

**Chesapeake Bay Cabinet
Fiscal Year 2026 Operating Budget
Response to the Department of Legislative Services Analysis**

**Senate Budget and Taxation Committee
Public Safety, Transportation, and Environment Subcommittee
Senator Michael A. Jackson, Chair
January 31, 2025**

**House Appropriations Committee
Transportation and Environment Subcommittee
Delegate Courtney Watson, Chair
February 5, 2025**

Pg. 30. The Department of Legislative Services (DLS) recommends that the Administration comment on the long-term plan for the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund in general, and in particular for supporting cost containment, given that the revenues are steady or declining, that \$10.5 million is being used in fiscal 2026 for cost containment, and that the estimated closing balance is down from \$36.6 million in fiscal 2025 to \$12.2 million in fiscal 2026.

Administration Response:

- The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund is DNR's primary fund source for watershed restoration funding. It allows Maryland to accelerate Bay restoration by focusing limited financial resources on the most efficient, cost-effective, non-point source pollution control projects.
- Cost containment for FY26 is being done due to exceptional fiscal circumstances but still leaves the Trust Fund with \$12.2M in reserve, balancing the need to both fund projects and support operations.
- In the long term, DNR will continue to carefully plan the management of this fund to ensure that it can continue to support projects that include co-benefits such as climate resilience, environmental justice, and public access and allow for funding of innovative restoration approaches as a way to evaluate and measure their success.

Pg 30. DLS also recommends the adoption of committee narrative requesting that the Administration continue to publish the overall Chesapeake Bay restoration data in the Governor's budget books and provide the electronic data separately. For administrative purposes, this recommendation will appear in the operating budget analysis K00A – DNR. Finally, DLS recommends the adoption of committee narrative requesting that

DNR comply with statute and provide the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund annual report at the time of the fiscal 2026 budget submission. This recommendation also will appear in the operating budget analysis for K00A – DNR.

Administration Response:

- The administration will continue to provide the requested data, including the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund Annual Report, with the Governor's fiscal 2027 Allowance.

Pg 32. DLS recommends that the Administration comment on the outcome of the fall 2024 RFP that closed on December 3, 2024; why one project will be chosen in each of five Maryland watersheds; why the Whole Watershed Fund is not reflected as a special fund in the fiscal 2026 budget; the amount of funding budgeted for the Whole Watershed Act in fiscal 2026 if it is different from the \$10.0 million noted previously; how the funding will support the proposals to be selected; and how the Whole Watershed Act project outcomes are anticipated to be different from the outcomes for the programs and sources funding the Act.

Administration Response:

- The Whole Watershed Act requires the State Management Team to select up to 5 projects in diverse watersheds that represent a highly collaborative, science-based approach to watershed restoration across the state. DNR received nine applications representing watersheds across the State. Those applications are currently under review by the State Management Team. Final selections will be made in March.
- For FY26, the agencies involved have budgeted the following:
 - DNR: \$5M from the 2010 Trust Fund and \$1.25M from the Waterway Improvement Fund (WIF)
 - MDE: \$5M from Bay Restoration Fund
 - MDA: Funding of MDA-eligible activities selected by the State Management Team will be funded directly by MDA, given restrictions on conservation cost share and agricultural preservation fund sources and timing of funding availability.
- The Whole Watershed Fund is a statutorily created special fund that will be funded by existing special funds. The FY26 budget reflects the spending from the contributing funds. DNR has \$6.125M of special funds appropriated between WIF and the 2010 Trust Fund that will be transferred to the Whole Watershed Fund. This special fund appropriation will be used to begin projects. The MDE and MDA portion of the contribution will be revenue into the fund and will not need special fund appropriation until it is scheduled to be spent. If that occurs in FY26, a budget amendment will be requested to increase special fund appropriation.
- By deploying a targeted approach of these funds into the selected watersheds, we expect to achieve greater and more effective outcomes of these Programs

than would be achieved individually because we will be working in coordination and in a manner that is targeted towards greater ecological uplift. Additionally, the State management team will help find efficiencies in project permitting and funding as well as evaluate results.

