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Vice Chair
Environment and Transportation
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Subcommittees
Chair, Environment
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The Maryland House of Delegates
ANNAPOLIS, MARYLAND 21401

Testimony of Delegate Dana Stein in Support of House Bill 507

Clean Water Commerce Act of 2021

Chairman Barve and Committee members:

This bill extends and updates the “Clean Water Commerce Act” (CWCA). This committee first established the CWCA in 2017, under which the Bay Restoration Fund’s (BRF) Wastewater Account could be used to purchase cost-effective pollution reductions in support of the state’s efforts to restore the health of the Chesapeake Bay. The provisions sunset at the end of FY 2021.

The legislative members of the Chesapeake Bay Commission, myself included, spend a lot of time looking at our efforts to restore the Bay in much greater detail than is possible during session. In reviewing the draft Phase III WIP – our implementation plan to meet the 2025 goals of the TMDL – we noticed that it would be possible to improve upon the cost-effectiveness of our approach and hence increase our return.

Hence, with the deadline for meeting the TMDL just four years away – it seemed like the perfect opportunity, to expand the Clean Water bill instead of just letting it sunset this year. *Our focus was on achieving the most cost-effective BMPs to achieve the 2025 water-quality goals, while also including important considerations, like the legacy of disparate environmental impacts on disadvantaged communities.*

House Bill 507 as introduced, achieves this goal. The bill:

- Extends the sunset provision to June 30, 2030, to match the sunset of the current BRF fee structure.
- Increases CWCA funding to \$20 million annually. The BRF has the capacity for this.
- Removes the exclusion of any sector, practice, or geography from CWCA project ranking. Previously, by choice, the agricultural sector could not participate.
- Implements a sector-based set-aside to ensure a diversity of restoration practices and locations. For example, at least 35% of funding must be used to procure environmental outcomes from agricultural practices.
- Ensures the sector producing the load reduction gets “credit” for it in the WIP.

To help refine the legislation, last fall, the Maryland delegation of the Chesapeake Bay Commission created a “Clean Water Commerce Act Workgroup,” comprised of representatives of local government, agriculture, environmental, restoration, finance, and other sectors. After several meetings, the workgroup came up with consensus recommendations for amendments, which are also before you today.

Amendments that I’ve introduced will do the following:

- Use an “account” rather than a “fund” structure to administer the program, as requested by MDE.
- Focus “environmental outcomes” on nitrogen reductions – phosphorus and sediment reductions are treated as co-benefits.
- Include afforestation and reforestation in the definition of natural landscape practices. We heard a consistent message to expand funding for trees and forests.
- For the ag set-aside, make “fixed natural filter” and ditch management projects the priority.
- For the environmental justice set-aside, specifically include stormwater and green infrastructure projects as eligible.
- Require all projects to have an expected beneficial life of 10 years.
- Expand co-benefits to include climate mitigation.



HB0507/463320/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

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BY: Delegate Stein
(To be offered in the Environment and Transportation Committee
and the Appropriations Committee)

AMENDMENTS TO HOUSE BILL 507
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 3 and 4, strike “Fund as a special, nonlapsing fund” and substitute “Account within the Bay Restoration Fund”; in lines 5, 6, and 8, in each instance, strike “Bay Restoration”; in lines 5, 7, 10 and 11, 12, 14, 15, 16 and 17, and 18, in each instance, strike “Clean Water Commerce Fund” and substitute “Account”; strike beginning with “requiring” in line 12 down through the first semicolon in line 14; in line 15, after “used,” insert “limiting the use of the Account to the purchase of certain cost-effective environmental outcomes; requiring that a certain percentage of the Account be used for certain purposes in each fiscal year; specifying that a certain project may include certain environmental outcomes;”; in line 17, strike “accounts and”; strike beginning with “providing” in line 18 down through “State;” in line 23; in line 24, after “person” insert “separately from the property on which the environmental outcome is located”; in line 26, after the first “proposals” insert “, develop and use a certain scoring system, provide each person that submits a proposal with certain information,”; and in the same line, strike “to”.

On page 2, in line 1, strike “establish and implement” and substitute “approve”; in line 5, strike “payment under”; in the same line, strike “certain”; in the same line, after “contract” insert “entered into by the Department under this Act”; in line 6, strike “establish” and substitute “maintain”; in line 7, strike “or” and substitute a comma; in the same line, after “practice” insert “, and environmental outcome”; in line 9, strike “Department” and substitute “Bay Restoration Fund Advisory Committee”; strike beginning with “the” in line 9 down through “law,” in line 10; and in line 14, strike the second “Fund” and substitute “Account”.

(Over)

On pages 2 and 3, strike in their entirety the lines beginning with line 30 on page 2 through line 3 on page 3, inclusive.

AMENDMENT NO. 2

On page 5, in lines 11 and 19, in each instance, strike “FUND” and substitute “ACCOUNT”.

On page 6, in line 8, strike “AND”; in line 11, after “COMMISSION” insert “; AND”

(XI) ONE INDIVIDUAL REPRESENTING COMMUNITIES DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES”;

and in line 27, after “(2)” insert ““ACCOUNT” MEANS THE CLEAN WATER COMMERCE ACCOUNT.”

(3)”.

On page 7, in line 4, strike “(3)” and substitute “(4)(I) “AGRICULTURAL PRACTICE” MEANS A BEST MANAGEMENT PRACTICE THAT IS:

1. APPROVED BY THE CHESAPEAKE BAY PROGRAM PARTNERSHIP; AND

2. IMPLEMENTED ON LAND OR WATER THAT IS USED FOR THE PRODUCTION OR PROCESSING OF AN AGRICULTURAL CROP.

(II) “AGRICULTURAL PRACTICE” INCLUDES AGRICULTURAL, HORTICULTURAL, SILVICULTURAL, AND AQUACULTURAL OPERATIONS.

(5);

in line 5, strike “ADOPTED” and substitute “APPROVED”; in lines 7, 15, and 21, strike “(4)”, “(6)”, and “(7)”, respectively, and substitute “(6)”, “(7) (I)”, and “(8)”, respectively; in lines 7 and 8, strike “ANY OF THE FOLLOWING QUANTITATIVE OUTCOMES” and substitute “NITROGEN LOAD REDUCTIONS”; in lines 8 and 9, strike “AT THE EDGE OF TIDE”; in line 9, strike “WATERSHED MODEL” and substitute “MODELS”; strike beginning with “OR” in line 9 down through “REDUCTION” in line 13; strike line 14 in its entirety; in lines 17, 18, and 19, strike “(I)”, “(II)”, and “(III)”, respectively, and substitute “1.”, “2.”, and “3.”, respectively; in line 18, strike “15” and substitute “10”; strike beginning with “IS” in line 19 down through “PROVIDE” in line 20 and substitute “PROVIDES”; after line 20, insert:

“(II) “NONAGRICULTURAL LANDSCAPE RESTORATION PROJECT” INCLUDES A PROJECT THAT RETURNS LAND TO NATIVE OR NATURAL LAND COVER, SUCH AS AFFORESTATION OR REFORESTATION PROJECTS.”;

and in line 28, after “DEPARTMENT” insert “OR THE OWNER OF A PROJECT OR PRACTICE”.

On pages 7 and 8, strike beginning with the second “THE” in line 28 on page 7 down through “OF” in line 1 on page 8.

