# LA11
# Department of Agriculture – Capital

## *Capital Budget Summary*

### State-owned *Capital Improvement Program*
**($ in Millions)**

| Projects | Prior Auth. | 2021 Request | 2022 Est. | 2023 Est. | 2024 Est. | 2025 Est. | Beyond CIP |
|---|---|---|---|---|---|---|---|
| Salisbury Animal Health Laboratory Replacement | $18.772 | $1.074 | $0.000 | $0.000 | $0.000 | $0.000 | $0.000 |
| **Total** | **$18.772** | **$1.074** | **$0.000** | **$0.000** | **$0.000** | **$0.000** | **$0.000** |

| Fund Source | Prior Auth. | 2021 Request | 2022 Est. | 2023 Est. | 2024 Est. | 2025 Est. | Beyond CIP |
|---|---|---|---|---|---|---|---|
| GO Bonds | $18.772 | $1.074 | $0.000 | $0.000 | $0.000 | $0.000 | $0.000 |
| **Total** | **$18.772** | **$1.074** | **$0.000** | **$0.000** | **$0.000** | **$0.000** | **$0.000** |

CIP: *Capital Improvement Program*
GO: general obligation

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

| Program | 2019 Approp. | 2020 Approp. | 2021 Request | 2022 Est. | 2023 Est. | 2024 Est. | 2025 Est. |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| Maryland Agricultural Land Preservation Program[1] | $48.976 | $46.816 | $48.560 | $50.267 | $51.639 | $51.217 | $52.985 |
| Tobacco Transition Program | 0.999 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Maryland Agricultural Cost-Share Program | 8.500 | 8.500 | 8.000 | 8.000 | 8.000 | 9.000 | 9.000 |
| **Total** | **$58.475** | **$55.316** | **$56.560** | **$58.267** | **$59.639** | **$60.217** | **$61.985** |

| Fund Source | 2019 Approp. | 2020 Approp. | 2021 Request | 2022 Est. | 2023 Est. | 2024 Est. | 2025 Est. |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| PAYGO SF | $49.975 | $46.816 | $48.560 | $50.267 | $51.639 | $51.217 | $52.985 |
| GO Bonds | 8.500 | 8.500 | 8.000 | 8.000 | 8.000 | 9.000 | 9.000 |
| **Total** | **$58.475** | **$55.316** | **$56.560** | **$58.267** | **$59.639** | **$60.217** | **$61.985** |

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

[1] The fiscal 2021 to 2025 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 2020 *Capital Improvement Program*. The appropriation will be made as general funds in the Dedicated Purpose Account; the general fund amount for fiscal 2021 is $6,455,292.

# *Summary of Recommended PAYGO Actions*

1. Concur with Governor's allowance of $42,105,178 in special funds for the Maryland Agricultural Land Preservation Program.

# *Summary of Recommended Bond Actions*

1. Salisbury Animal Health Laboratory Replacement

   Approve the $1,074,000 general obligation bond authorization for the Salisbury Animal Health Laboratory Replacement.

2. Maryland Agricultural Cost-Share Program

   Approve the $8,000,000 general obligation bond authorization for the Maryland Agricultural Cost-Share Program.

# *Summary of Issues*

- ***Maryland Agricultural Cost-Share Program Future Funding Seemingly at Odds with Need:*** The U.S. Environmental Protection Agency (EPA) evaluated Maryland's Phase III Watershed Implementation Plan (WIP) for Chesapeake Bay restoration and found that Maryland intends to meet planning targets through high rates of best management practice (BMP) implementation, particularly in the agricultural and wastewater sectors, with 52% of the pollutant reductions coming from the agriculture sector and 42% from the wastewater sector. Given the focus on the agricultural sector for 52% (4.2 million nitrogen pounds) of the nitrogen reduction by 2025, the Maryland Agricultural Cost-Share Program (MACS) would seem to be ready for a significant funding increase in the 2020 *Capital Improvement Program* (CIP). However, there is only a modest funding increase from the $8.0 million between fiscal 2021 and 2023 to $9.0 million in fiscal 2024 and 2025. The Maryland Department of Agriculture (MDA) notes that that the need for BMPs will be determined after the completion of additional soil conservation and water quality plans, the development of which will be assisted by the addition of soil conservation district positions in MDA's fiscal 2021 operating budget. **The Department of Legislative Services (DLS) recommends that MDA comment on the relative role that streamside protection BMPs, such as the forest and grass buffers, will play in the MACS funding mix and in MDA's ability to meet the Phase III WIP nitrogen goal for the agricultural sector.**

