

**LA11
Department of Agriculture**

Capital Budget Summary

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

| Program | 2020 Approp. | 2021 Approp. | 2022 Request | 2023 Est. | 2024 Est. | 2025 Est. | 2026 Est. |
|--|-------------------------|-------------------------|-------------------------|----------------------|----------------------|----------------------|----------------------|
| Maryland Agricultural Land Preservation Program ¹ | \$46.816 | \$42.105 | \$45.518 | \$54.990 | \$53.739 | \$54.038 | \$54.829 |
| Maryland Agricultural Cost-Share Program | 8.500 | 8.000 | 5.000 | 6.000 | 7.000 | 8.000 | 8.000 |
| Total | \$55.316 | \$50.105 | \$50.518 | \$60.990 | \$60.739 | \$62.038 | \$62.829 |
| | | | | | | | |
| Fund Source | 2020 Approp. | 2021 Approp. | 2022 Request | 2023 Est. | 2024 Est. | 2025 Est. | 2026 Est. |
| PAYGO SF | \$46.816 | \$42.105 | \$14.518 | \$54.990 | \$53.739 | \$54.038 | \$54.829 |
| GO Bonds | 8.500 | 8.000 | 36.000 | 6.000 | 7.000 | 8.000 | 8.000 |
| Total | \$55.316 | \$50.105 | \$50.518 | \$60.990 | \$60.739 | \$62.038 | \$62.829 |

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

¹ The fiscal 2023 to 2026 Maryland Agricultural Land Preservation Program funding includes special funds that reflect the repayment of transfer tax revenues diverted to the General Fund in prior years as required by Chapter 10 of 2016 and reflects a revised repayment plan as set forth in the 2021 *Capital Improvement Program*. The appropriation will be made as general funds in the Dedicated Purpose Account in future years. The fiscal 2022 repayment is reduced contingent on the alteration of the repayment schedule and therefore is not reflected in the exhibit.

For further information contact: Andrew D. Gray

Phone (410) 946-5530

Key Observations

- ***Use of General Obligation (GO) Bonds to Replace Transfer Tax Revenues Diverted to the General Fund:*** The fiscal 2022 capital budget provides \$31.0 million of GO bonds for the Maryland Agricultural Land Preservation Program (MALPP). These funds replace special fund appropriations derived from transfer tax revenues that are contingently reduced as a component of the Governor’s proposed Budget Reconciliation and Financing Act of 2021 provision transferring \$100.6 million of transfer tax revenues to the General Fund.
- ***Fiscal 2022 Transfer Tax Repayment Plan Revised:*** The budget plan also includes a modification of the existing transfer tax repayment plan required by Chapter 10 of 2016, which reduces the Maryland Department of Agriculture’s (MDA) funding by \$6.5 million in fiscal 2022.

Summary of Recommended PAYGO Actions

1. Concur with Governor’s allowance.

Summary of Recommended Bond Actions

1. Maryland Agricultural Land Preservation Program

Approve the \$31.0 million general obligation bond authorization for the Maryland Agricultural Land Preservation Program.

2. Maryland Agricultural Cost-Share Program

Approve the \$5.0 million general obligation bond authorization for the Maryland Agricultural Cost-Share Program.

Summary of Updates

Agricultural Land Preservation Goal Unlikely to Be Met: Senate Joint Resolution 10 of 2002 established a statewide land preservation goal to triple the number of acres of productive agricultural land (1,030,000 acres) preserved by MALPP, GreenPrint, the Rural Legacy Program, and local preservation programs by the year 2022. As of November 18, 2020, the four programs had preserved 690,939 acres, or 67.1%, of the goal. HB 860 and SB 692 of 2021 would push out the goal to 2030 and add the Maryland Environmental Trust to the list of programs counted toward the acreage goal.

- ***Readiness and Environmental Protection Integration (REPI) Program Still Delayed:*** The REPI is a federal cost-share program with state governments, local governments, and conservation organizations. REPI is intended to promote compatible land uses and preserve habitats near military installations. MDA has resolved a number of issues related to being able to enter into the cost-share agreements, including the enactment of Chapter 622 of 2018 that resolved a statutory incompatibility between MALPF and REPI. However, a U.S. Navy staffing change has delayed approval of the final easement form, which is required before the partnership can be signed.

