

LA11
Department of Agriculture – Capital

Capital Budget Summary

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

Program	2022 Approp.	2023 Request	2024 Est.	2025 Est.	2026 Est.	2027 Est.
Maryland Agricultural Land Preservation Program ¹	\$54.052	\$72.203	\$64.951	\$65.391	\$65.858	\$66.290
Maryland Agricultural Cost-Share Program	5.000	2.000	7.000	8.000	8.000	8.000
Total	\$59.052	\$74.203	\$71.951	\$73.391	\$73.858	\$74.290
Fund Source	2022 Approp.	2023 Request	2024 Est.	2025 Est.	2026 Est.	2027 Est.
PAYGO SF	\$54.052	\$72.203	\$64.951	\$65.391	\$65.858	\$66.290
GO Bonds	5.000	2.000	7.000	8.000	8.000	8.000
Total	\$59.052	\$74.203	\$71.951	\$73.391	\$73.858	\$74.290

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

¹ The fiscal 2022 Maryland Agricultural Land Preservation Program (MALPP) funding includes \$5.0 million brought in via budget amendment in December 2021. The fiscal 2023 to 2027 MALPP 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 as amended and reflects a revised repayment plan as set forth in the 2022 *Capital Improvement Program*. The appropriation will be made as general funds in the Dedicated Purpose Account in future years.

PAYGO Recommended Actions

1. Concur with Governor’s allowance of \$68,452,886 in special funds for the Maryland Agricultural Land Preservation Program.

GO Bond Recommended Actions

1. Approve the \$2,000,000 authorization for the Maryland Agricultural Cost-Share Program for financial assistance for the implementation of best management practices that reduce soil and nutrient runoff from Maryland farms.

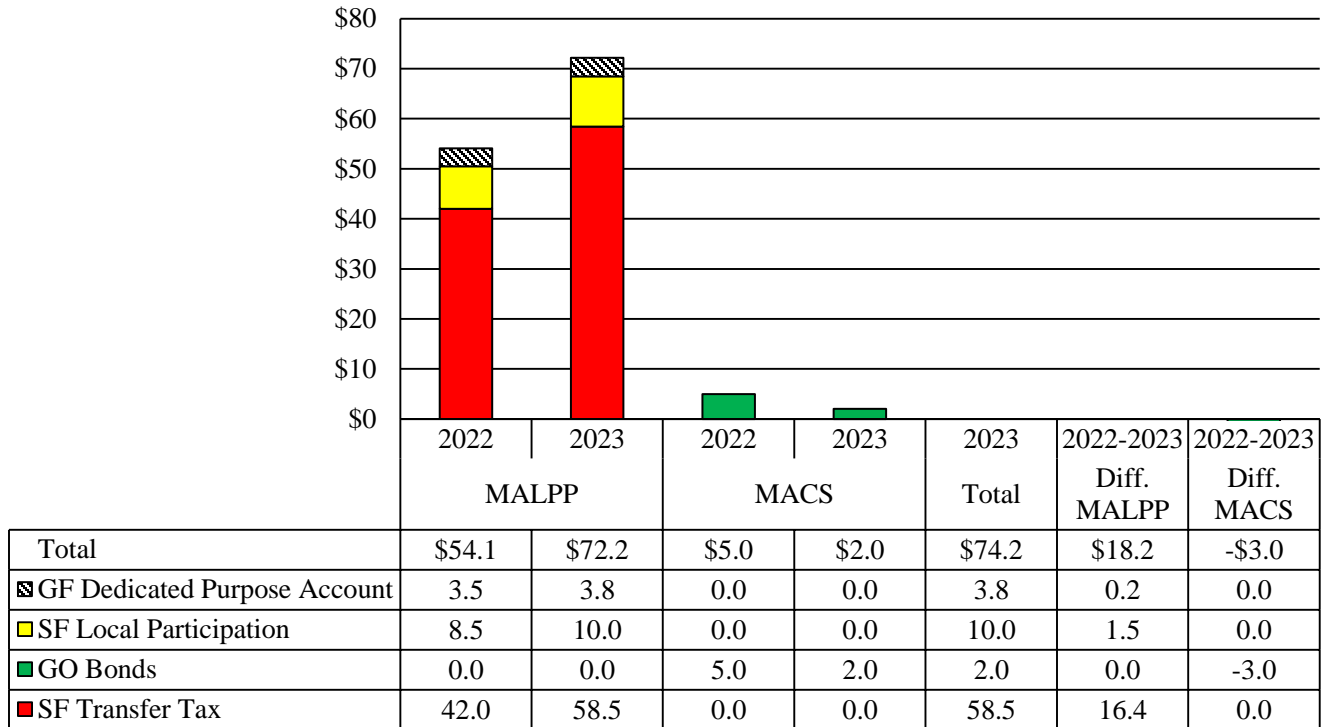
Budget Overview of Grant and Loan Programs