# *Summary of Updates*

- ***Readiness and Environmental Protection Integration Program to Be Ready Soon:*** Chapter 622 of 2018 (Maryland Agricultural Land Preservation Foundation – Condemnation of Land Under Easement) resolved a statutory incompatibility between the Maryland Agricultural Land Preservation Program (MALPP) and the federal Readiness and Environmental Protection Integration Program (REPI). MALPP and the U.S. Navy are working on the terms of the deed of easement and Memorandum of Understanding (MOU) to be used for the REPI easement projects. The expectation is still that the first potential project would be part of the fiscal 2020 easement application cycle, possibly in either Charles or St. Mary's counties.

# *Program Description*

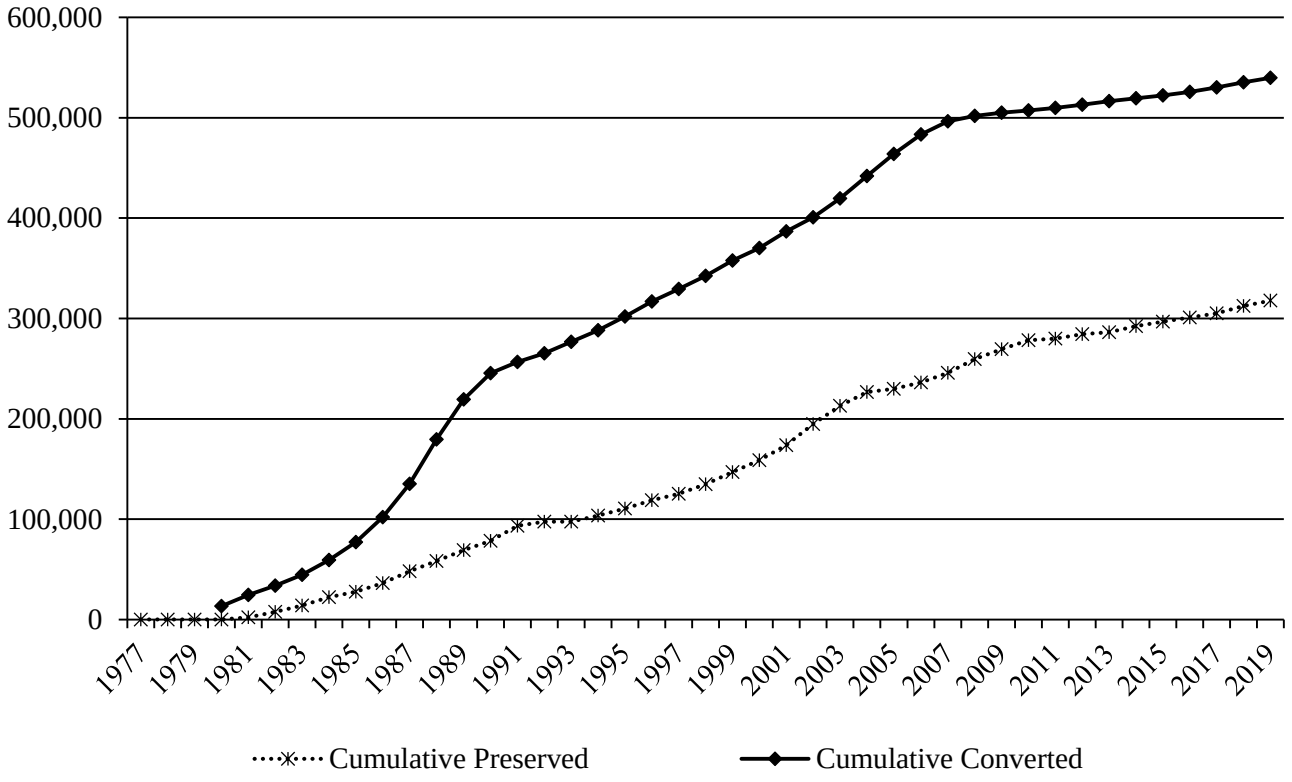
The MDA capital program is comprised of MALPP and MACS. The Tobacco Transition Program no longer receives funding. The programs fit under MDA's goals to preserve adequate amounts of productive agricultural land and woodland in Maryland and provide and promote land stewardship. Descriptions of the two programs may be found in **Appendix 1**. The fiscal 2021 budget also includes equipment funds for the Salisbury Animal Health Laboratory replacement project, which is a State-owned facility.