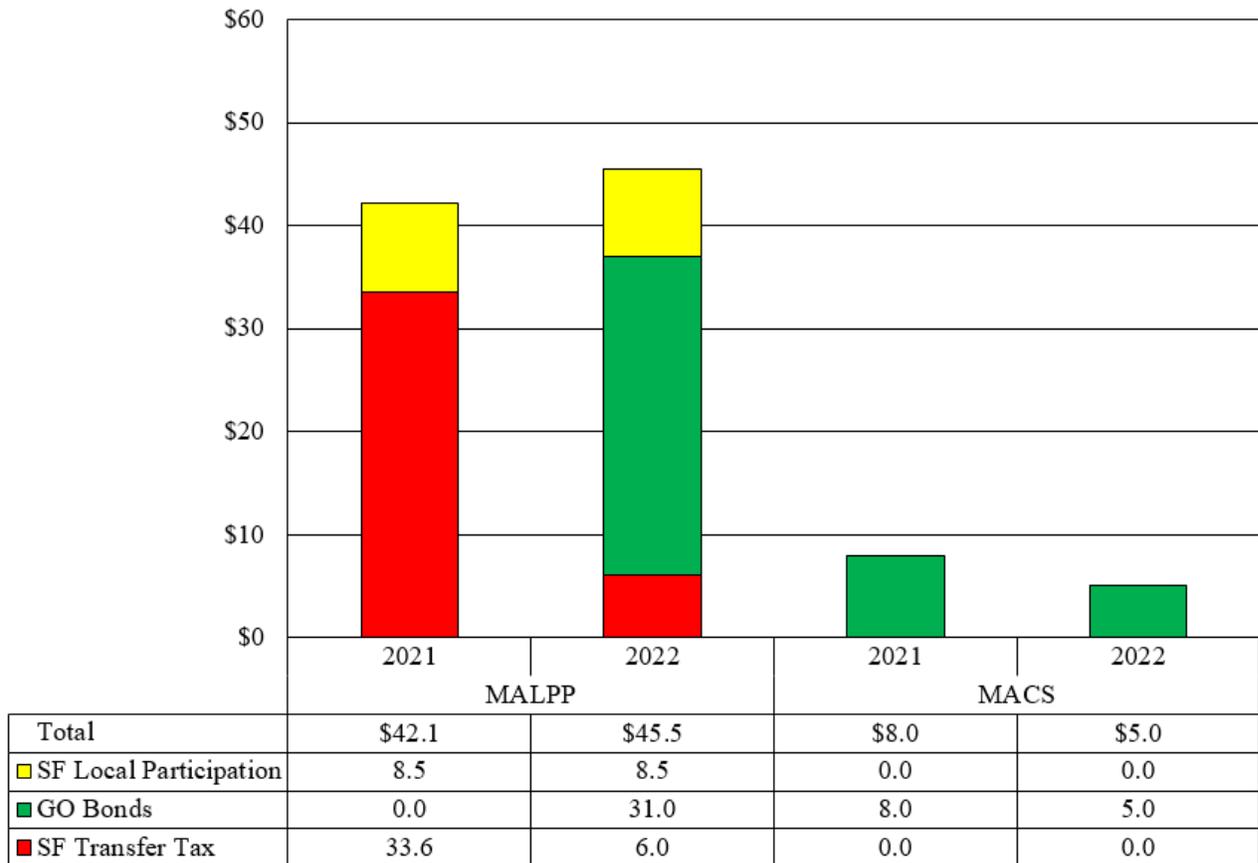
Budget Overview

Fiscal 2022 Budget

The fiscal 2022 allowance includes \$14.5 million in special funds and \$36.0 million in GO bonds for a total of \$50.5 million.

