

# SENATE BILL 119

M3, M4

(PRE-FILED)

11r1320  
CF HB 507

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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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2021

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## CHAPTER \_\_\_\_\_

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  
5 Environment to transfer a certain amount from the ~~Bay Restoration~~ Fund to the  
6 ~~Clean Water Commerce Fund~~ Account for certain purposes in certain fiscal years;  
7 altering the authorized uses of the ~~Bay Restoration~~ Fund to include certain transfers  
8 to the ~~Clean Water Commerce Fund~~ Account; repealing a certain authorization to  
9 use funds in the ~~Bay Restoration~~ Fund for costs associated with certain nutrient or  
10 sediment load reductions; altering the membership of the Bay Restoration Fund  
11 Advisory Committee; specifying the purpose of the ~~Clean Water Commerce Fund~~  
12 Account; requiring the Secretary of the Environment to administer the ~~Clean Water~~  
13 ~~Commerce Fund~~ Account; ~~requiring the State Treasurer to hold the Clean Water~~  
14 ~~Commerce Fund and the Comptroller to account for the Clean Water Commerce~~  
15 ~~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  
17 used; limiting the use of the Account to the purchase of certain cost-effective  
18 environmental outcomes; requiring that a certain percentage of the Account be used  
19 for certain purposes in each fiscal year; specifying that a certain project may include  
20 certain environmental outcomes; providing for the disposition of certain  
21 unencumbered money in the Clean Water Commerce Fund Account; authorizing the  
22 Department to establish certain accounts and subaccounts within the Clean Water  
23 Commerce Fund Account; providing for the investment of money in and expenditures  
24 from the Clean Water Commerce Fund; requiring interest earnings of the Clean

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Water Commerce Fund to be credited to the Clean Water Commerce Fund; exempting the Clean Water Commerce Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; prohibiting certain environmental outcomes from being resold or transferred to a certain person separately from the property on which the environmental outcome is located; requiring credit for certain reductions to be 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 certain factors when evaluating certain funding proposals; requiring the Department to ~~establish and implement~~ approve a certain verification process and use certain standards and processes for verifying certain environmental outcomes; establishing requirements for environmental outcomes purchased under certain provisions of this Act; authorizing a certain contract to be funded for a certain period of time; establishing requirements for ~~payment under a certain~~ contract entered into by the Department under this Act; requiring the Department to ~~establish~~ maintain a certain registry and make the registry available to the public on the Department's website; authorizing a certain project ~~or~~ practice, and environmental outcome to be partially funded under this Act subject to certain conditions; requiring the ~~Department~~ Bay Restoration Fund Advisory Committee to make a certain annual report to ~~the Bay Restoration Fund Advisory Committee and, in accordance with a certain provision of law,~~ certain committees of the General Assembly; making certain conforming changes; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; defining certain terms; and generally relating to the Bay Restoration Fund and the Clean Water Commerce ~~Fund~~ Account.~~

31 BY repealing and reenacting, without amendments,

32 Article – Environment

33 Section 9–1605.2(a)(1) and (j)(1)

34 Annotated Code of Maryland

35 (2014 Replacement Volume and 2020 Supplement)

36 BY repealing and reenacting, with amendments,

37 Article – Environment

38 Section 9–1605.2(i)(2) and (3), (j)(2), and (l)

39 Annotated Code of Maryland

40 (2014 Replacement Volume and 2020 Supplement)

41 BY adding to

42 Article – Environment

43 Section 9–1605.4

44 Annotated Code of Maryland

1 (2014 Replacement Volume and 2020 Supplement)

2 ~~BY repealing and reenacting, without amendments,~~  
 3 ~~Article – State Finance and Procurement~~  
 4 ~~Section 6 – 226(a)(2)(i)~~  
 5 ~~Annotated Code of Maryland~~  
 6 ~~(2015 Replacement Volume and 2020 Supplement)~~

7 ~~BY repealing and reenacting, with amendments,~~  
 8 ~~Article – State Finance and Procurement~~  
 9 ~~Section 6 – 226(a)(2)(ii) 122. and 123.~~  
 10 ~~Annotated Code of Maryland~~  
 11 ~~(2015 Replacement Volume and 2020 Supplement)~~

12 ~~BY adding to~~  
 13 ~~Article – State Finance and Procurement~~  
 14 ~~Section 6 – 226(a)(2)(ii) 124.~~  
 15 ~~Annotated Code of Maryland~~  
 16 ~~(2015 Replacement Volume and 2020 Supplement)~~

17 BY repealing  
 18 Chapter 366 of the Acts of the General Assembly of 2017  
 19 Section 2 through 4

20 BY repealing and reenacting, with amendments,  
 21 Chapter 366 of the Acts of the General Assembly of 2017  
 22 Section 5

23 BY repealing  
 24 Chapter 367 of the Acts of the General Assembly of 2017  
 25 Section 2 through 4

26 BY repealing and reenacting, with amendments,  
 27 Chapter 367 of the Acts of the General Assembly of 2017  
 28 Section 5

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

31 **Article – Environment**

32 9–1605.2.