Pg 32. DLS also recommends that DNR, in cooperation with its partner BayStat agencies, submit a report with the fiscal 2027 allowance describing the Whole Watershed Act funding by amount and source; the projects selected by March 1, 2025, and the status of each project; use of the fiscal 2027 funding since the RFP is every five years; how projects will be funded over multiple years assuming uncertain appropriations to the Whole Watershed Fund each fiscal year; and preliminary outcomes of the projects selected, including State support provided to project sponsors and nutrient and sediment reductions.

Administration Response:

- DNR concurs with this recommendation.

Pg. 35. DLS recommends that committee narrative be adopted requesting a similar report from the agencies for the fiscal 2027 budget submission on updated historical and projected Chesapeake Bay spending and associated impacts and the overall framework to meet the calendar 2025 requirement of having all BMPs in place to meet water quality standards for restoring the Chesapeake Bay. The report should include updated information on how the loads associated with the Conowingo Dam infill, population growth for both people and animals, and climate change will be addressed; the status of staffing and preventive maintenance at the 67 major WWTPs; the status of the Soil Conservation District field positions in terms of Soil and Water Quality Conservation Plan development and BMP implementation; and the long-term plans for reducing loading from the stormwater sector. For administrative purposes, this committee narrative will appear in the operating budget analysis for K00A – DNR.

Administration Response:

- The Administration agrees that it is appropriate and is very willing to submit a report to DLS summarizing Maryland's Chesapeake Bay funding and restoration progress to date, current status, and future plans. However, the Administration respectfully requests that the scope of the requested report be scaled back from what has historically been requested. The current scope of the report requires a tremendous amount of staff time to compile and it is unclear how much of it is useful to the committees. The Administration is willing to work with DLS to identify a more appropriate scope.

Pg. 36. DLS recommends that the Administration brief the committees on how the Chesapeake Executive Council's Charge to the Principals' Staff Committee: Charting a

Course Beyond 2025 impacts Maryland's Chesapeake Bay efforts and how Maryland's fiscal 2026 budget reflects the guidance provided in the charge.

Administration Response:

- This will set out the top objectives, priorities, strategies and action items for the State on Chesapeake Bay restoration
- The FY26 budget reflects the guidance for DNR because, in anticipation of the publication of the Beyond 2025 plan, DNR has internalized the latest science on the Chesapeake Bay and reflected it within its various programs and projects including in the structure of the Whole Watershed Act, water quality monitoring in the Bay Legacy Act, and refocusing Tree Solutions Now Act funding to ensure the targeted deployment of agricultural Best Management Practices (BMPs).
- MDE is focused in several areas to fulfill the Executive Council's charge, including: (1) utilizing innovative pay-for-success approaches in our funding programs (Clean Water Commerce Act, Conowingo Watershed Implementation Plan (WIP)); (2) modernizing our stormwater regulations to incorporate increased rainfall projections with climate change; and (3) building on our successes in wastewater and related compliance/enforcement so we sustain the reductions into the future. MDE's FY26 budget includes continued Bay Restoration Fund funding for pay for success and wastewater operations and maintenance funding. We also have funding built into our FY26 budget for the increased permitting and compliance staff positions added to the agency in FY23. We are using FY25 funds to update our stormwater design manual with the climate-driven rainfall projections.
- MDA continues our commitment to Maryland farmers to provide financial and technical assistance, while also bringing new resources to address climate change, conservation co-benefits, and engaging more farm operations. Examples of these new resources include the Maryland Leaders in Environmentally Engaged Farming (LEEF) program established as part of the Chesapeake Bay Legacy Act. The LEEF program will provide recognition to incentivize farmer's voluntary participation in the coordinated adoption of conservation and community best practices. MDA is also actively pursuing federal and other non-state funding to bring in new resources. Recent successful efforts include incentivizing Habitat Restoration on Working Lands in Maryland, funded by National Fish and Wildlife Foundation's Chesapeake Watershed Investments in Landscape Defense (Chesapeake WILD) and the Atlantic Conservation Coalition, funded by US EPA Climate Pollution Reduction Grant. MDA is dedicated to ensuring that programming and policy development is equitable and inclusive, and provides co-benefits including aiding the state's climate pollution reduction efforts and benefiting disproportionately affected and climate vulnerable communities.