# *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 1** reflects the cumulative agricultural land preserved by MALPP versus the agricultural land converted to development purposes from fiscal 1977 to 2019. During this time period, the amount of cumulative agricultural land converted has exceeded the cumulative amount conserved. As shown in **Exhibit 2**, 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 2019, for instance, there was a moderate net increase in the annual acres preserved, 5,431 acres, and 4,237 acres were converted to development.

**Exhibit 1**
**Cumulative Agricultural Land Preserved by MALPP versus Cumulative Agricultural Land Converted**
**Fiscal 1977-2019**
**(in Acres)**

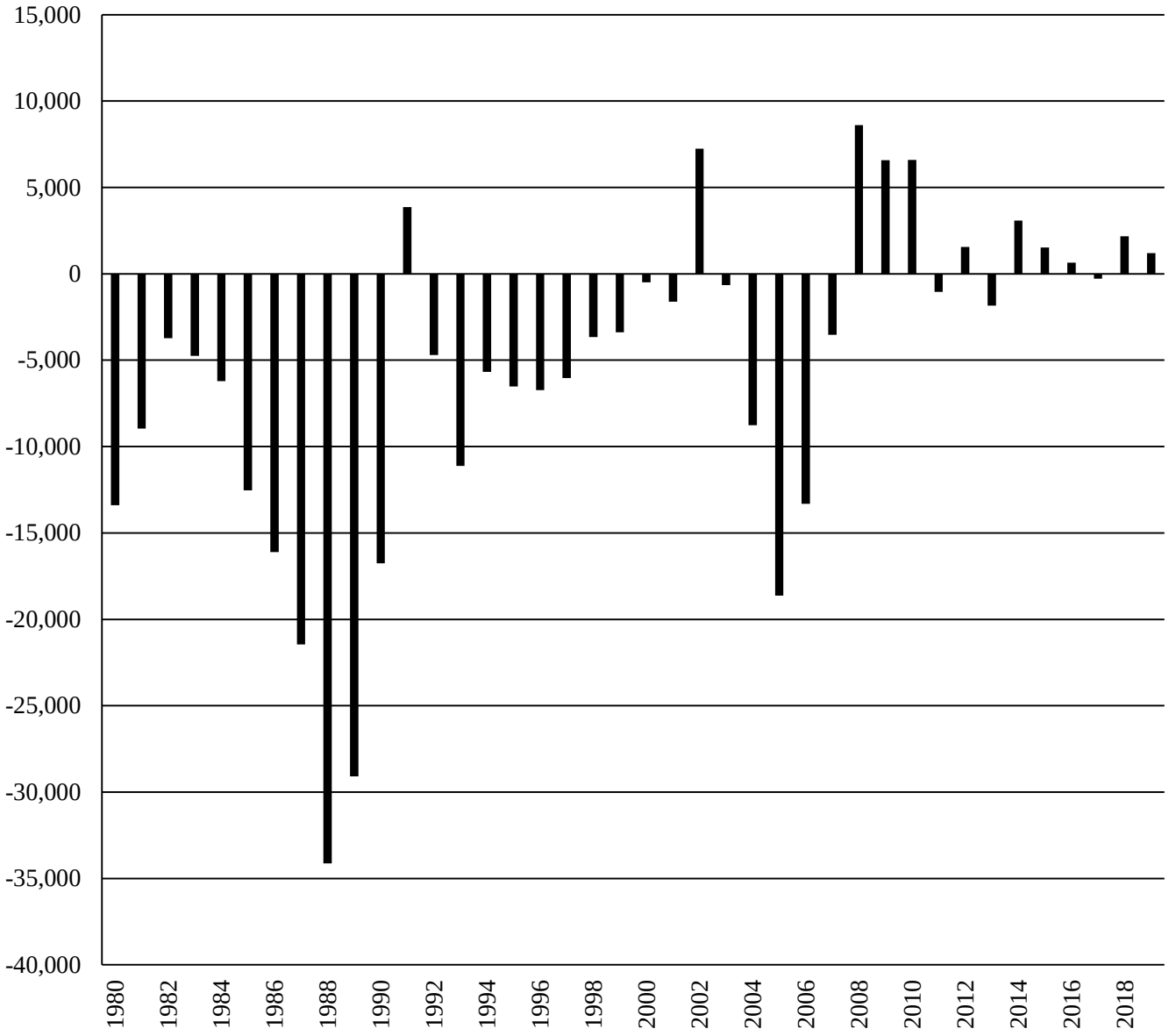



MALPP: Maryland Agricultural Land Preservation Program

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; Department of Legislative Services

