February 15, 2022

The Honorable Paul G. Pinsky, Chair
Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, Suite 2W
Annapolis, Maryland 21401

Re: Senate Bill 135 - Climate Crisis and Environmental Justice Act

Dear Chair Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed SB 135 entitled *Climate Crisis and Environmental Justice Act* and supports the bill's overall objective to reduce greenhouse gas (GHG) emissions. Climate change is an urgent threat, and all levels of government and nongovernment organizations must take increasingly aggressive and balanced actions to reduce GHG emissions and increase community resiliency. While the Department welcomes efforts to accelerate action to combat climate change, we would like to provide information on the bill as currently drafted.

The bill declares new goals to achieve a 60% reduction in statewide GHG emissions by 2030, 100% from 2006 levels by 2040, and net-negative emissions after 2040. While the Department generally finds more ambitious goals to be laudable, the committee should be aware that developing a plan for Maryland to achieve those goals through state programs while still meeting the current law's requirements for economic impacts will be difficult and may even be unachievable based on what Maryland can do at the state level to reduce GHGs. Such rapid reductions will require improvements in federal programs to advance new technologies and make major infrastructure investments. The Department believes that such federal action is necessary and long overdue, but when developing a state plan, the Department cannot assume federal action at that scale will occur.

In 2020, the independent Maryland Commission on Climate Change (MCCC) recommended a different reduction goal for 2030, a 50% reduction rather than a 60% reduction.[1] These paths are not mutually exclusive, as the goal in the GGRA sets a floor on reductions, not a ceiling. The Department has always aimed to develop plans to exceed the required reductions by as much as possible, given available technology, constraints on state authority, and the requirements in the law.

On February 2021, the Department submitted its final *2030 GGRA Plan* to the Governor and General Assembly wherein the Department and the other Maryland state agencies advanced a portfolio of measures that would, if fully implemented, reduce Maryland's 2030 GHG emissions to 48.7% below 2006 levels, very nearly achieving the Commission's recommended 2030 goal.

This bill would require the Department, in consultation with the established Climate Crisis Council, to issue a final plan by December 31, 2022, that reduces statewide greenhouse gas emissions by 60% from 2006 levels by 2030. This unrealistic and unworkable requirement does not allow enough time for public comment and review of the numerous new mitigation programs that such a plan would need (research, analysis, and consultation, etc.).

The bill would also establish a GHG pollution fee for certain fossil fuels brought into the state. Fuels used for electricity generation are exempt as is anything that is superseded by federal law or regulation. Units of government whose primary purpose is to provide public transportation by bus, van, rail, or other means that reduce the amount of driving by private

[1] mde.maryland.gov/programs/Air/ClimateChange/MCCC/Documents/MCCCAnnualReport2020.pdf

motor vehicles are also exempt from the fee. The fee will be assessed per ton of carbon dioxide equivalent on both transportation and non-transportation fuels, and this section also includes a schedule of fee increases over certain years. Within 3 years after the fees and benefits take effect, the Department would also be required to report on whether any increases or decreases in GHG pollution fees are recommended, in consideration of certain parameters. The bill would designate the Secretary as administrator of the GHG fee schedules, with delegation of charges, distribution of benefits, and any other appropriate functions to the Comptroller.

Revenues generated from the fee would be split between two funds, the Household and Employer Benefit Fund and the Climate Crisis Infrastructure Fund. Proceeds in the Household and Employee Benefit Fund would be distributed toward low- and moderate-income households and energy–intensive, trade–exposed employers in the state. The Department is solely responsible for administering the funds.MDE would be required to consult with several other state agencies to provide distributions under both accounts.

MDE, in consultation with the established Climate Crisis Council, is also required to administer the Climate Crisis Infrastructure Fund. Proceeds in the Infrastructure Fund are to be used for initiatives that provide for cleaner transportation options, expansion of clean energy sources, resilience against climate change, carbon sequestration and promoting a just transition to clean energy. Up to 50% of this Fund, could be disbursed to qualified county and municipal governments for certain projects that meet the criteria in the bill. At least 50% of the money in the fund shall be invested in projects that are located within and provide meaningful benefits to environmental justice populations. On or before January 1, 2023, and every 3 years thereafter, the Commission on Environmental Justice and Sustainable Communities (CEJSC) shall establish the criteria a population must meet to be considered an environmental justice population under the bill.

Additional provisions under this bill include the following: the Secretary would be responsible for studying and reporting the feasibility of imposing and collecting additional emission fees on fugitive emissions and intentional release of methane from natural gas infrastructure; the Department, in consultation with other entities, would be required to identify measures and programs to ensure low-income energy assistance and improve the efficiency of renter-occupied dwellings; and the Department, in consultation with the CEJSC, would be required to draft implementing regulations.

All these provisions would have a significant impact on the Department. MDE estimates that the revenues from this bill may exceed $500 million beginning in FY24. Therefore, and taking into account the requirement for the Department to delegate the collection of charges to the Comptroller, MDE estimates that this bill would require the development of a new program(s) in the Department. The development of this program and systems would occur prior to seeing any influx of revenue generated from the required charges in the bill. While the Department currently has adequate and sufficient staff and resources to conduct its mission effectively and efficiently, any additional legislatively mandated program, such as this, will likely hamper our efficiency, force us to divert resources away from current core competencies, and likely disrupt customer service and/or diminish services.

Thank you for your consideration. We will continue to monitor SB 135 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or at tyler.abbott@maryland.gov.

Sincerely,

Tyler Abbott

cc: The Honorable Ben Kramer
George "Tad" Aburn, Director, Air and Radiation Administration