Exhibit 1 shows the fiscal 2022 funding for the two programs in the allowance. The MALPP funding is \$3.4 million more than fiscal 2021, due to changes in the amount of estimated transfer tax revenue, and the budget plan also uses \$31.0 million in GO bond funding in place of transfer tax special funds that are diverted to the General Fund. The overall MALPP funding also includes \$8.5 million in local participation special funds, which remains unchanged from fiscal 2021. The Maryland Agricultural Cost-Share Program (MACS) receives \$5.0 million in GO bond funds, which is \$3.0 million less than the GO bond funding provided in fiscal 2021.

**Exhibit 1
Capital Budget Changes by Fund
Fiscal 2021-2022
(\$ in Millions)**



GO: general obligation

MACS: Maryland Agricultural Cost-Share Program

MALPP: Maryland Agricultural Land Preservation Program

SF: special fund

Note: Does not include \$6.5 million in general funds that are contingently reduced in the Dedicated Purpose Account.

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

MALPP

MALPP’s fiscal 2022 allowance provides \$45.5 million comprised of \$6.0 million in transfer tax special funds, \$8.5 million of local participation special funds, and \$31.0 million in GO bonds to replace an equivalent amount of transfer tax special funds. There is no repayment budgeted for the prior year transfer to the General Fund, as the funding is reduced contingent on the revision of the transfer tax repayment schedule. The estimated cost per acre for MALPP easements is projected to be approximately \$3,800 in fiscal 2022 based on fiscal 2020 easement acquisition costs, which will allow for the preservation of 11,978 acres.

No federal funding is reflected for MALPP, which means that there has been no change in the restrictive requirements attached to the federal funding from the Agricultural Easement Conservation Program, which replaced the Farm and Ranch Lands Protection Program. MDA notes that it has engaged with the Natural Resources Conservation Service about the restrictive requirements on the federal funding throughout calendar 2020 and into 2021. The minimum easement terms that are blocking use of the funding include the following.

- **Indemnification Requirement:** There is a standard requirement for paying the federal government for the costs related to easement violations. MDA has requested a letter from the Natural Resources Conservation Service outlining whether it can be granted an exception to the indemnification requirement.
- **Maximum Impervious Surface Limitation:** There is a maximum impervious surface limitation on all easements, which MDA notes could prohibit certain types of farms from eligibility, such as poultry, greenhouse, and equestrian operations.
- **Family Lot Limitations:** There is a limitation on the family lot option – the ability to reserve a portion of the property for development by a family member – which MDA notes is exercised by the majority of easement holders and is a primary reason for landowner interest in the agricultural easements in the first place.
- **Procedural Changes to Prior Easement:** The procedural review process for previously funded easements under the Farm and Ranch Lands Protection Program have been modified, which has increased the time, cost, and outcome uncertainty for landowners who try to resolve easement issues.

MDA has a memorandum of understanding (MOU) with the Department of General Services (DGS) to fund 3 assistant Attorneys General (AAG) legal staff, 1 legal assistant, and 2.5 appraisers. This MOU is intended to enable MDA to handle the increased workload of a one-year easement cycle, which involves close to 100 easement offers and other transaction requests for the over 2,400 easements that MALPF holds. MDA notes that it currently only has 2 AAGs at DGS. This is because a third attorney declined an offer around January 2020, and since then, there has been a statewide hiring freeze with the effect that the third AAG position – a contractual full-time equivalent – has not been advertised.

MACS

The fiscal 2022 allowance for MACS is \$5.0 million, which is \$3.0 million less than the fiscal 2021 working appropriation and the funding level programmed for fiscal 2022 in the 2020 *Capital Improvement Program* (CIP). The reduced authorization is due to recent history, reflecting expenditures of approximately \$5.0 million per year. In addition, MACS reverts up to \$1.5 million each year from projects that come in under budget or that are not completed, which provides additional funding that is recycled to fund newly requested grants. Finally, MDA notes that animal waste storage structures – one of the more expensive best management practices (BMP) – have declined in recent years. The 2021 CIP programs a gradual increase in funding for the program back to the more traditional \$8.0 million level: \$6.0 million in fiscal 2023; \$7.0 million in fiscal 2024; and \$8.0 million in both fiscal 2025 and 2026. MDA has added four new agricultural drainage filter BMPs and soon will include four new natural filter practices. To date, MDA has encumbered \$4.3 million in fiscal 2021.