**Exhibit 2**
**Net Difference in Annual Farmland Preserved and Converted**
**Fiscal 1980-2019**
**(in Acres)**




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

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 12, 2019, a total of 675,905 acres have been preserved; thus, an additional 354,095 acres would need to be preserved by 2022 to meet the preservation goal. MALPP has conserved approximately 318,216 acres as its contribution to the statewide goal.

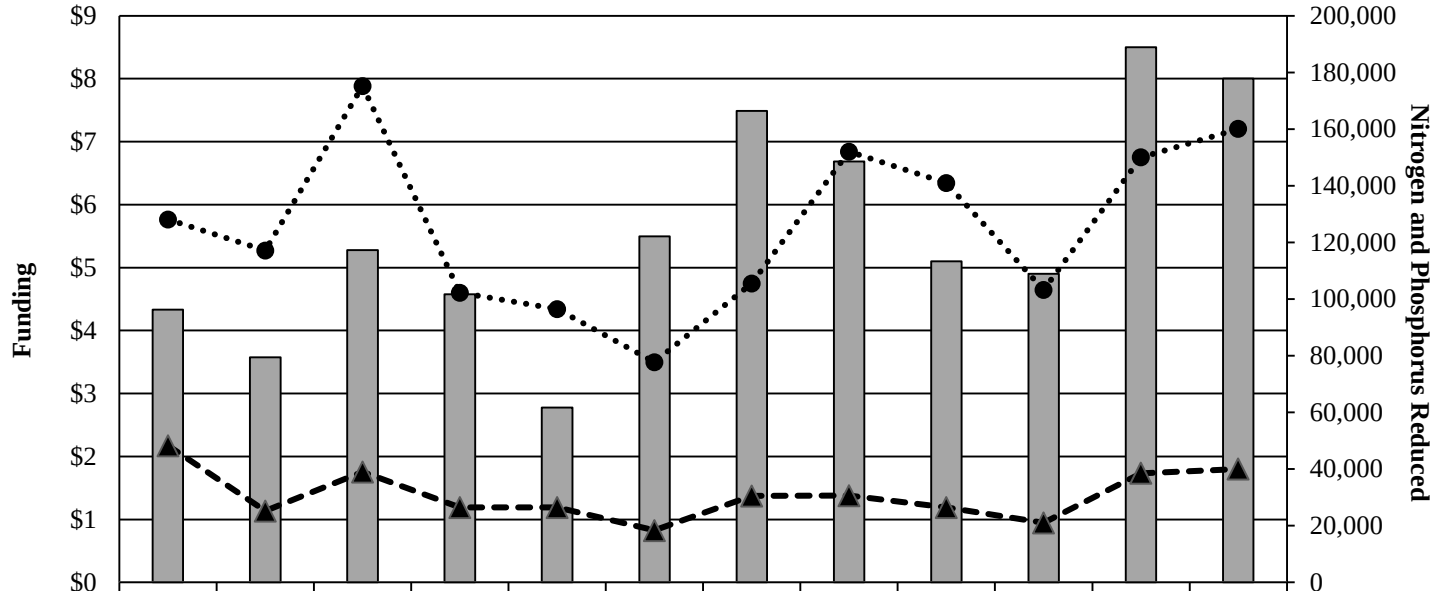
## MACS

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 EPA's Chesapeake Bay Implementation Grant and processed through MACS. In contrast, BMPs funded by the U.S. Department of Agriculture (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.

Outside of the State budgeting process, the 2018 Farm Bill reauthorized the Regional Conservation Partnership Program through USDA's Natural Resources Conservation Service. The Chesapeake Bay watershed is one of eight geographic areas eligible for a share of $300.0 million per year (up from $100.0 million per year). The Natural Resources Conservation Service works collaboratively with conservation partners and agricultural producers to promote voluntary private lands conservation.