Fiscal 2023 Budget

The fiscal 2023 allowance includes \$68.5 million in special funds, \$3.8 million in general funds budgeted in the Dedicated Purpose Account (DPA) and reflected as special funds in the *Capital Improvement Program* (CIP) and in this analysis, and \$2.0 million in general obligation (GO) bonds for a total of \$74.2 million.

Exhibit 1 compares the fiscal 2022 and 2023 funding levels for the Maryland Agricultural Land Preservation Program (MALPP) and the Maryland Agricultural Cost-Share Program (MACS). The fiscal 2023 funding level for the MALPP program is \$18.2 million more than fiscal 2022 due primarily to an increase in fiscal 2023 estimated transfer tax revenues and an overattainment of fiscal 2021 revenues that is applied to fiscal 2023 program funding. The overall MALPP funding also includes \$10.0 million in local participation special funds, which is a \$1.5 million increase relative to fiscal 2022. MACS receives \$2.0 million in GO bond funds, which is \$3.0 million less than the GO bond funding provided in fiscal 2022.

**Exhibit 1
Capital Budget Changes by Fund
Fiscal 2022-2023
(\$ in Millions)**



GF: general funds
 GO: general obligation
 MACS: Maryland Agricultural Cost-Share Program
 MALPP: Maryland Agricultural Land Preservation Program
 SF: special funds

Note: The fiscal 2022 appropriation for MALPP includes a budget amendment that brought in \$5.0 million from balance.

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

MALPP

MALPP’s fiscal 2023 allowance of \$72.2 million is comprised of \$3.8 million in general funds budgeted in the DPA to repay prior year transfers (reflected as special funds in the CIP and this analysis), \$58.5 million in transfer tax special funds, and \$10.0 million of local participation special funds. The estimated cost per acre for MALPP easements is projected to be approximately \$4,000 in fiscal 2023 based on fiscal 2021 easement acquisition costs, which will allow for the preservation of an estimated 18,051 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. The Maryland Department of Agriculture (MDA) notes that it has engaged with the Natural Resources Conservation Service about the restrictive requirements on the federal funding throughout calendar 2020 and 2021. The minimum easement terms that continue to block use of the federal funding include the following.

- ***Indemnification Requirement:*** There is a standard requirement for paying the federal government for the costs related to easement violations. MDA continues to work with the Natural Resources Conservation Service on an exception to the indemnification requirement.
- ***Maximum Impervious Surface Limitation:*** There is a maximum impervious surface limitation on all easements, which MDA has noted 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 has noted 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 has 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 with the Department of General Services (DGS) to fund 3 assistant Attorneys General (AAG) legal staff, 1 legal assistant, and 2.5 appraisers. This 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 the Maryland Agricultural Land Preservation Foundation (MALPF) holds. MDA notes that it currently only has 2 AAGs at DGS since the third contractual AAG position was not filled in the past year. As a result, MDA has formally requested that the principal counsel for DGS initiate the process to fill the third AAG position.