Exhibit 2 reflects the encumbrance and expenditure history for MACS from the beginning of the program through January 2021. The total authorization for the time period shown is \$170.6 million, of which \$15.9 million remains to be encumbered and \$24.0 million remains to be expended.

Exhibit 2
Maryland Agricultural Cost-Share Program
Encumbrances and Expenditures
Through January 2021
(\$ in Millions)

| <u>Fiscal Year</u> | <u>Authorization</u> | <u>Funds</u> | | <u>Balances</u> | |
|--------------------|----------------------|-------------------|------------------|-------------------------|-----------------------|
| | | <u>Encumbered</u> | <u>Expended</u> | <u>To Be Encumbered</u> | <u>To Be Expended</u> |
| Prior Years | \$137.564 | \$137.564 | \$137.564 | \$0.000 | 0.000 |
| 2017 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| 2018 | 8.000 | 8.000 | 8.000 | 0.000 | 0.000 |
| 2019 | 8.500 | 8.500 | 0.966 | 0.000 | 7.534 |
| 2020 | 8.500 | 0.574 | 0.000 | 7.926 | 8.500 |
| 2021 | 8.000 | 0.000 | 0.000 | 8.000 | 8.000 |
| Total | \$170.564 | \$154.638 | \$146.530 | \$15.926 | \$24.034 |

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

In terms of federal funding, MDA has noted in the past that Regional Conservation Partnership Program funding through the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service will supplement and not supplant the State GO bond funding for agricultural BMPs. The federal funds do not flow through MDA’s budget but nonetheless contribute to the reduction of soil and nutrient runoff from farmland. Recent Regional Conservation Partnership Program funding for projects in Maryland is as follows.

- ***Taking Soil Health to the Next Level:*** This \$1.0 million project – addressing soil health on farms in Caroline, Kent, Queen Anne’s, and Talbot counties – recently completed year three of its five-year grant, with the most recent funding round closing in November 2020, and the expectation that all project funds will be fully obligated once the contracts are completed.
- ***Grazing for Water Quality and Soil Health:*** The Chesapeake Bay Foundation is the lead partner for the first of two new fiscal 2019 to 2020 projects that will increase rotational grazing systems and complementary practices for nutrient and sediment pollution reduction and which was awarded \$774,013 with partner contributions of \$772,376.
- ***Achieving Watershed Implementation Plan (WIP) Goals and Nutrient Management Compliance:*** The agreement was signed February 2, 2021, for the second new fiscal 2019 to 2020 project that will address manure management, and MDA is working with its partners for a March 2021 sign-up period with a total of \$10.0 million – \$7.0 million in financial assistance and \$3.0 million in technical assistance – to be awarded over five years and partner contributions of \$10,045,000.

Updates

1. Agricultural Land Preservation Goal Unlikely to be Met

Senate Joint Resolution 10 of 2002 established a statewide land preservation goal to triple the number of acres of productive agricultural land (1,030,000 acres) preserved by MALPP, GreenPrint, the Rural Legacy Program, and local preservation programs by the year 2022. As of November 18, 2020, the four programs had preserved 690,939 acres, or 67.1%, of the goal. If acreage preserved by the Maryland Environmental Trust were included, then 829,491 acres, or 80.5%, of the goal would be met. Therefore, even if the Maryland Environmental Trust acreage is included, an additional 200,509 acres would need to be preserved by 2022 to meet the preservation goal. As of November 18, 2020, MALPP had conserved approximately 326,651 acres as its contribution to the statewide goal.

HB 860 and SB 692 of 2021 would establish a State goal of preserving a total of 1,030,000 acres of productive agricultural land by 2030 through MALPF, the Maryland GreenPrint Program, the Rural Legacy Program, the Maryland Environmental Trust, and local land preservation programs. This effectively pushes out the goal of 1,030,000 acres from 2022 to 2030 and adds the Maryland Environmental Trust to the list of programs counted toward the acreage goal.