**Exhibit 3** reflects the new BMPs installed by MACS between fiscal 2010 and the 2020 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. There has been no trend in nitrogen and phosphorus reductions over the time period shown. MDA notes that weather over the past two years has curtailed the planning and construction of BMPs and the subsequent expenditures.

**Exhibit 3**
**Maryland Agricultural Cost-Share Program Statistics**
**Fiscal 2010-2021 Est.**
**($ in Millions)**




| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 Est. | 2021 Est. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Funding Expended ($ in Millions) | $4.3 | $3.6 | $5.3 | $4.6 | $2.8 | $5.5 | $7.5 | $6.7 | $5.1 | $4.9 | $8.5 | $8.0 |
| Nitrogen Reduced (Pounds) | 128,180 | 117,154 | 175,226 | 102,235 | 96,527 | 77,766 | 105,547 | 152,099 | 140,982 | 103,271 | 150,000 | 160,000 |
| Phosphorus Reduced (Pounds) | 48,317 | 25,189 | 38,965 | 26,424 | 26,448 | 18,390 | 30,572 | 30,643 | 26,512 | 21,060 | 38,500 | 40,000 |
| MACS Projects | 589 | 539 | 540 | 645 | 603 | 360 | 632 | 359 | 215 | 192 | 700 | 725 |

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 standards, 16% no longer exist or are superseded, 6% meet standards but animals are no longer present, and 3% do not meet standards. 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.

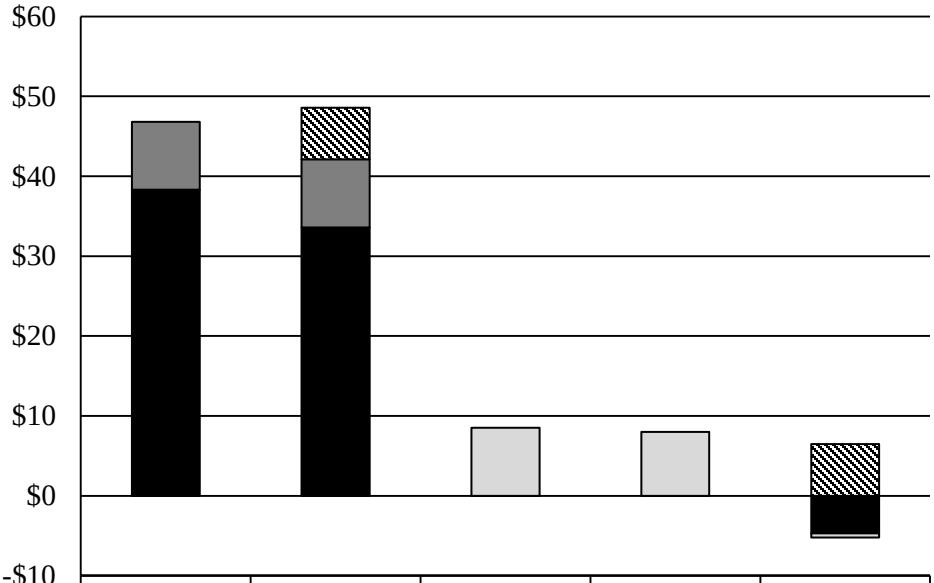
# *Budget Overview*

## Fiscal 2021 Budget

The fiscal 2021 allowance includes $48.6 million in special funds and $9.1 million in general obligation (GO) bonds for a total of $57.6 million.

**Exhibit 4** shows the fiscal 2021 funding for the two programs in the allowance. The proposed fiscal 2021 funding level is $1.2 million higher than what was provided in fiscal 2020. This reflects an increase of $6.5 million in general funds from the Dedicated Purpose Account (DPA) reflected as special funds for MALPP, a decrease of $0.5 million in the GO bond authorization for MACS, and a decrease of $4.7 million in the transfer tax funding for MALPP.