MACS

The fiscal 2023 allowance for MACS is \$2.0 million, which is \$3.0 million less than the fiscal 2022 working appropriation and \$4.0 million less than the funding level programmed for fiscal 2023 in the previous CIP. The reduced authorization is due to the anticipated availability of \$11.2 million of prior authorized unencumbered funds available to support fiscal 2023 program grants. In addition, typically \$1.5 million of MACS grants are reverted back to the program each year from projects that come in under budget or that are not completed, which provides an additional source of funding for newly requested grants. More recently, grant requests declined due to the COVID-19 pandemic. The 2022 CIP increases MACS funding back to the more traditional \$8.0 million level:

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\$7.0 million in fiscal 2024; and then \$8.0 million for fiscal 2025 through 2027. To date in fiscal 2022, MDA has encumbered \$3.4 million for 178 projects reflecting funding from all fiscal years.

MDA anticipates having adequate funding for the program, including funding the demand created by program changes made by Chapter 120 of 2021 because of the remaining unencumbered funds from prior years. Chapter 120 increased from 87.5% to 100% the percentage of eligible costs for which State cost-sharing funds may be used for projects that prevent or control agriculturally related nonpoint source water pollution. In particular, the changes made by Chapter 120 provide 100% funding for natural filters and agricultural drainage management practices, which represent 86 of the 169 applications received so far in fiscal 2022. Natural filters practices include the following:

- the planting of riparian forest buffers;
- the planting of riparian herbaceous cover;
- tree plantings that are on agricultural land and outside a riparian buffer;
- wetland restoration; and
- pasture management, including rotational grazing systems such as livestock fencing, and watering systems implemented as part of the conversion of cropland to pasture.

Exhibit 2 reflects the encumbrance and expenditure history for MACS from the beginning of the program through January 2022. The total authorization for the time period shown is \$175.6 million, of which \$18.8 million remains to be encumbered and \$26.1 million remains to be expended. MDA anticipates expending the remaining \$5.0 million of the fiscal 2019 appropriation by the end of fiscal 2022 and is working to encumber the \$4.8 million from the fiscal 2020 appropriation on new projects.

Exhibit 2
Maryland Agricultural Cost-Share Program
Encumbrances and Expenditures
Through January 2022
(\$ in Millions)

<u>Fiscal Year</u>	<u>Funds</u>			<u>Balances</u>	
	<u>Authorization</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
2018	8.000	8.000	8.000	0.000	0.000
2019	8.500	7.493	3.550	1.007	4.950
2020	8.500	3.720	0.308	4.780	8.192
2021	8.000	0.000	0.000	8.000	8.000
2022	5.000	0.000	0.000	5.000	5.000
Total	\$175.564	\$156.778	\$149.423	\$18.787	\$26.142

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 (RCPP) 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 best management practices (BMP). The Natural Resources Conservation Service announced on January 13, 2022, that up to \$225 million is available for conservation partners through two RCPPs – Classic and Alternative Funding. While the federal funds may not necessarily flow through the MDA budget, any funding received by Maryland farmers nonetheless would contribute to the reduction of soil and nutrient runoff from farmland.

Updates

1. Readiness and Environmental Protection Integration Program Still Delayed

The Readiness and Environmental Protection Integration Program (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, which resolved a statutory incompatibility between MALPF and REPI.

However, after three years of negotiations, the final agreement sent by the U.S. Navy in December 2021 included condemnation language that MDA deemed unacceptable. MDA sent revised language for consideration by the U.S. Navy in January 2022 and is awaiting a response.

2. Agricultural Land Preservation Goal Revised

Joint Resolutions 16 and 17 of 2002 created a goal to, by 2022, triple the number of acres, now considered to be a goal of 1,030,000 total acres of productive agricultural land preserved by MALPF, the Maryland GreenPrint Program, the Rural Legacy Program, and local preservation programs. This goal would not have been met given the land preservation progress up to that point.