Pg 42. DLS recommends that the Administration comment on the budget committees' concerns – which are reflected in fiscal 2023 narrative – about the status of contributions from other states toward the Conowingo Dam WIP and whether the round 1 projects chosen by the Susquehanna River Basin Commission meet the budget committee's intent. The intent is that the \$25.0 million allocated to this purpose in fiscal 2023 be used only for the purchase or implementation of cost-effective pollution load reduction BMPs with at least a 15-year beneficial life that support the Chesapeake Bay Program partnership's efforts to achieve the Chesapeake Bay TMDL, with a priority placed on the purchase or implementation of fixed natural filter practices as defined in § 8-701 of the Agriculture Article. In addition, DLS recommends that the Administration comment on what is known about the responses to the round 2 RFP; what portion of the \$13.6 million in remaining funding will be used for these proposals; how tracking, verifying, and reporting BMP implementation will be handled; and what the next steps are for Maryland's funding and overall involvement in the Conowingo Dam WIP. In addition, given FERC's recent ruling, DLS recommends that the Administration comment on the next steps for Conowingo Dam water quality certification, relicensing, and the settlement agreement between MDE and Constellation Energy that requires Constellation Energy to invest more than \$200 million in environmental projects and operational enhancements to improve water quality over the 50-year license term.

Administration Response:

- Pennsylvania initially contributed \$22 million to its Conowingo Pay for Performance initiative through the Clean Water Procurement Program administered by PENNVEST. Since that initial contribution, they have committed \$6 million annually to continue the Pay for Performance program. The third round of bidding is open until March 5th. New York contributes approximately \$500,000 per year in partnership with the Upper Susquehanna Coalition through New York's Most Effective Basin Infrastructure Investment and Jobs Act.
- In round one of the Pay for Success Program, 19 projects totaling more than \$90 million were submitted for consideration. \$11 million was awarded for seven projects in Maryland and Pennsylvania that represent a diversity of restoration options. Among the projects are fixed natural filter practices, including riparian forest buffers on land used for livestock grazing and hay production. Additional projects include the conversion of cropland to grassland, agricultural precision nutrient management, and stream restorations in agricultural areas. The lifespan of the projects ranges from 4 to 20 years, with an average lifespan of 13 years. The proposed projects met the goals of being cost-efficient and nitrogen-effective. The per-pound costs of the projects chosen ranged from \$6 to \$150. It is estimated that approximately 46,000 lbs of total nitrogen (~ 25% of MD's needed nitrogen reduction for Conowingo) will be reduced per year once these projects are completed.
- In round two of the Pay for Success Program, 10 proposals were received, totaling approximately \$49.5 million. Projects include conservation tillage, cover crops, precision nutrient management, riparian forest buffers, and dairy operation

practices (e.g., manure management, stream fencing). Project costs range from \$1,186,452 to \$11,002,484. Life spans range from 5 to 20 years, with an average of 13 years. Prices per pound of nutrients reduced range from \$14 to \$221, with 9 out of 10 projects below \$150 per pound. The pounds of nitrogen reduced per year for individual projects range from 1,264 to 48,000. With the amount of cost-effective proposals received, MDE anticipates allocating the remaining \$14 million in Round 2. MDE is currently working with the Susquehanna River Basin Commission (SRBC) on reviewing the proposals.