2. REPI Still Delayed

REPI is a federal cost-share program with state governments, local governments, and conservation organizations. REPI is intended to promote compatible land uses and preserve habitats near military installations. MDA has resolved a number of issues related to being able to enter into the cost-share agreements, including the enactment of Chapter 622, which resolved a statutory incompatibility between MALPF and REPI. However, a U.S. Navy staffing change has delayed approval of the final easement form, which is required before the partnership can be signed.

PAYGO Recommended Actions

1. Concur with Governor's allowance.

GO Bond Recommended Actions

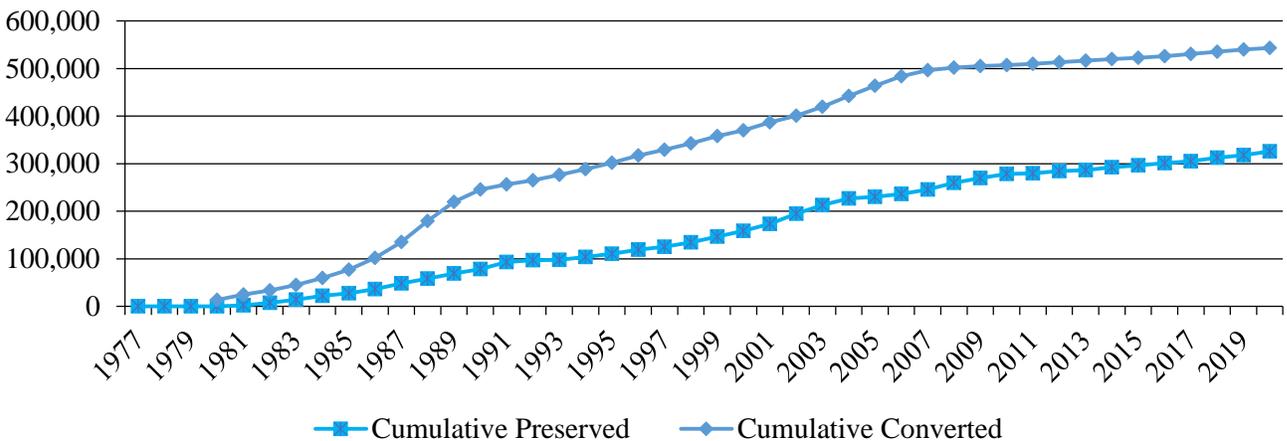
1. Approve the \$31.0 million general obligation bond authorization for the Maryland Agricultural Land Preservation Program for the preservation of agricultural land and woodland through the purchase of perpetual preservation easements.
2. Approve the \$5.0 million general obligation bond authorization for the Maryland Agricultural Cost-Share Program to provide financial assistance for the implementation of best management practices that reduce soil and nutrient runoff from Maryland farms.

Performance Measures and Outputs

MALPP

Agricultural land is desirable for conversion to other uses, such as residential development. MALPP is one tool for keeping farmland in agricultural production, and the agricultural use assessment is another tool for taxation purposes. **Exhibit 3** reflects the cumulative agricultural land preserved by MALPP versus the agricultural land converted to development purposes from fiscal 1977 to 2020. During this time period, the amount of cumulative agricultural land converted has exceeded the cumulative amount conserved. As shown in **Exhibit 4**, more recently during the peak Great Recession years, significantly more farmland was preserved than converted to nonagricultural use, which correlates with less development pressures occurring during an economic recession. Since that time, as the State’s fiscal condition improved, more land has been preserved than developed. In fiscal 2020, for instance, there was a substantial net increase in the annual acres preserved, 8,335 acres, while only 3,654 acres were converted to development. MDA notes that the acres protected under MALPP in fiscal 2020 was the highest single year of acres protected in a decade and is a direct result of returning to a single-year application cycle in fiscal 2019.