On page 8, in lines 4, 5, 8, 13, 14, 19, and 20, in each instance, strike “FUND” and substitute “ACCOUNT”; strike beginning with “(1)” in line 9 down through “(F)” in line 13; in line 14, strike “DISTRIBUTED” and substitute “TRANSFERRED”; in line 15, after “SUBTITLE;” insert “AND”; strike beginning with “MONEY” in line 16 down through “(4)” in line 18; in line 20, strike “(G)” and substitute “(F)”; in line 22, strike “IN SUPPORT OF” and substitute “THAT:”

(Over)

(I) SUPPORT;

in line 23, after "TMDL" insert "; AND

(II) HAVE AN EXPECTED LIFE OF AT LEAST 10 YEARS;

in line 24, strike "IN" and substitute "EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN"; in line 26, strike "PROJECTS ON"; in the same line, strike "LANDS" and substitute "PRACTICES, WITH PRIORITY GIVEN TO PROJECTS THAT ARE:"

1. A FIXED NATURAL FILTER PRACTICE, AS DEFINED IN § 8-701 OF THE AGRICULTURE ARTICLE; OR

2. AN AGRICULTURAL DITCH MANAGEMENT PRACTICE, AS DEFINED BY THE CHESAPEAKE BAY PROGRAM;

in line 28, after "PROJECTS" insert ", INCLUDING STORMWATER MANAGEMENT AND GREEN INFRASTRUCTURE PROJECTS,"; and in the same line, strike "DISADVANTAGED".

On page 9, in line 1, strike "IMPACTED BY ENVIRONMENTAL JUSTICE CONCERNS," and substitute "DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS"; in line 6, after "PROJECTS" insert "THAT TAKE INTO CONSIDERATION THE PROJECT'S ECOLOGICAL SUITABILITY, INCLUDING THE HYDROLOGICAL CONDITIONS AND OTHER PHYSICAL CHARACTERISTICS OF THE LOCATION AT WHICH THE PROJECT WILL BE IMPLEMENTED"; after line 6, insert:

“(3) ANY UNENCUMBERED FUNDS NOT USED TO PURCHASE ENVIRONMENTAL OUTCOMES AS SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION ARE:

(I) NO LONGER SUBJECT TO THE ALLOCATION REQUIREMENTS SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) AVAILABLE FOR USE CONSISTENT WITH THIS SECTION IN SUBSEQUENT FISCAL YEARS.

(4) A PROJECT MAY INCLUDE ENVIRONMENTAL OUTCOMES FROM ONE OR MORE OF THE PROJECT TYPES SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION.”;

strike in their entirety lines 7 through 10, inclusive; in lines 11, 16, 18, 20, and 25, strike “(I)”, “(K)”, “(L)”, “(M)”, and “(N)”, respectively, and substitute “(G)”, “(H)”, “(I)”, “(J)”, and “(K)”, respectively; in lines 11 and 17, in each instance, strike “FUND” and substitute “ACCOUNT”; strike in their entirety lines 13 through 15, inclusive; in line 16, strike “ACCOUNTS AND”; in line 19, after “PERSON” insert “SEPARATELY FROM THE PROPERTY ON WHICH THE ENVIRONMENTAL OUTCOME IS LOCATED”; in line 29, after the semicolon insert:

“(II) DEVELOP AND USE A SCORING SYSTEM TO EVALUATE A SUBMITTED FUNDING PROPOSAL;

(III) PROVIDE EACH PERSON THAT SUBMITS A FUNDING PROPOSAL WITH A COPY OF THE SCORING SYSTEM, INCLUDING THE WEIGHT GIVEN TO THE CO-BENEFITS SPECIFIED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION;”;

(Over)

and in line 30, strike “(II)” and substitute “(IV)”.

On page 10, in line 3, after “(I)” insert “THE LEGAL NAME OF THE PERSON SUBMITTING THE PROPOSAL;”

(II)”;

in line 5, strike “(II)” and substitute “(III)”;

in line 7, strike “(III)” and substitute “(IV) THE EXPECTED LIFE OF EACH ENVIRONMENTAL OUTCOME THAT WILL BE ACHIEVED UNDER THE PROJECTS OR PRACTICES;”

(V) TO ENSURE THAT THE APPLICANT HAS THE LEGAL AUTHORITY TO IMPLEMENT THE PROJECTS OR PRACTICES, A DESCRIPTION OF THE OWNERSHIP OF EACH PARCEL OF LAND OR FACILITY THAT WILL BE USED IN THE PROJECTS OR PRACTICES;

(VI)”;

in line 9, strike “(IV)” and substitute “(VII) AN IMPLEMENTATION TIMETABLE FOR THE PROJECTS OR PRACTICES;”

(VIII)”;

in lines 10 and 13, strike “(V)” and “(VI)”, respectively, and substitute “(IX)” and “(XII)”, respectively; in line 11, after the semicolon insert:

“(X) IF THE PROJECTS OR PRACTICES WILL ACHIEVE A CO-BENEFIT SPECIFIED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION, A DESCRIPTION OF THE CO-BENEFIT, INCLUDING AS MUCH INFORMATION AS IS

REASONABLY POSSIBLE REGARDING THE NATURE, EXTENT, DURATION, AND MEANS OF VERIFYING THE CO-BENEFIT;

(XI) A STATEMENT ON WHETHER ANY PORTION OF THE PROJECTS OR PRACTICES ARE BEING FUNDED OR WILL BE FUNDED, IN WHOLE OR IN PART, WITH FEDERAL FUNDS, LOCAL FUNDS, OR STATE FUNDS OTHER THAN FUNDS PROVIDED UNDER THIS SECTION, AND A DESCRIPTION OF ANY SUCH FUNDING, INCLUDING:

1. THE NAME OF THE DEPARTMENT OR AGENCY PROVIDING THE FUNDS;

2. THE AMOUNT OF FUNDING RECEIVED OR THAT WILL BE RECEIVED; AND

3. THE PORTION OF THE PROJECTS OR PRACTICES FOR WHICH THE FUNDS ARE BEING OR WILL BE PROVIDED;”;

in line 25, after “ENHANCING” insert “THE MITIGATION OF AND”; and strike beginning with “ADDRESSING” in line 27 down through “OR” in line 28 and substitute “ALLEVIATING THE ENVIRONMENTAL HARMS AND RISKS BORNE BY COMMUNITIES DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES;”.

On page 11, in line 1, after “WATERSHED” insert “; OR”

D. REDUCTIONS IN PHOSPHORUS OR SEDIMENT LOADS THAT ARE DIRECTLY MEASURED OR MODELED BY THE CHESAPEAKE BAY

(Over)

PROGRAM MODELS AND CAN BE COUNTED TOWARD THE STATE'S POLLUTION LOAD REDUCTIONS REQUIRED UNDER THE CHESAPEAKE BAY TMDL;

in lines 2, 11, 22, and 25, strike "(O)", "(P)", "(Q)", and "(R)", respectively, and substitute "(L)", "(M)", "(N)", and "(O)", respectively; in line 3, strike "ESTABLISH AND IMPLEMENT" and substitute "APPROVE"; in line 8, strike "AND" and substitute "OR"; in lines 19 and 20, strike "PARTNERSHIP ACCOUNTING PROCEDURES" and substitute "PROGRAM MODELS"; and in line 24, strike "15" and substitute "20".