**Exhibit 4**
**Maryland Department of Agriculture**
**Capital Budget Changes by Fund**
**Fiscal 2020-2021**
**($ in Millions)**




| | 2020 MALPP | 2021 MALPP | 2020 MACS | 2021 MACS | 2020-2021 Difference |
|---|---|---|---|---|---|
| Total | $46.8 | $48.6 | $8.5 | $8.0 | $1.2 |
| GF Dedicated Purpose Account | 0.0 | 6.5 | 0.0 | 0.0 | 6.5 |
| SF Local Participation | 8.5 | 8.5 | 0.0 | 0.0 | 0.0 |
| GO Bonds | 0.0 | 0.0 | 8.5 | 8.0 | -0.5 |
| SF Transfer Tax | 38.3 | 33.6 | 0.0 | 0.0 | -4.7 |

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

Source: Department of Legislative Services

## MALPP

MALPP's fiscal 2021 allowance provides $48.6 million comprised of $33.6 million in transfer tax special funds, $8.5 million of local participation special funds, and $6.5 million of general funds

budgeted in the DPA for the program's share of transfer tax diversion repayments. The estimated cost per acre for MALPP easements is projected to be approximately $4,307 in fiscal 2021, which will allow for the preservation of 11,274 acres. No federal funding is reflected, which means that there has been no change in the restrictive requirements on the federal Farm and Ranch Lands Protection Program funding. MDA has an MOU with the Department of General Services to fund 3 assistant Attorneys General (AAG) legal staff, 1 legal assistant, and 2.5 appraisers, which will enable MDA to handle the increased workload of a one-year easement cycle.

## MACS

The fiscal 2021 allowance for MACS is $8.0 million, which is $0.5 million less than the fiscal 2020 working appropriation but is equal to the funding level programmed for fiscal 2021 in the 2019 CIP. 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 can be recycled for current year projects. The 2020 CIP reflects an $8.0 million funding level for all but the fiscal 2024 and 2025 authorizations in the five-year planning period. MDA notes that during the last five years, 7 of the 10 highest used BMPs funded by MACS have been poultry and livestock related. For instance, the most frequently used BMPs include waste storage structures, heavy-use areas, and fencing. In terms of federal funding, MDA has noted in the past that the Regional Conservation Partnership Program through USDA's Natural Resources Conservation Service will supplement and not supplant the State GO bond funding for agricultural BMPs.

## Salisbury Animal Health Laboratory Replacement

The fiscal 2021 allowance includes $1,074,000 in GO bonds to equip the Salisbury Animal Health Laboratory replacement project. The overall funding for equipment has increased from $795,000 to $1,080,000, or $285,000. The equipment funding was originally budgeted in fiscal 2020 but was used instead to award the construction contract, which was more expensive than anticipated as a result of increases in the regional construction factor and escalation. In addition, the breakdown of equipment costs has changed from primarily moveable equipment to primarily information technology equipment. This reflects the final approved laboratory equipment list, which includes large freezers and refrigerators that are not considered moveable equipment. The Salisbury Animal Health Laboratory conducts tests that ensure the safety of the food supply and the economic viability of animal industries throughout the Delmarva Peninsula by, among other activities, providing diagnostic and investigatory services that identify and contain animal health emergencies. The primary justifications for the project include the deterioration of the existing infrastructure and the inability to meet current laboratory standards. The accreditation cycle is 2 years, and the current accreditation is valid through September 2020. The laboratory is expected to last at least 30 years. The Salisbury Animal Health Laboratory is expected to be completed by March 2021. MDA notes that reaccreditation is not dependent on the completion of the laboratory because the accrediting association is currently reviewing accreditation standards for procedures only, and MDA has procedures in place to establish best practices under the current conditions to minimize the risk of sample cross-contamination, employee infection or injury, and separation of the public from laboratory processes.

# *Issues*

## 1. Maryland Agricultural Cost-Share Program Future Funding Seemingly at Odds with Need

EPA evaluated Maryland's Phase III WIP for Chesapeake Bay restoration and found that Maryland intends to meet planning targets through high rates of BMP implementation, particularly in the agricultural and wastewater sectors, with 52% of the pollutant reductions coming from the agriculture sector and 42% from the wastewater sector. EPA further noted that Maryland's WIP relies on wastewater controls (42%) and six agricultural BMPs (35%) to meet 77% of the nitrogen reduction by 2025. EPA proposed that Maryland include two-year numeric BMP implementation targets for at least 60% of the nitrogen reductions between now and 2025 for wastewater controls and the six agricultural practices as part of its programmatic milestones. The six agricultural practices are as follows: cover crop (wheat normal distilled); tillage management-continuous high residue; animal waste management systems; soil conservation and water quality plans; grass buffers; and nutrient management core nitrogen. Given the focus on the agricultural sector for 52% (4.2 million nitrogen pounds) of the nitrogen reduction by 2025, MACS would seem to be eligible for a significant funding increase in the 2020 CIP. However, there is only a modest funding increase from the $8.0 million between fiscal 2021 and 2023 to the $9.0 million projected authorizations in fiscal 2024 and 2025.