Exhibit 3
Cumulative Agricultural Land Preserved by MALPP versus
Cumulative Agricultural Land Converted
Fiscal 1977-2020
(in Acres)

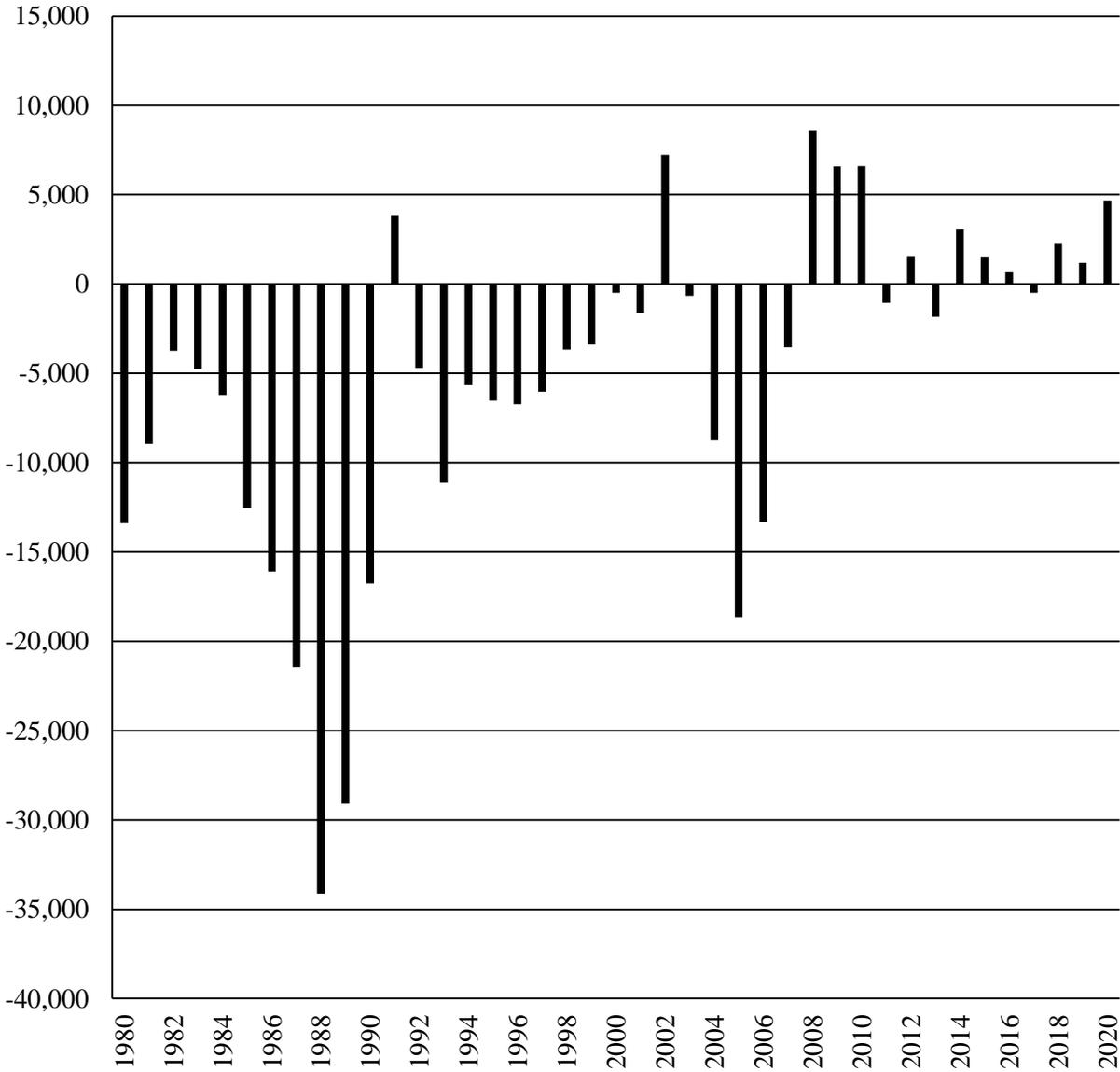


MALPP: Maryland Agricultural Land Preservation Program

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

Source: Maryland Department of Agriculture; State Department of Assessments and Taxation

Exhibit 4
Net Difference in Annual Farmland Preserved and Converted
Fiscal 1980-2020
(in Acres)



