2012 required the State to provide 90.0% of the total project funding when a local government builds a recreational facility, rather than acquires land, within a Priority Funding Area and limited the amount of impervious surface on the land to no more than 10.0%. The State must also provide 90.0% instead of 50.0% of the total project funding when a local government builds a recreational facility outside of a Priority Funding Area if DNR makes specific determinations.

2013 The BRFA of 2013 (Chapter 425) authorized the transfer of $410.7 million of transfer tax revenue to the general fund over five years, beginning with fiscal 2014 (including $23.7 million from the local share of POS funding in fiscal 2014). A multi-year replacement plan includes the use of general obligation bond funds to replace all but $5.6 million (Natural Resources Development Fund funding) of proposed transfers via fiscal 2014 funding and pre-authorizations that span six years.

2014 The BRFA of 2014 (Chapter 464) authorized the transfer of an additional $69.1 million in transfer tax revenue to the general fund in fiscal 2015. In combination with actions taken in the BRFA of 2013, a total of $144.2 million in transfer tax funding was transferred to the general fund in fiscal 2015 in order to support the operating budget (including $43.5 million from the local share of POS funding). The $69.1 million of additional transferred funding is replaced over a three-year period (fiscal 2016 through 2018) with GO bonds.

2015 The BRFA of 2015 (Chapter 489) authorized the transfer of $10.5 million from the POS fund balance to the general fund in fiscal 2015; authorized the transfer of an additional $37.7 million in transfer tax revenue to the general fund in fiscal 2016; and authorized the transfer of fiscal 2015 transfer tax revenue in excess of $161.0 million by budget amendment in fiscal 2016 for specified purposes. Chapter 489 also specified that fiscal 2015 transfer tax underattainment will not be reduced from POS and related programs in fiscal 2017 and delayed, until fiscal 2019, the requirement that transfer tax funds diverted to the general fund be repaid by unappropriated general fund balance in excess of $10.0 million.

Chapter 495 deleted all pre-authorizations of GO bond replacement funding for prior year and planned future year diversions of the transfer tax to the general fund.