On pages 11 and 12, strike beginning with "(1)" in line 25 on page 11 down through "CIRCUMSTANCES." in line 5 on page 12 and substitute:

"A CONTRACT ENTERED INTO BY THE DEPARTMENT UNDER THIS SECTION SHALL:

- (1) REQUIRE THE OWNER OF THE PROJECT OR PRACTICE TO PERIODICALLY SUBMIT STATUS UPDATES IN ACCORDANCE WITH THE QUANTIFICATION PLAN FOR THE ENVIRONMENTAL OUTCOMES OF THE PROJECT OR PRACTICE;
- (2) REQUIRE THAT PAYMENT FOR ENVIRONMENTAL OUTCOMES BE CONDITIONED ON THE ACHIEVEMENT AND VERIFICATION OF THE ENVIRONMENTAL OUTCOMES IN ACCORDANCE WITH THE QUANTIFICATION PLAN;
- (3) INCLUDE A SCHEDULE OF PAYMENTS THAT WILL BE MADE AS ENVIRONMENTAL OUTCOMES ARE ACHIEVED AND VERIFIED; AND
- (4) REQUIRE REPORTING ON THE AMOUNT OF NITROGEN AND, TO THE EXTENT THAT IT CAN BE FEASIBLY DETERMINED WITHOUT SIGNIFICANT

SECTION, FUNDS FROM THE ACCOUNT MAY BE USED TO PURCHASE THE REMAINING PORTION OF THE ENVIRONMENTAL OUTCOME THAT IS NOT FUNDED WITH PUBLIC FUNDS.”;

in line 19, strike “ON” and substitute “IN CONJUNCTION WITH THE REPORT REQUIRED UNDER § 9-1605.2(J)(6) OF THIS SUBTITLE, ON”; in the same line, strike “DEPARTMENT” and substitute “BAY RESTORATION FUND ADVISORY COMMITTEE”; in line 20, strike “TO THE BAY RESTORATION FUND ADVISORY COMMITTEE AND”; and in line 21, after the comma insert “TO”.

On pages 12 and 13, strike beginning with the first comma in line 31 on page 12 down through “SEDIMENT” in line 1 on page 13.

On page 13, in line 7, strike “INFORMATION ON THE” and substitute “THE”; in line 9, strike “, PHOSPHORUS, AND SEDIMENT”; in line 11, strike “RECOMMENDATIONS REGARDING”; in line 13, strike “FUND” and substitute “ACCOUNT”; in line 14, after “FUND” insert “, INCLUDING AN ASSESSMENT AND RECOMMENDATION ON POSSIBLE CHANGES TO THE PERCENTAGES SPECIFIED UNDER SUBSECTION (F) OF THIS SECTION”; in line 15, strike “(V)” and substitute “(S)”; and strike in their entirety lines 17 through 31, inclusive.

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SENATE BILL 119

M3, M4

(PRE-FILED)

11r1320
CF 11r1600

By: **Senators Guzzone and Elfreth**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Clean Water Commerce Act of 2021**

3 FOR the purpose of establishing the Clean Water Commerce ~~Fund as a special, nonlapsing~~
4 ~~fund Account within the Bay Restoration Fund~~; requiring the Department of the Environment to
5 transfer a certain amount
6 from the ~~Bay Restoration Fund to the Clean Water Commerce Fund Account~~ for certain
7 purposes in certain fiscal years; altering the authorized uses of the ~~Bay Restoration~~
8 Fund to include certain transfers to the ~~Clean Water Commerce Fund Account~~; repealing a
9 certain authorization to use funds in the ~~Bay Restoration Fund~~ for costs associated
10 with certain nutrient or sediment load reductions; altering the membership of the
11 Bay Restoration Fund Advisory Committee; specifying the purpose of the ~~Clean~~
12 ~~Water Commerce Fund Account~~; requiring the Secretary of the Environment to administer
13 the ~~Clean Water Commerce Fund Account~~; ~~requiring the State Treasurer to hold the Clean~~
14 ~~Water Commerce Fund and the Comptroller to account for the Clean Water~~
15 ~~Commerce Fund~~; specifying the contents of the ~~Clean Water Commerce Fund Account~~;
16 specifying the purpose for which the ~~Clean Water Commerce Fund Account~~ may be used; limiting
17 the use of the Account to the purchase of certain cost-effective environmental outcomes; requiring that a
18 certain percentage of the Account be used for certain purposes in each fiscal year; specifying that a
19 certain project may include certain environmental outcomes;
20 providing for the disposition of certain unencumbered money in the ~~Clean Water~~
21 ~~Commerce Fund Account~~; authorizing the Department to establish certain ~~accounts and~~
22 subaccounts within the ~~Clean Water Commerce Fund Account~~; ~~providing for the investment~~
23 ~~of money in and expenditures from the Clean Water Commerce Fund; requiring~~
24 ~~interest earnings of the Clean Water Commerce Fund to be credited to the Clean~~
25 ~~Water Commerce Fund; exempting the Clean Water Commerce Fund from a certain~~
26 ~~provision of law requiring interest earnings on State money to accrue to the General~~
27 ~~Fund of the State~~; prohibiting certain environmental outcomes from being resold or
28 transferred to a certain person separately from the property on which the environmental outcome is
29 located; requiring credit for certain reductions to be
30 attributed to certain sectors; requiring the Department to use a certain process to
invite certain funding proposals, develop and use a certain scoring system, provide each person that
submits a proposal with certain information, and to publicly announce a request for proposals or
otherwise initiate a certain process at least once a year; requiring the Department
to require certain information to be included in a certain funding proposal; requiring
the Department to announce the criteria that will be used to evaluate certain funding
proposals when initiating a certain process; requiring the Department to prioritize

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1 certain factors when evaluating certain funding proposals; requiring the Department
 2 to ~~establish and implement~~ approve a certain verification process and use certain standards
 3 and processes for verifying certain environmental outcomes; establishing
 4 requirements for environmental outcomes purchased under certain provisions of this
 5 Act; authorizing a certain contract to be funded for a certain period of time;
 6 establishing requirements for ~~payment under a certain~~ contract entered into by the Department
 7 under this Act; requiring the
 8 Department to ~~establish~~ maintain a certain registry and make the registry available to the
 9 public on the Department's website; authorizing a certain project ~~or~~ , practice , and
 10 environmental outcome to be
 11 partially funded under this Act subject to certain conditions; requiring the
 12 ~~Department Bay Restoration Fund Advisory Committee~~ to make a certain annual report to ~~the Bay~~
 13 ~~Restoration Fund Advisory~~
 14 ~~Committee and, in accordance with a certain provision of law,~~ certain committees of
 15 the General Assembly; making certain conforming changes; providing for the
 16 effective date of certain provisions of this Act; providing for the termination of certain
 17 provisions of this Act; defining certain terms; and generally relating to the Bay
 18 Restoration Fund and the Clean Water Commerce ~~Fund Account~~.

16 BY repealing and reenacting, without amendments,
 17 Article - Environment
 18 Section 9-1605.2(a)(1) and (j)(1)
 19 Annotated Code of Maryland
 20 (2014 Replacement Volume and 2020 Supplement)

21 BY repealing and reenacting, with amendments,
 22 Article - Environment
 23 Section 9-1605.2(i)(2) and (3), (j)(2), and (l)
 24 Annotated Code of Maryland
 25 (2014 Replacement Volume and 2020 Supplement)

26 BY adding to
 27 Article - Environment
 28 Section 9-1605.4
 29 Annotated Code of Maryland
 30 (2014 Replacement Volume and 2020 Supplement)

31 ~~BY repealing and reenacting, without amendments,~~
 32 ~~Article - State Finance and Procurement~~
 33 ~~Section 6-226(a)(2)(i)~~
 34 ~~Annotated Code of Maryland~~
 35 ~~(2015 Replacement Volume and 2020 Supplement)~~

36 ~~BY repealing and reenacting, with amendments,~~
 37 ~~Article - State Finance and Procurement~~
 38 ~~Section 6-226(a)(2)(ii) 122. and 123.~~
 39 ~~Annotated Code of Maryland~~
 40 ~~(2015 Replacement Volume and 2020 Supplement)~~

41 BY adding to

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1 ~~Article - State Finance and Procurement~~
 2 ~~Section 6-226(a)(2)(ii)124~~
 3 ~~Annotated Code of Maryland~~
 4 ~~(2015 Replacement Volume and 2020 Supplement)~~

5 BY repealing
 6 Chapter 366 of the Acts of the General Assembly of 2017
 7 Section 2 through 4

8 BY repealing and reenacting, with amendments,
 9 Chapter 366 of the Acts of the General Assembly of 2017
 10 Section 5

11 BY repealing
 12 Chapter 367 of the Acts of the General Assembly of 2017
 13 Section 2 through 4

14 BY repealing and reenacting, with amendments,
 15 Chapter 367 of the Acts of the General Assembly of 2017
 16 Section 5

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 18 That the Laws of Maryland read as follows:

19 **Article - Environment**

20 9-1605.2.