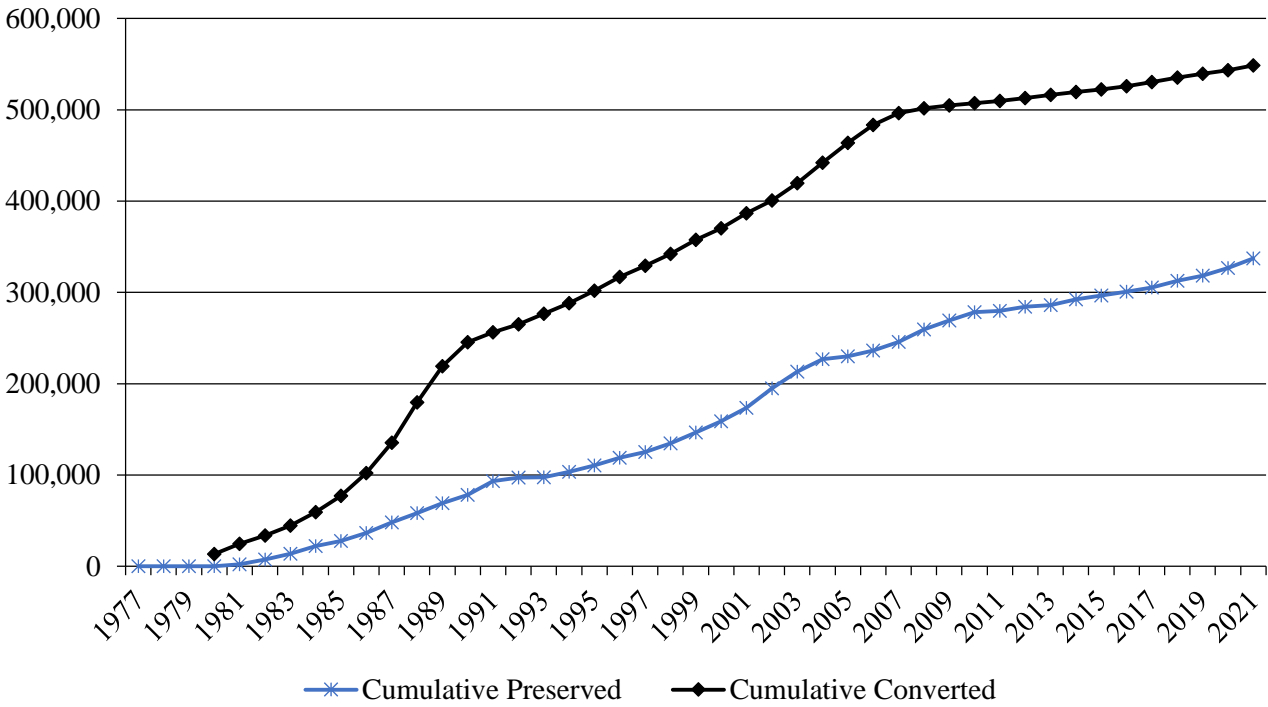
Chapters 284 and 285 of 2021 established the agricultural land preservation goal in statute, extended the deadline from 2022 to 2030, and also included acres preserved through the Maryland Environmental Trust and the Maryland Agricultural and Resource-Based Industry Development Corporation's Next Generation Farmland Acquisition Program. As of November 9, 2021, 853,528 acres, or 82.9% of the goal, have been preserved under these programs, not including the Next Generation Farmland Acquisition Program. This means that 176,472 acres need to be preserved before 2030 or approximately 22,059 acres per year over the next eight years. MALPF's preservation of 10,656 acres in fiscal 2021 suggests that, if full funding is provided for the program, it could preserve almost half of the annual acres needed to reach the 2030 goal.

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 2021. 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 also has been preserved than developed. In fiscal 2021, for instance, there was a substantial net increase in the annual acres preserved due to 10,656 acres being preserved, which was over twice the 5,295 acres converted to development. The acres protected under MALPF in fiscal 2021 was the highest number protected since fiscal 2008 and is a direct result of returning to a single-year application cycle in fiscal 2019. Of note, the 5,295 acres converted to development in fiscal 2021 is also the highest number of acres converted since fiscal 2007.