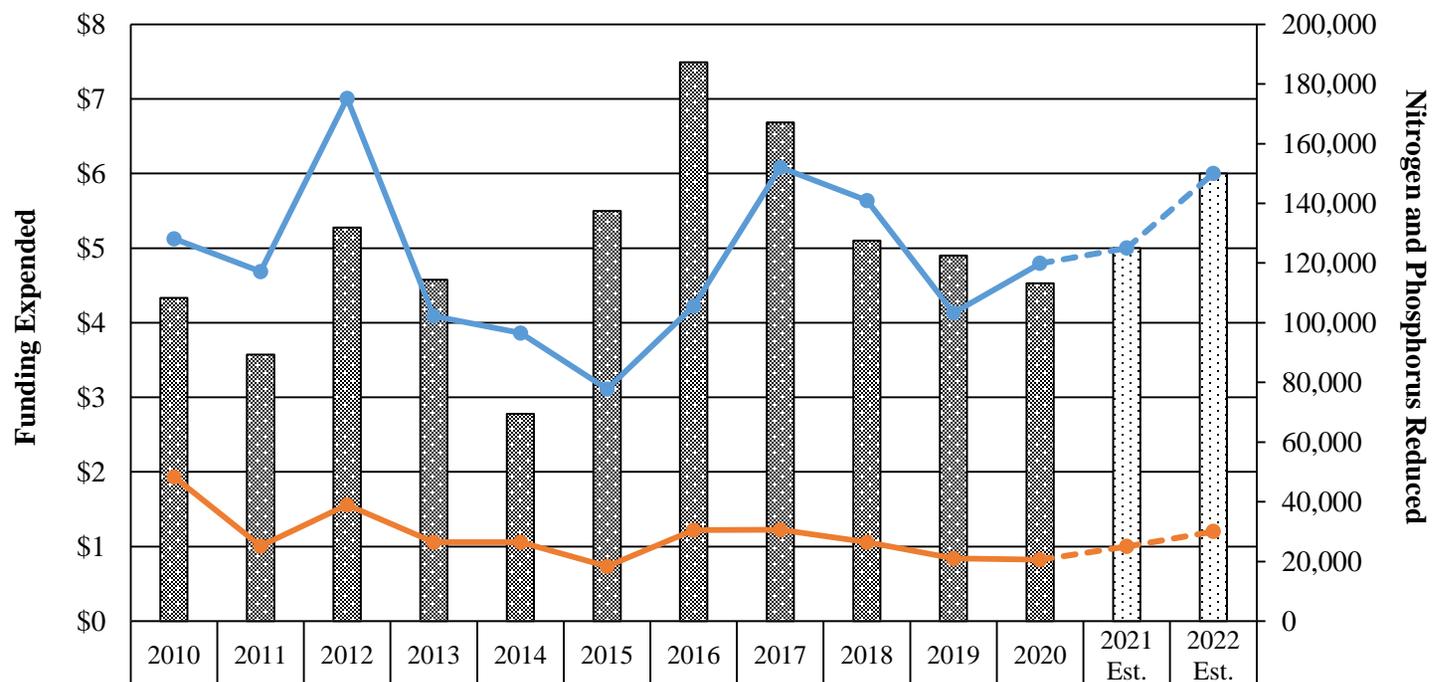
Source: Maryland Department of Agriculture; State Department of Assessments and Taxation

MACS

MDA's Resource Conservation Grants program has the goal of controlling and reducing agriculture-related water pollution through the implementation of BMPs. MDA has implemented a tracking system that reflects both BMPs installed with State funding and federal financial assistance through the U.S. Environmental Protection Agency (EPA) Chesapeake Bay Implementation Grant and processed through MACS. In contrast, BMPs funded by USDA are not tracked as part of the budget process; however, BMPs and nutrient reductions are reported to EPA as part of WIP documentation. MDA has noted that it backfills funding with federal cost-share dollars when federal funding is available.