21 (a) (1) There is a Bay Restoration Fund.

22 (i) (2) Funds in the Bay Restoration Fund shall be used only:

23 (i) To award grants for up to 100% of eligible costs of projects
 24 relating to planning, design, construction, and upgrade of a wastewater facility for flows up
 25 to the design capacity of the wastewater facility, as approved by the Department, to achieve
 26 enhanced nutrient removal in accordance with paragraph (3) of this subsection;

27 (ii) In fiscal years 2016 and thereafter, for up to 87.5% of the total
 28 cost of projects, as approved by the Department, relating to combined sewer overflows
 29 abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including
 30 pumping stations;

31 (iii) In fiscal years 2010 and thereafter, for a portion of the operation
 32 and maintenance costs related to the enhanced nutrient removal technology, which may
 33 not exceed 10% of the total restoration fee collected from users of wastewater facilities
 34 under this section by the Comptroller annually;

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1 (iv) In fiscal years 2018 and thereafter, after payment of outstanding
2 bonds and the allocation of funds to other required uses of the Bay Restoration Fund for
3 funding in the following order of priority:

4 1. For funding the eligible costs to upgrade a wastewater
5 facility to enhanced nutrient removal at wastewater facilities with a design capacity of
6 500,000 gallons or more per day;

7 2. For funding the eligible costs of the most cost-effective
8 enhanced nutrient removal upgrades at wastewater facilities with a design capacity of less
9 than 500,000 gallons per day; and

10 3. As determined by the Department and based on water
11 quality, climate resiliency, flood control, and public health benefits, for the following:

12 A. For costs identified under item (ii) of this paragraph;

13 B. For costs identified under subsection (h)(2)(i)1 of this
14 section; and

15 C. With respect to a local government that has enacted and
16 implemented a system of charges to fully fund the implementation of a stormwater
17 management program, for grants to the local government for a portion of the costs of the
18 most cost-effective and efficient stormwater control measures, including stormwater
19 measures relating to water quality, climate resiliency, or flood control, as determined and
20 approved by the Department, from the restoration fees collected annually by the
21 Comptroller from users of wastewater facilities under this section;

22 (v) As a source of revenue or security for the payment of principal
23 and interest on bonds issued by the Administration if the proceeds of the sale of the bonds
24 will be deposited in the Bay Restoration Fund;

25 (vi) To earn interest on Bay Restoration Fund accounts;

26 (vii) For the reasonable costs of administering the Bay Restoration
27 Fund, which may not exceed 1.5% of the total restoration fees imposed on users of
28 wastewater facilities that are collected by the Comptroller annually;

29 (viii) For the reasonable administrative costs incurred by a local
30 government or a billing authority for a water or wastewater facility collecting the
31 restoration fees, in an amount not to exceed 5% of the total restoration fees collected by
32 that local government or billing authority;

33 (ix) For future upgrades of wastewater facilities to achieve additional
34 nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7)
35 of this subsection;

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1 (x) For costs associated with the issuance of bonds;

2 (xi) Subject to the allocation of funds and the conditions under
3 subsection (h) of this section, for projects related to the removal of nitrogen from on-site
4 sewage disposal systems and cover crop activities;

5 (xii) For costs associated with the implementation of alternate
6 compliance plans authorized in § 4-202.1(k)(3) of this article; and

7 (xiii) After funding any eligible costs identified under item (iv)1 and 2
8 of this paragraph, for [costs associated with the purchase of cost-effective nitrogen,
9 phosphorus, or sediment load reductions in support of the State's efforts to restore the
10 health of the Chesapeake Bay, not to exceed \$4,000,000 in fiscal year 2018, \$6,000,000 in
11 fiscal year 2019, and \$10,000,000 per year in fiscal years 2020 and 2021] **TRANSFERS TO**
12 **THE CLEAN WATER COMMERCE FUND ACCOUNT IN ACCORDANCE WITH PARAGRAPH (3) OF**
13 **THIS SUBSECTION.**

14 (3) [The nitrogen, phosphorus, and sediment load reductions purchased
15 under paragraph (2)(xiii) of this subsection:

16 (i) Cannot be from the agricultural sector; and

17 (ii) **Must be created on or after July 1, 2017.] IN FISCAL YEAR 2022**
18 **AND EACH FISCAL YEAR THEREAFTER, THE DEPARTMENT SHALL TRANSFER**
19 **\$20,000,000 FROM THE BAY RESTORATION FUND TO THE CLEAN WATER**
20 **COMMERCE FUND ACCOUNT ESTABLISHED UNDER § 9-1605.4 OF THIS SUBTITLE, TO BE USED**
21 **FOR THE PURPOSES SPECIFIED IN § 9-1605.4 OF THIS SUBTITLE.**

22 (j) (1) There is a Bay Restoration Fund Advisory Committee.

23 (2) The Committee consists of the following members:

24 (i) The Secretaries of the Environment, Agriculture, Planning,
25 Natural Resources, and Budget and Management, or their designees;

26 (ii) One member of the Senate, appointed by the President of the
27 Senate;

28 (iii) One member of the House of Delegates, appointed by the Speaker
29 of the House of Delegates;

30 (iv) Two individuals representing publicly owned wastewater
31 facilities, appointed by the Governor;

32 (v) Two individuals representing environmental organizations,
33 appointed by the Governor;

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1 (vi) One individual each from the Maryland Association of Counties
 2 and the Maryland Municipal League, appointed by the Governor;

3 (vii) Two individuals representing the business community,
 4 appointed by the Governor;

5 (viii) Two individuals representing local health departments who have
 6 expertise in on-site sewage disposal systems, appointed by the Governor; [and]

7 (ix) One individual representing a university or research institute
 8 who has expertise in nutrient pollution, appointed by the Governor; ~~AND~~

9 (X) ONE INDIVIDUAL REPRESENTING THE CHESAPEAKE BAY
 10 COMMISSION, APPOINTED BY THE CHAIR OF THE MARYLAND DELEGATION TO THE
 11 COMMISSION ; AND

(XI) ONE INDIVIDUAL REPRESENTING COMMUNITIES
 DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY
 THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE
 AND SUSTAINABLE COMMUNITIES.

12 (l) [(1) Subject to paragraph (2) of this subsection, the] THE Department shall
 13 adopt regulations that are necessary or appropriate to carry out the provisions of this
 14 section.

15 [(2) Regulations adopted to carry out subsection (i)(2)(xiii) of this section
 16 shall:

17 (i) Be adopted before the purchase of any load reductions;

18 (ii) Specify that a load reduction purchased should provide the
 19 lowest cost per pound in reduction and be purchased in accordance with a competitive
 20 process; and

21 (iii) Be adopted in consultation with the Secretary of Transportation,
 22 the Secretary of Natural Resources, the Secretary of Commerce, the Secretary of
 23 Agriculture, and public and private sector stakeholders.]

24 **9-1605.4.**

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 26 INDICATED.

27 (2) "ACCOUNT" MEANS THE CLEAN WATER COMMERCE ACCOUNT.