Exhibit 3
Cumulative Agricultural Land Preserved by MALPP versus
Cumulative Agricultural Land Converted
Fiscal 1977-2021
(in Acres)

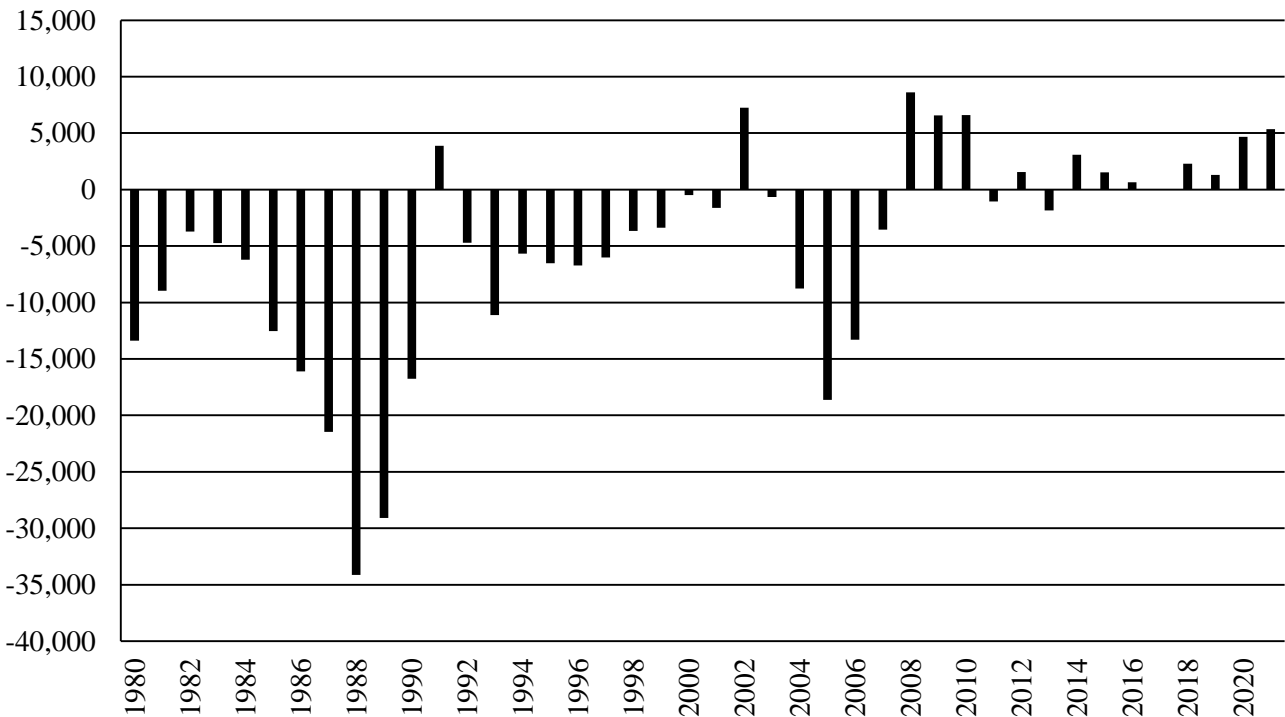


MALPP: Maryland Agricultural Land Preservation Program

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 1980-2021
(in Acres)