MDA notes that there are a couple of different dynamics impacting MACS. MACS is geared toward capital projects since it receives GO bond funding. These capital projects in turn primarily reduce phosphorus, which is not the primary focus of Chesapeake Bay restoration goals. Instead, operating funding for cover crops is a more effective way to reduce nitrogen loads. In addition, MDA notes that in recent years, there has been a slowing of growth in the poultry industry, which means that fewer farms need animal waste management systems and other poultry-related BMPs, although streamside buffers such as forest and grass buffers funded by MACS are an effective way to reduce nutrient and sediment loads. In addition, MDA notes that the need for BMPs will be determined after the completion of additional soil conservation and water quality plans, the development of which will be assisted by the addition of soil conservation district positions in MDA's fiscal 2021 operating budget. MDA notes that it is reviewing MACS for program efficiencies and other possible changes. **DLS recommends that MDA comment on the relative role that streamside protection BMPs, such as forest and grass buffers, will play in the MACS funding mix and in MDA's ability to meet the Phase III WIP nitrogen goal for the agricultural sector.**

# *Updates*

## 1. Readiness and Environmental Protection Integration Program to Be Ready Soon

Chapter 622 resolved a statutory incompatibility between the Maryland Agricultural Land Preservation Foundation (MALPF) and REPI, allowing federal REPI funds to be used toward purchases of MALPF easements. REPI funds cost-sharing agreements with state and local governments and conservation organizations to promote compatible land uses and preserve habitats near military

installations. The provisions in Chapter 622 became effective June 30, 2018. MALPF asked to rejoin the REPI partnership in July 2018, and MALPF signed a revised agreement with the U.S. Navy in February 2019. In early November 2019, MALPF informed the U.S. Navy that it was ready to enter into an MOU and that the form of easement was acceptable to MALPF. Subsequently, the U.S. Navy conducted additional levels of review and provided MALPF with additional edits to the MOU on February 3, 2020; MALPF has reviewed the edits and forwarded the document to an AAG for review. Therefore, a final MOU with the U.S. Navy may be executed in the near future. A property in Charles or St. Mary's counties may become the first test case in late summer or early fall 2020.

## *Authorization Encumbrance and Expenditure Data*

**Exhibit 5** reflects the encumbrance and expenditure history for MACS from the beginning of the program through January 2020. The total authorization for the time period shown is $162.6 million of which $11.3 million remains to be encumbered and $18.8 million remains to be expended.

**Exhibit 5**
**Maryland Agricultural Cost-Share Program**
**Encumbrances and Expenditures**
**Through January 2020**
**($ in Millions)**

| | | Funds | | Balances | |
|---|---|---|---|---|---|
| **Fiscal Year** | **Authorization** | **Encumbered** | **Expended** | **To Be Encumbered** | **To Be Expended** |
| Prior Years | $135.564 | $135.564 | $135.564 | $0.000 | $0.000 |
| 2016 | 2.000 | 2.000 | 2.000 | 0.000 | 0.000 |
| 2017 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| 2018 | 8.000 | 8.000 | 6.240 | 0.000 | 1.760 |
| 2019 | 8.500 | 5.726 | 0.000 | 2.774 | 8.500 |
| 2020 | 8.500 | 0.000 | 0.000 | 8.500 | 8.500 |
| **Total** | **$162.564** | **$151.290** | **$143.804** | **$11.274** | **$18.760** |

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

## *PAYGO Recommended Actions*

1. Concur with Governor's allowance of $42,105,178 in special funds for the Maryland Agricultural Land Preservation Program.

# *GO Bond Recommended Actions*

1. Approve the $1,074,000 general obligation bond authorization for the Salisbury Animal Health Laboratory Replacement to complete equipping of a replacement animal health laboratory in Salisbury.

2. Approve the $8,000,000 general obligation bond 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.

## Appendix 1
# Program Descriptions

- ***Maryland Agricultural Land Preservation Program:*** The General Assembly created the Maryland Agricultural Land Preservation Program (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.

- ***Maryland Agricultural Cost-Share Program:*** The Maryland Agricultural Cost-Share Program (MACS) provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized best management practices (BMP) 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.