28 (3) "AGGREGATOR" MEANS A PERSON THAT FACILITATES OR
 COORDINATES THE ESTABLISHMENT OF PRACTICES OR PROJECTS THAT:

29 (I) ARE IMPLEMENTED BY THE PERSON OR BY OTHERS;

30 (II) PRODUCE A QUANTIFIABLE ENVIRONMENTAL OUTCOME;

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7

1 (III) ARE REGISTERED BY THE PERSON; AND

2 (IV) ARE MADE AVAILABLE FOR PURCHASE BY THE
3 DEPARTMENT UNDER THIS SECTION.

4 ~~(3)~~ (4)(i) "AGRICULTURAL PRACTICE" MEANS A BEST MANAGEMENT PRACTICE THAT IS:

1. APPROVED BY THE CHESAPEAKE BAY PROGRAM PARTNERSHIP; AND

2. IMPLEMENTED ON LAND OR WATER THAT IS USED FOR THE PRODUCTION OR PROCESSING OF AN AGRICULTURAL CROP.

(II) "AGRICULTURAL PRACTICE" INCLUDES AGRICULTURAL, HORTICULTURAL, SILVICULTURAL, AND AQUACULTURAL OPERATIONS.

5 (5) "CHESAPEAKE BAY TMDL" MEANS THE TOTAL MAXIMUM DAILY
6 LOAD ~~ADOPTED~~ APPROVED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY UNDER THE
7 CLEAN WATER ACT FOR THE CHESAPEAKE BAY.

8 ~~(4)~~ (6) "ENVIRONMENTAL OUTCOME" MEANS ANY OF THE FOLLOWING
9 QUANTITATIVE OUTCOMES NITROGEN LOAD REDUCTIONS THAT CAN BE DIRECTLY MEASURED OR MODELED
10 AT THE EDGE OF TIDE USING THE CHESAPEAKE BAY PROGRAM WATERSHED MODEL MODELS OR
11 ANY OTHER METHOD OR MODEL IN A QUANTIFICATION PLAN;

11 ~~(i)~~ NITROGEN LOAD REDUCTION;

12 ~~(ii)~~ PHOSPHORUS LOAD REDUCTION; OR

13 ~~(iii)~~ SEDIMENT LOAD REDUCTION.

14 ~~(5)~~ "FUND" MEANS THE CLEAN WATER COMMERCE FUND.

15 ~~(6)~~ (7) (i) "NONAGRICULTURAL LANDSCAPE RESTORATION PROJECT"
16 MEANS A PROJECT THAT:

17 ~~(i)~~ 1. IS INSTALLED ON NONAGRICULTURAL LANDS;

18 ~~(ii)~~ 2. HAS AN INTENDED LIFESPAN OF AT LEAST ~~15~~ 10
19 YEARS; AND

20 ~~(iii)~~ 3. IS ESTIMATED BY THE CHESAPEAKE BAY PROGRAM
21 CHESAPEAKE ASSESSMENT TOOL TO PROVIDE PROVIDES ENVIRONMENTAL OUTCOMES.

(II) "NONAGRICULTURAL LANDSCAPE RESTORATION PROJECT"
INCLUDES A PROJECT THAT RETURNS LAND TO NATIVE OR NATURAL LAND COVER, SUCH AS
AFFORESTATION OR REFORESTATION PROJECTS.

22 ~~(7)~~ (8) "QUANTIFICATION PLAN" MEANS A PLAN APPROVED BY THE
23 DEPARTMENT THAT DESCRIBES:

24 (I) THE METHOD THAT WILL BE USED TO MEASURE OR MODEL
25 ENVIRONMENTAL OUTCOMES;

26 (II) THE REQUIRED COMPLIANCE MONITORING THAT WILL
27 OCCUR TO ENSURE THAT THE PROPOSED ACTIONS WERE TAKEN;

(III) ANY VERIFICATION STEPS THAT MAY BE CARRIED OUT BY

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1 ~~THE DEPARTMENT OR THE OWNER OF A PROJECT OR PRACTICE TO CONFIRM THE MODEL RESULTS OR THE~~
 2 ~~ACCURATE MEASUREMENT OF ENVIRONMENTAL OUTCOMES; AND~~

3 (IV) THE TIMELINE FOR PROPOSED PAYMENTS UNDER A
 4 CONTRACT WITH THE DEPARTMENT.

5 (B) THERE IS A CLEAN WATER COMMERCE ~~FUND ACCOUNT~~.

6 (C) THE PURPOSE OF THE ~~FUND ACCOUNT~~ IS TO PURCHASE ENVIRONMENTAL
 7 OUTCOMES IN SUPPORT OF THE STATE'S EFFORTS TO ACHIEVE THE CHESAPEAKE
 8 BAY TMDL.

9 (D) THE SECRETARY SHALL ADMINISTER THE ~~FUND ACCOUNT~~.

10 (E) ~~(1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT~~
 11 ~~SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

12 ~~(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,~~
 13 ~~AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.~~

14 ~~(F)~~ THE ~~FUND ACCOUNT~~ CONSISTS OF:

15 (1) REVENUE ~~DISTRIBUTED~~ TRANSFERRED TO THE ~~FUND ACCOUNT~~
 16 UNDER § 9-1605.2(i)(2)(XIII) OF THIS SUBTITLE; AND

17 (2) ~~MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~

18 (3) ~~ANY INVESTMENT EARNINGS OF THE FUND; AND~~

19 (4) ANY OTHER MONEY FROM ANY OTHER SOURCES ACCEPTED FOR
 20 THE BENEFIT OF THE ~~FUND ACCOUNT~~.

21 ~~(G)~~ (F) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE ~~FUND~~
 22 ~~ACCOUNT~~ MAY BE USED ONLY FOR THE PURCHASE OF COST-EFFECTIVE ENVIRONMENTAL
 23 OUTCOMES ~~IN SUPPORT OF THAT:~~

24 (I) SUPPORT THE STATE'S EFFORTS TO ACHIEVE THE CHESAPEAKE
BAY TMDL ; AND

(II) HAVE AN EXPECTED LIFE OF AT LEAST 10 YEARS.

25 (2) ~~IN~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN EACH
 FISCAL YEAR:

26 (I) AT LEAST 35% SHALL BE USED TO PROCURE
 27 ENVIRONMENTAL OUTCOMES FROM ~~PROJECTS ON AGRICULTURAL LANDS~~ PRACTICES, WITH PRIORITY GIVEN TO
PROJECTS THAT ARE:

1. A FIXED NATURAL FILTER PRACTICE, AS DEFINED IN § 8-701
OF THE AGRICULTURE ARTICLE; OR

2. AN AGRICULTURAL DITCH MANAGEMENT PRACTICE, AS
DEFINED BY THE CHESAPEAKE BAY PROGRAM;

28 (II) AT LEAST 20% SHALL BE USED TO PROCURE

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1 ENVIRONMENTAL OUTCOMES FROM PROJECTS , INCLUDING STORMWATER MANAGEMENT AND GREEN
INFRASTRUCTURE

2 PROJECTS, ESTABLISHED IN ~~DISADVANTAGED~~
3 COMMUNITIES ~~IMPACTED BY ENVIRONMENTAL JUSTICE CONCERNS,~~ DISPROPORTIONATELY BURDENED BY
4 ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED
5 BY THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON
6 ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES; AND

7 (III) AT LEAST 10% SHALL BE USED TO PROCURE
8 ENVIRONMENTAL OUTCOMES FROM NONAGRICULTURAL LANDSCAPE RESTORATION
9 PROJECTS THAT TAKE INTO CONSIDERATION THE PROJECT'S ECOLOGICAL SUITABILITY, INCLUDING THE
10 HYDROLOGICAL CONDITIONS AND OTHER PHYSICAL CHARACTERISTICS OF THE LOCATION AT WHICH THE PROJECT
11 WILL BE
12 IMPLEMENTED.