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

MACS

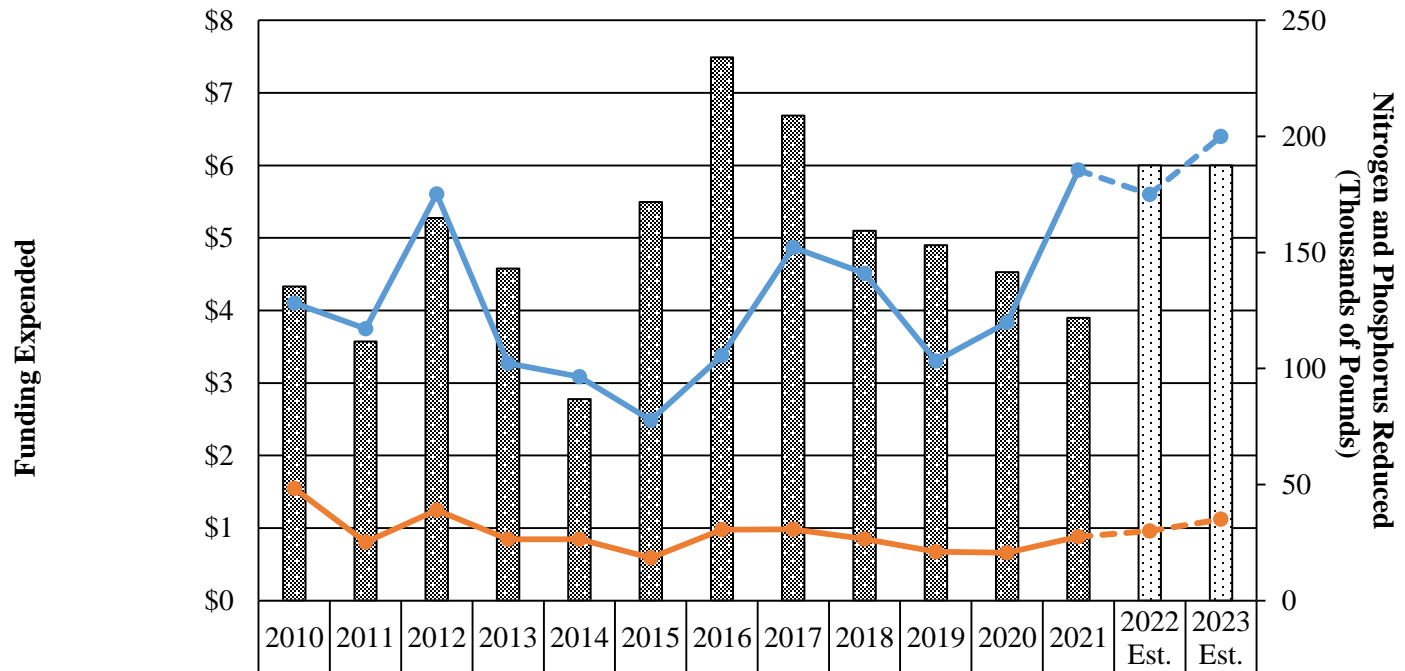
MDA’s Resource Conservation Grants program has the goal of controlling and reducing agriculture-related water pollution through the implementation of BMPs. MDA has implemented a tracking system that reflects both BMPs installed with State funding and federal financial assistance through the U.S. Environmental 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 documentation for Maryland’s Watershed Implementation Plan for Chesapeake Bay restoration. 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 2023 estimate. In recent years, the greatest amount expended in a particular year was \$7.5 million in fiscal 2016 for

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632 projects or roughly \$12,000 per BMP. In fiscal 2021, MACS expended \$3.9 million to complete 257 projects or roughly \$15,000 per BMP. In recent years, there has been an upward trend in the nitrogen reduced, but there has been no trend in phosphorus reductions over the time period shown. MDA has noted in the past 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 new goal of implementing 939,323 acres under BMPs by the end of fiscal 2023, which is down from last year's goal of implementing 969,280 acres under BMPs by the end of fiscal 2022. This new goal is unlikely to be met as only 827,879 acres met this criterion in fiscal 2021, and the fiscal 2023 estimate is short of the goal at 905,000 acres. In fact, the number of acres managed under a current conservation plan has steadily been decreasing from 923,896 acres in fiscal 2017 to 827,879 acres in fiscal 2021 – a trend that will need to be reversed if the goal is to be met.

Exhibit 5
Maryland Agricultural Cost-Share Program Statistics
 Fiscal 2010-2023 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	\$3.9	\$6.0	\$6.0
Nitrogen Reduced (Thousands of Pounds)	128	117	175	102	97	78	106	152	141	103	120	185	175	200
Phosphorus Reduced (Thousands of Pounds)	48	25	39	26	26	18	31	31	27	21	21	28	30	35
MACS Projects	589	539	540	645	603	360	632	359	215	192	315	257	350	400

MACS: Maryland Agricultural Cost-Share Program

Source: Maryland Department of Agriculture

Program Description

The MDA capital program is comprised of MALPP and MACS. 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:*** MALPP preserves productive agricultural land and woodland, to limit the extent of urban development, and protects 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. Chapter 120 increased from 87.5% to 100% the percentage of eligible costs for which State cost-sharing funds may be used for projects that prevent or control agriculturally related nonpoint source water pollution.