Exhibit 5 reflects the new BMPs installed by MACS between fiscal 2010 and the 2022 estimate. In recent years, the greatest amount expended in a particular year was \$7.5 million in fiscal 2016 for 632 projects, which decreased to \$4.9 million for 192 projects in fiscal 2019. In fiscal 2020, MACS expended only \$4.5 million but was able to complete 315 projects. There has been no trend in nitrogen and phosphorus reductions over the time period shown. MDA notes that it can take up to two years for practices to be implemented, so the lack of funding in fiscal 2017 reduced the number of projects completed in fiscal 2019. In addition, rainy weather in recent years has curtailed the planning and construction of BMPs and the subsequent expenditures. MDA has a goal of implementing 969,280 acres under BMPs by the end of fiscal 2022, which may not be reached as only 861,876 acres met this criteria in fiscal 2020, and the fiscal 2022 estimate is short of the goal at 938,968 acres.

Exhibit 5
Maryland Agricultural Cost-Share Program Statistics
 Fiscal 2010-2022 Est.
 (\$ in Millions)



| | | | | | | | | | | | | | |
|-----------------------------------|---------|---------|---------|---------|--------|--------|---------|---------|---------|---------|---------|---------|---------|
| Funding Expended (\$ in Millions) | \$4.3 | \$3.6 | \$5.3 | \$4.6 | \$2.8 | \$5.5 | \$7.5 | \$6.7 | \$5.1 | \$4.9 | \$4.5 | \$5.0 | \$6.0 |
| Nitrogen Reduced (Pounds) | 128,180 | 117,154 | 175,226 | 102,235 | 96,527 | 77,766 | 105,547 | 152,099 | 140,982 | 103,271 | 119,858 | 125,000 | 150,000 |
| Phosphorus Reduced (Pounds) | 48,317 | 25,189 | 38,965 | 26,424 | 26,448 | 18,390 | 30,572 | 30,643 | 26,512 | 21,060 | 20,574 | 25,000 | 30,000 |
| MACS Projects | 589 | 539 | 540 | 645 | 603 | 360 | 632 | 359 | 215 | 192 | 315 | 350 | 420 |

MACS: Maryland Agricultural Cost-Share Program

Source: Department of Budget and Management

The Chesapeake Bay Program required enhanced verification of historical BMPs as part of the 2017 midpoint assessment and the recalibration of the Chesapeake Bay model. This requires that 100% of BMPs be verified to receive credit and that approximately 10% be reverified annually to continue receiving credit. For Maryland, this meant the temporary loss of approximately 30,000 agricultural-sector BMPs and the consequent increase in nutrient and sediment loading as reported by the Chesapeake Bay model. Since October 2016, MDA has reviewed more than 14,000 BMPs and found that 75% meet standard; 16% no longer exist or are superseded; 6% meet standards, but animals are no longer present; and 3% do not meet standards. MDA notes that 420 projects were reviewed in fall 2020 with 5.4% deficiencies, including 4.0% having mechanical deficiencies.

Common reasons for unsatisfactory reviews include the lack of maintenance of BMPs or the lack of transfer of responsibility when ownership changes. Since property transfers make up 50% of the unsatisfactory reviews, MDA has instituted a policy whereby BMPs for which the State cost share is \$5,000 or greater are recorded as a lien on the property. If maintenance issues are not resolved within a certain period of time, then MDA may require payback of the State share. In addition, MDA implements cross-compliance with other programs, such as the Nutrient Management Program, thereby restricting participation in any of the MACS programs.

Program Description

The MDA capital program is comprised of MALPP and MACS. The Tobacco Transition Program no longer receives funding. The programs fit under MDA's goals to preserve adequate amounts of productive agricultural land and woodland in Maryland and to provide and promote land stewardship.

- ***MALPP:*** The General Assembly created MALPP to preserve productive agricultural land and woodland, limit the extent of urban development, and protect agricultural land and woodland as open space. MALPP, with the assistance and cooperation of landowners and local governments, purchases development rights easements as a means of protecting agricultural land and woodland production activities. 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.
- ***MACS:*** MACS provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized BMPs that reduce soil and nutrient runoff from farmland. MACS requires a minimum 12.5% cost-share match from grantees. State financial assistance for most BMPs is limited to \$50,000 per project or \$150,000 per farm. These limits increase to \$200,000 per project and \$300,000 per farm when proposed BMPs include animal waste storage facilities.