13 (3) ANY UNENCUMBERED FUNDS NOT USED TO PURCHASE
14 ENVIRONMENTAL OUTCOMES AS SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION
15 ARE:

16 (I) NO LONGER SUBJECT TO THE ALLOCATION REQUIREMENTS
17 SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

18 (II) AVAILABLE FOR USE CONSISTENT WITH THIS SECTION IN
19 SUBSEQUENT FISCAL YEARS.

20 (4) A PROJECT MAY INCLUDE ENVIRONMENTAL OUTCOMES FROM ONE
21 OR MORE OF THE PROJECT TYPES SPECIFIED UNDER PARAGRAPH (2) OF THIS
22 SUBSECTION.

23 ~~(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND~~
24 ~~IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.~~

25 ~~(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED~~
26 ~~TO THE FUND.~~

27 ~~(I) (G) EXPENDITURES FROM THE FUND ACCOUNT MAY BE MADE ONLY IN~~
28 ~~ACCORDANCE~~
29 ~~WITH THE STATE BUDGET.~~

30 ~~(J) IF THE UNENCUMBERED BALANCE OF THE FUND EXCEEDS \$20,000,000~~
31 ~~AT THE END OF A FISCAL YEAR, ANY MONEY IN EXCESS OF THAT \$20,000,000 SHALL~~
32 ~~REVERT TO THE BAY RESTORATION FUND.~~

33 ~~(K) (H) THE DEPARTMENT MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS~~
34 ~~WITHIN THE FUND ACCOUNT TO CARRY OUT THE PURPOSES OF THIS SECTION.~~

35 ~~(L) (I) AN ENVIRONMENTAL OUTCOME PURCHASED UNDER THIS SECTION MAY~~
36 ~~NOT BE RESOLD OR TRANSFERRED TO ANY OTHER PERSON SEPARATELY FROM THE PROPERTY ON WHICH THE~~
37 ~~ENVIRONMENTAL OUTCOME IS LOCATED.~~

38 ~~(M) (J) IN CALCULATING POLLUTION REDUCTIONS UNDER THE CHESAPEAKE~~
39 ~~BAY TMDL BY VARIOUS MAJOR SOURCE SECTORS RECOGNIZED IN THE~~
40 ~~WATERSHED IMPLEMENTATION PLAN, CREDIT FOR ANY REDUCTIONS FUNDED~~
41 ~~UNDER THIS SECTION SHALL BE ATTRIBUTED TO THE SECTOR OF THE SOURCE THAT~~
42 ~~MAKES THE REDUCTIONS.~~

43 ~~(N) (K) (1) THE DEPARTMENT SHALL:~~

44 (I) USE A COMPETITIVE PROCESS TO INVITE FUNDING
45 PROPOSALS FROM AGGREGATORS AND OTHER PERSONS FOR THE PROVISION OF

29 ENVIRONMENTAL OUTCOMES THAT WILL CONTRIBUTE TOWARD THE ACHIEVEMENT
30 OF THE CHESAPEAKE BAY TMDL;

(II) DEVELOP AND USE A SCORING SYSTEM TO EVALUATE A
SUBMITTED FUNDING PROPOSAL;

(III) PROVIDE EACH PERSON THAT SUBMITS A FUNDING PROPOSAL
WITH A COPY OF THE SCORING SYSTEM, INCLUDING THE WEIGHT GIVEN TO THE CO-BENEFITS
SPECIFIED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION; AND

31 ~~(H)~~ (IV) AT LEAST ONCE A YEAR, PUBLICLY ANNOUNCE A REQUEST
32 FOR PROPOSALS OR OTHERWISE INITIATE A PROCUREMENT PROCESS FOR

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 1 ENVIRONMENTAL OUTCOMES TO BE FUNDED UNDER THIS SECTION.

2 (2) THE DEPARTMENT SHALL REQUIRE EACH FUNDING PROPOSAL
 3 SUBMITTED UNDER THIS SECTION TO INCLUDE:

4 (I) THE LEGAL NAME OF THE PERSON SUBMITTING THE PROPOSAL;

5 (II) A DESCRIPTION OF THE PROJECTS OR PRACTICES TO BE
 6 USED OR IMPLEMENTED TO ACHIEVE THE ENVIRONMENTAL OUTCOMES;

7 ~~(III)~~ (III) THE LOCATION WHERE THE PROJECTS OR PRACTICES WILL
 8 BE USED OR IMPLEMENTED;

9 ~~(IV)~~ (IV) THE EXPECTED LIFE OF EACH ENVIRONMENTAL OUTCOME THAT WILL BE
 10 ACHIEVED UNDER THE PROJECTS OR PRACTICES;

11 (V) TO ENSURE THAT THE APPLICANT HAS THE LEGAL AUTHORITY TO
 12 IMPLEMENT THE PROJECTS OR PRACTICES, A DESCRIPTION OF THE OWNERSHIP OF EACH
 13 PARCEL OF LAND OR FACILITY THAT WILL BE USED IN THE PROJECTS OR PRACTICES;

14 (VI) A PROPOSED QUANTIFICATION PLAN AND VERIFICATION
 15 PROCEDURE;

16 ~~(VII)~~ (VII) AN IMPLEMENTATION TIMETABLE FOR THE PROJECTS OR PRACTICES;

17 (VIII) A PROPOSED COST AND PAYMENT SCHEDULE;

18 ~~(IX)~~ (IX) AN EXPLANATION OF WHETHER THE PROPOSAL MEETS THE
 19 REQUIREMENTS FOR FUNDING SPECIFIED IN SUBSECTION (G) OF THIS SECTION;

20 (X) IF THE PROJECTS OR PRACTICES WILL ACHIEVE A CO-BENEFIT
 21 SPECIFIED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION, A DESCRIPTION OF THE
 22 CO-BENEFIT, INCLUDING AS MUCH INFORMATION AS IS REASONABLY POSSIBLE REGARDING THE
 23 NATURE, EXTENT, DURATION, AND MEANS OF VERIFYING THE CO-BENEFIT;

24 (XI) A STATEMENT ON WHETHER ANY PORTION OF THE PROJECTS OR
 25 PRACTICES ARE BEING FUNDED OR WILL BE FUNDED, IN WHOLE OR IN PART, WITH FEDERAL
 26 FUNDS, LOCAL FUNDS, OR STATE FUNDS OTHER THAN FUNDS PROVIDED UNDER THIS SECTION,
 27 AND A DESCRIPTION OF ANY SUCH FUNDING, INCLUDING:

28 1. THE NAME OF THE DEPARTMENT OR AGENCY PROVIDING THE
 29 FUNDS;

30 2. THE AMOUNT OF FUNDING RECEIVED OR THAT WILL BE
 31 RECEIVED; AND

32 3. THE PORTION OF THE PROJECTS OR PRACTICES FOR WHICH THE
 33 FUNDS ARE BEING OR WILL BE PROVIDED;

34 AND

35 ~~(XII)~~ (XII) ANY OTHER INFORMATION REQUIRED BY THE
 36 DEPARTMENT.

37 (3) (I) WHEN INITIATING A COMPETITIVE PROCESS UNDER THIS
 38 SUBSECTION, THE DEPARTMENT SHALL ANNOUNCE THE CRITERIA THAT WILL BE
 39 USED TO EVALUATE FUNDING PROPOSALS.