- Projects funded by Maryland's Pay for Success program are being implemented in both Maryland and Pennsylvania (round 2 may include NY projects). The two states are working closely to ensure that reporting processes are in place to accurately track the nutrient reductions resulting from Maryland's program. Contract awardees are working with the respective states on reporting reductions. Pennsylvania will collect the nutrient reduction data from projects located in their state and will share this information with MDE so that Maryland can track the outcomes of its investment. Verification plans were included in the applications, and Maryland is working with SRBC on verification processes. The Chesapeake Bay Program has made updates to its reporting schema that allow jurisdictions to identify specific best management practices that are to be credited toward meeting the Conowingo Watershed Implementation Plan. MDE is working with MDA to ensure that Conowingo agricultural practices are not double counted towards both the Chesapeake Bay WIP and the Conowingo WIP.
- Maryland is currently in discussions with SRBC, Pennsylvania, and the Environmental Policy Innovation Center to investigate new ideas for continuing the Pay for Success model. Current commitments from Maryland, New York, and Pennsylvania cover only 2% of the WIP's 6-million-pound nitrogen reduction goal. Maryland plans to continue its close partnership with Pennsylvania and New York to jointly further progress toward achieving the goals of the Conowingo WIP and also recently submitted a proposal to the National Fish and Wildlife Foundation to fund a Susquehanna watershed coordinator that will increase implementation capacity.
- Maryland Department of the Environment also contributed a \$700,000 match with the U.S. Army Corps of Engineers (USACE) for assistance in developing a 3-dimensional Conowingo Reservoir modeling system that will be able to simulate nutrient and sediment loads under current and future dredging scenarios and future hydrologic-climate scenarios. The project is underway in partnership with USACE Baltimore District, the U.S. Army Engineer Research and Development Center, and the Chesapeake Bay Program modeling experts.
- We are working to secure a durable water quality certification that protects the Susquehanna River and the Chesapeake Bay while minimizing the risk of prolonged litigation. Since mediation is ongoing, we can't discuss details, but we are prioritizing measurable pollution reductions, accountability, and long-term commitments. We are making progress and working to have decisions soon.

Pg. 44. DLS recommends that the Administration consider the apparent conflict between the up to \$2.0 million funding level for the LEEF program in SB 428/HB 506 and the reduction of the available funding for the LEEF program to up to \$0.5 million, after tree planting on agricultural lands, included in a provision of the BRFA of 2025. DLS also recommends that MDA comment on how the LEEF program is anticipated to improve agriculture sector outcomes for Chesapeake Bay restoration and farming profitability, including how program tiers will be determined and what benefits farmers will receive by being certified under each tier. Finally, DLS recommends that budget bill language be added to restrict funding for the LEEF program, pending a report on the program's final parameters, including a detailed spending plan. For administrative purposes, the budget bill recommendation will appear in the operating budget analysis for L00A – MDA.

Administration Response:

MDA disagrees with the recommendation to restrict funding for the LEEF Program.

- SB428/HB506 allows for up to \$2 million of funding annually that is appropriated in the state budget to fund tree planting incentives under the Tree Solutions Now Act to be transferred to the LEEF fund. This is the maximum level of funding that can be transferred annually. The Budget and Reconciliation and Financing Act (BRFA) reduces the mandated appropriation for the tree planting incentives under the Tree Solutions Now Act from \$2.5 million to \$500,000. This is the minimum funding level that must be included in the budget annually. If the budget, BRFA, and SB428/HB506 all pass in their current forms, then MDA would have \$500,000 in funding for tree planting incentives under the Tree Solutions Now Act, as well as \$900,000 to support the LEEF program.
- LEEF is being proposed in response to Comprehensive Evaluation of System Response (CESR) and Charting a Course Beyond 2025 reports. Maryland farmers are among the most progressive in the country, and LEEF is envisioned as a way to recognize the holistic efforts of all farmers as we work toward healthier watersheds. Within the program, farm operations would voluntarily select across a suite of conservation and community best practices. Each practice would be rated/scored, and a final score for the farm operation would correspond to a tier of stewardship modeled after Leadership in Energy and Environmental Design (LEED) building ratings.
- MDA is currently organizing focused listening sessions with key stakeholders to elicit feedback and discussion on qualifying best practices (conservation and community) and incentives that should be considered for LEEF. Listening sessions will occur in February and March. Funding would support program administration (approximately \$200K annually) and incentives for LEEF

participants. The latter will be further developed through listening sessions, but MDA anticipates expenses for farm recognition materials and vouchers to offset farm expenses (e.g. permit fees, lending rates, match funding) for higher-tier LEEF operations.