40 (II) WHEN EVALUATING FUNDING PROPOSALS, THE
 41 DEPARTMENT SHALL PRIORITIZE THE FOLLOWING FACTORS IN THE FOLLOWING
 42 ORDER:

22 1. THE DOLLAR COST PER UNIT OF ENVIRONMENTAL
23 OUTCOME; AND

24 2. THE PROVISION OF EXPECTED CO-BENEFITS
25 RELATED TO:

26 A. ENHANCING THE MITIGATION OF AND RESILIENCY TO THE ANTICIPATED
27 ADVERSE EFFECTS OF CLIMATE CHANGES;

28 B. ~~ADDRESSING DIVERSITY, EQUITY, OR~~
29 ~~ENVIRONMENTAL JUSTICE CONCERNS; OR~~ ALLEVIATING THE ENVIRONMENTAL HARMS AND RISKS BORNE BY
COMMUNITIES DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE
DEPARTMENT IN
CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES;

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C. CONTRIBUTING TOWARD THE ATTAINMENT OF

WATER QUALITY STANDARDS IN A LOCALLY IMPAIRED WATERSHED ; OR

D. REDUCTIONS IN PHOSPHORUS OR SEDIMENT LOADS THAT ARE DIRECTLY MEASURED OR MODELED BY THE CHESAPEAKE BAY PROGRAM MODELS AND CAN BE COUNTED TOWARD THE STATE'S POLLUTION LOAD REDUCTIONS REQUIRED UNDER THE CHESAPEAKE BAY TMDL.

~~(L)~~ (L) THE DEPARTMENT SHALL:

(1) ~~ESTABLISH AND IMPLEMENT~~ APPROVE A PROCESS TO VERIFY ENVIRONMENTAL OUTCOMES FOR WHICH FUNDING IS PROVIDED UNDER THIS SECTION; AND

(2) USE CONSISTENT STANDARDS AND PROCESSES FOR VERIFYING ENVIRONMENTAL OUTCOMES THROUGH THE CONFIRMATION OF MODELING RESULTS, THE CONFIRMATION OF INSTALLATIONS, ~~AND OR,~~ WHERE APPROPRIATE, THE MEASUREMENT OF OUTCOMES DURING OR AFTER THE INITIATION OF A PROJECT OR PRACTICE.

~~(P)~~ (M) AN ENVIRONMENTAL OUTCOME PURCHASED UNDER THIS SECTION SHALL:

(1) RESULT FROM A NEW PROJECT OR PRACTICE DESIGNED AND ESTABLISHED FOLLOWING THE SELECTION OF A PROPOSAL AND THE EXECUTION OF A CONTRACT IN ACCORDANCE WITH THIS SECTION;

(2) BE IN ADDITION TO ANY LOAD REDUCTION REQUIRED BY ANY FEDERAL, STATE, OR LOCAL LAW, REGULATION, POLICY, OR PERMIT, INCLUDING ANY APPLICABLE TOTAL MAXIMUM DAILY LOAD; AND

(3) BE CONSISTENT WITH THE CHESAPEAKE BAY ~~PARTNERSHIP ACCOUNTING PROCEDURES~~ PROGRAM MODELS SO AS TO ENSURE THE LOAD REDUCTIONS WILL COUNT TOWARD THE ACHIEVEMENT OF THE CHESAPEAKE BAY TMDL.

~~(Q)~~ (N) A CONTRACT ENTERED INTO BY THE DEPARTMENT UNDER THIS SECTION MAY BE FUNDED FOR THE EXPECTED LIFE OF THE PROJECT OR PRACTICE YIELDING THE ENVIRONMENTAL OUTCOME, NOT TO EXCEED ~~15~~ 20 YEARS.

~~(R)~~ (O) ~~(1) PROVISIONS FOR PAYMENT UNDER A CONTRACT FOR ENVIRONMENTAL OUTCOMES SHALL BE AS:~~

~~(i) ANNUAL OR LESS FREQUENT PAYMENTS OVER THE DURATION OF THE CONTRACT FOLLOWING VERIFICATION OF ENVIRONMENTAL OUTCOMES; OR~~

~~(ii) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FULL OR SUBSTANTIAL PAYMENT AFTER CONSTRUCTION IS COMPLETED AND~~

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1 ~~INCREMENTAL PAYMENTS AFTER LONG TERM ENVIRONMENTAL OUTCOMES ARE~~
 2 ~~VERIFIED UNDER A PAY FOR SUCCESS CONTRACT.~~

3 ~~(2) INITIAL AND INCREMENTAL PAYMENTS MAY BE MADE UNDER A~~
 4 ~~PAY FOR SUCCESS CONTRACT AS WARRANTED BY THE FINANCIAL RESOURCES OF~~
 5 ~~THE APPLICANT, THE NATURE OF THE PROJECT OR PRACTICE, AND OTHER~~
 6 ~~RELEVANT CIRCUMSTANCES.~~

A CONTRACT ENTERED INTO BY THE DEPARTMENT UNDER THIS SECTION SHALL:

(1) REQUIRE THE OWNER OF THE PROJECT OR PRACTICE TO PERIODICALLY
SUBMIT STATUS UPDATES IN ACCORDANCE WITH THE QUANTIFICATION PLAN FOR THE
ENVIRONMENTAL OUTCOMES OF THE PROJECT OR PRACTICE;

(2) REQUIRE THAT PAYMENT FOR ENVIRONMENTAL OUTCOMES BE
CONDITIONED ON THE ACHIEVEMENT AND VERIFICATION OF THE ENVIRONMENTAL OUTCOMES
IN ACCORDANCE WITH THE QUANTIFICATION PLAN;

(3) INCLUDE A SCHEDULE OF PAYMENTS THAT WILL BE MADE AS
ENVIRONMENTAL OUTCOMES ARE ACHIEVED AND VERIFIED; AND

(4) REQUIRE REPORTING ON THE AMOUNT OF NITROGEN AND, TO THE
EXTENT THAT IT CAN BE FEASIBLY DETERMINED WITHOUT SIGNIFICANT EXPENSE,
PHOSPHORUS AND SEDIMENT THAT ARE REMOVED ANNUALLY BY THE PROJECT OR
PRACTICE.

7 ~~(S)~~ (P) THE DEPARTMENT SHALL:

8 (1) ESTABLISH MAINTAIN A PUBLIC REGISTRY, INCLUDING
FOR THE ENVIRONMENTAL OUTCOMES OF EACH PROJECT OR PRACTICE THAT INCLUDES:

(I) A DESCRIPTION OF THE PROJECT OR PRACTICE AND THE
ASSOCIATED SPATIAL INFORMATION, OF
 9 ~~PROJECTS AND PRACTICES FUNDED UNDER THIS SECTION THAT SHALL INCLUDE~~
 10 ~~INFORMATION SUFFICIENT TO TRACK THE OWNERSHIP OF THE PROJECT OR~~
 11 ~~PRACTICE ; AND~~

(II) TO ENSURE THAT THE ENVIRONMENTAL OUTCOMES ARE
MAINTAINED FOR THE LIFE EXPECTANCY OF THE ENVIRONMENTAL OUTCOME, A SUMMARY OF
THE CONTRACT PROVISIONS FOR THE PROJECT OR PRACTICE; AND

12 (2) MAKE THE REGISTRY AVAILABLE TO THE PUBLIC ON THE
 13 DEPARTMENT'S WEBSITE.

14 ~~(P)~~ (Q) (1) (I) SUBJECT TO PARAGRAPH ~~(2)~~ SUBPARAGRAPH
 (II) OF THIS ~~SUBSECTION~~ PARAGRAPH, A PROJECT OR
 15 PRACTICE THAT IS PARTIALLY FINANCED WITH ANOTHER SOURCE OF STATE FUNDS
 16 MAY BE FUNDED UNDER THIS SECTION.

17 ~~(2)~~ (II) FUNDING PROVIDED TO A PROJECT OR PRACTICE UNDER THIS
 18 SUBSECTION SHALL BE PRORATED TO COVER ONLY THE PORTION OF THE
 19 ENVIRONMENTAL BENEFIT NOT FUNDED BY ANOTHER STATE SOURCE.

(2) (I) AN ENVIRONMENTAL OUTCOME THAT IS FUNDED
ENTIRELY WITH PUBLIC FUNDS IS NOT ELIGIBLE TO BE PURCHASED WITH FUNDS FROM THE
ACCOUNT.

(II) IF AN ENVIRONMENTAL OUTCOME IS PARTIALLY FUNDED WITH
PUBLIC FUNDS AND IS VERIFIED UNDER SUBSECTION (L) OF THIS SECTION, FUNDS FROM THE
ACCOUNT MAY BE USED TO PURCHASE THE REMAINING PORTION OF THE ENVIRONMENTAL

OUTCOME THAT IS NOT FUNDED WITH PUBLIC FUNDS.

20 ~~(U)~~ (R) ~~ON~~ IN CONJUNCTION WITH THE REPORT REQUIRED UNDER § 9-1605.2(J)(6)
21 OF THIS SUBTITLE, ON OR BEFORE DECEMBER 31 EACH YEAR, THE ~~DEPARTMENT~~ BAY
22 RESTORATION FUND ADVISORY COMMITTEE SHALL
23 REPORT TO THE BAY RESTORATION FUND ADVISORY COMMITTEE AND, IN
24 ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT, TO THE SENATE
EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE
HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE ON:

25 (1) THE TOTAL AMOUNT EXPENDED AND ENCUMBERED UNDER THIS
26 SECTION:

27 (I) DURING THE IMMEDIATELY PRECEDING FISCAL YEAR; AND

28 (II) SINCE JULY 1, 2022;

29 (2) THE AMOUNT AND TYPE OF ENVIRONMENTAL OUTCOMES
30 PURCHASED UNDER THIS SECTION AND THE TYPES OF PROJECTS OR PRACTICES
31 THAT PRODUCED THOSE OUTCOMES, INCLUDING INFORMATION ON:

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1 (I) THE COST PER UNIT OF NITROGEN, ~~PHOSPHORUS, OR~~
2 ~~SEDIMENT~~ REDUCED OR REMOVED; AND

3 (II) THE RELATIVE CONTRIBUTION OF EACH ENVIRONMENTAL
4 OUTCOME TOWARD CLOSING ANY GAPS IN ACHIEVING THE NUTRIENT AND
5 SEDIMENT TARGETS OF THE CHESAPEAKE BAY TMDL;

6 (3) THE TYPE AND VALUE OF ANY CO-BENEFITS PROVIDED BY
7 PROJECTS OR PRACTICES FUNDED UNDER THIS SECTION;

8 (4) ~~INFORMATION ON THE~~ THE COST-EFFECTIVENESS OF
9 ENVIRONMENTAL OUTCOMES PURCHASED UNDER THIS SECTION AS COMPARED
10 WITH OTHER APPROACHES TO REDUCING NITROGEN, ~~PHOSPHORUS, AND SEDIMENT~~;
11 AND

12 (5) FOR FISCAL YEAR 2025 ONLY, ~~RECOMMENDATIONS REGARDING~~
13 ANY AMENDMENTS TO THIS SECTION NECESSARY TO REFLECT HISTORIC AND
14 PROJECTED DEMAND FOR FUNDING FROM THE ~~FUND ACCOUNT~~ AND THE BAY RESTORATION
15 FUND, INCLUDING AN ASSESSMENT AND RECOMMENDATION ON POSSIBLE CHANGES TO THE PERCENTAGES SPECIFIED
UNDER SUBSECTION (F) OF THIS SECTION.

16 ~~(S)~~ (S) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS
17 SECTION.

18 ~~Article State Finance and Procurement~~

19 ~~6-226.~~

20 (a) ~~(2) (i) Notwithstanding any other provision of law, and unless~~
21 ~~inconsistent with a federal law, grant agreement, or other federal requirement or with the~~
22 ~~terms of a gift or settlement agreement, net interest on all State money allocated by the~~
23 ~~State Treasurer under this section to special funds or accounts, and otherwise entitled to~~
24 ~~receive interest earnings, as accounted for by the Comptroller, shall accrue to the General~~
25 ~~Fund of the State.~~

26 (ii) ~~The provisions of subparagraph (i) of this paragraph do not apply~~
27 ~~to the following funds:~~

28 ~~122. the Racing and Community Development Financing Fund;~~

29 ~~{and}~~

30 ~~123. the Racing and Community Development Facilities Fund;~~

31 ~~AND~~

32 ~~124. THE CLEAN WATER COMMERCE FUND.~~

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1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
2 as follows:

Chapter 366 of the Acts of 2017

4 [SECTION 2. AND BE IT FURTHER ENACTED, That the nutrient load reductions
5 purchased under § 9-1605.2(i)(2)(xiii) of the Environment Article, as enacted by Section 1
6 of this Act, must be consistent with the Chesapeake Bay Program Partnership Accounting
7 Procedures.

8 SECTION 3. AND BE IT FURTHER ENACTED, That: (a) Beginning July 1, 2018,
9 the Department of the Environment shall report each year to the Bay Restoration Fund
10 Advisory Committee on the implementation of this Act. (b) On or before October 1, 2020,
11 the Department of the Environment shall report, in accordance with § 2-1246 of the State
12 Government Article, to the House Environment and Transportation Committee and the
13 Senate Education, Health, and Environmental Affairs Committee on the implementation
14 of this Act.

15 SECTION 4. AND BE IT FURTHER ENACTED, That:

16 (a) The Department of the Environment may enter into any contracts for the
17 purchase of nutrient load reductions under this Act until June 30, 2021.

18 (b) Any contract entered into by the Department of the Environment under this
19 Act may be funded for the expected life of the best management practice resulting from a
20 nutrient load reduction.]

21 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2017. It shall remain effective for a period of [4] 13 years and, at the end of June 30,
23 [2021] 2030, with no further action required by the General Assembly, this Act shall be
24 abrogated and of no further force and effect.

Chapter 367 of the Acts of 2017

26 [SECTION 2. AND BE IT FURTHER ENACTED, That the nutrient load reductions
27 purchased under § 9-1605.2(i)(2)(xiii) of the Environment Article, as enacted by Section 1
28 of this Act, must be consistent with the Chesapeake Bay Program Partnership Accounting
29 Procedures.

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32 Advisory Committee on the implementation of this Act. (b) On or before October 1, 2020,
33 the Department of the Environment shall report, in accordance with § 2-1246 of the State
34 Government Article, to the House Environment and Transportation Committee and the
35 Senate Education, Health, and Environmental Affairs Committee on the implementation
36 of this Act.

15

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1 SECTION 4. AND BE IT FURTHER ENACTED, That:

2 (a) The Department of the Environment may enter into any contracts for the
3 purchase of nutrient load reductions under this Act until June 30, 2021.

4 (b) Any contract entered into by the Department of the Environment under this
5 Act may be funded for the expected life of the best management practice resulting from a
6 nutrient load reduction.]

7 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July
8 1, 2017. It shall remain effective for a period of [4] 13 years and, at the end of June 30,
9 [2021] 2030, with no further action required by the General Assembly, this Act shall be
10 abrogated and of no further force and effect.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
12 1, 2021. It shall remain effective for a period of 9 years and 1 month and, at the end of June
13 30, 2030, this Act, with no further action required by the General Assembly, shall be
14 abrogated and of no further force and effect.