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

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

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

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

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

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

16 1. For funding the eligible costs to upgrade a wastewater  
17 facility to enhanced nutrient removal at wastewater facilities with a design capacity of  
18 500,000 gallons or more per day;

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

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

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

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

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

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

- 1 (vi) To earn interest on Bay Restoration Fund accounts;
- 2 (vii) For the reasonable costs of administering the Bay Restoration  
3 Fund, which may not exceed 1.5% of the total restoration fees imposed on users of  
4 wastewater facilities that are collected by the Comptroller annually;
- 5 (viii) For the reasonable administrative costs incurred by a local  
6 government or a billing authority for a water or wastewater facility collecting the  
7 restoration fees, in an amount not to exceed 5% of the total restoration fees collected by  
8 that local government or billing authority;
- 9 (ix) For future upgrades of wastewater facilities to achieve additional  
10 nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7)  
11 of this subsection;
- 12 (x) For costs associated with the issuance of bonds;
- 13 (xi) Subject to the allocation of funds and the conditions under  
14 subsection (h) of this section, for projects related to the removal of nitrogen from on-site  
15 sewage disposal systems and cover crop activities;
- 16 (xii) For costs associated with the implementation of alternate  
17 compliance plans authorized in § 4-202.1(k)(3) of this article; and
- 18 (xiii) After funding any eligible costs identified under item (iv)1 and 2  
19 of this paragraph, for [costs associated with the purchase of cost-effective nitrogen,  
20 phosphorus, or sediment load reductions in support of the State's efforts to restore the  
21 health of the Chesapeake Bay, not to exceed \$4,000,000 in fiscal year 2018, \$6,000,000 in  
22 fiscal year 2019, and \$10,000,000 per year in fiscal years 2020 and 2021] **TRANSFERS TO  
23 THE CLEAN WATER COMMERCE ~~FUND~~ ACCOUNT IN ACCORDANCE WITH  
24 PARAGRAPH (3) OF THIS SUBSECTION.**
- 25 (3) [The nitrogen, phosphorus, and sediment load reductions purchased  
26 under paragraph (2)(xiii) of this subsection:
- 27 (i) Cannot be from the agricultural sector; and
- 28 (ii) Must be created on or after July 1, 2017.] **IN FISCAL YEAR 2022  
29 AND EACH FISCAL YEAR THEREAFTER, THE DEPARTMENT SHALL TRANSFER  
30 \$20,000,000 FROM THE BAY RESTORATION FUND TO THE CLEAN WATER  
31 COMMERCE ~~FUND~~ ACCOUNT ESTABLISHED UNDER § 9-1605.4 OF THIS SUBTITLE,  
32 TO BE USED FOR THE PURPOSES SPECIFIED IN § 9-1605.4 OF THIS SUBTITLE.**
- 33 (j) (1) There is a Bay Restoration Fund Advisory Committee.
- 34 (2) The Committee consists of the following members:

- 1 (i) The Secretaries of the Environment, Agriculture, Planning,  
2 Natural Resources, and Budget and Management, or their designees;
- 3 (ii) One member of the Senate, appointed by the President of the  
4 Senate;
- 5 (iii) One member of the House of Delegates, appointed by the Speaker  
6 of the House of Delegates;
- 7 (iv) Two individuals representing publicly owned wastewater  
8 facilities, appointed by the Governor;
- 9 (v) Two individuals representing environmental organizations,  
10 appointed by the Governor;
- 11 (vi) One individual each from the Maryland Association of Counties  
12 and the Maryland Municipal League, appointed by the Governor;
- 13 (vii) Two individuals representing the business community,  
14 appointed by the Governor;
- 15 (viii) Two individuals representing local health departments who have  
16 expertise in on-site sewage disposal systems, appointed by the Governor; [and]
- 17 (ix) One individual representing a university or research institute  
18 who has expertise in nutrient pollution, appointed by the Governor; ~~AND~~
- 19 (x) **ONE INDIVIDUAL REPRESENTING THE CHESAPEAKE BAY**  
20 **COMMISSION, APPOINTED BY THE CHAIR OF THE MARYLAND DELEGATION TO THE**  
21 **COMMISSION; AND**
- 22 **(xi) ONE INDIVIDUAL REPRESENTING COMMUNITIES**  
23 **DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS**  
24 **IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON**  
25 **ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES.**
- 26 (l) [(1) Subject to paragraph (2) of this subsection, the] **THE** Department shall  
27 adopt regulations that are necessary or appropriate to carry out the provisions of this  
28 section.
- 29 [(2) Regulations adopted to carry out subsection (i)(2)(xiii) of this section  
30 shall:
- 31 (i) Be adopted before the purchase of any load reductions;

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

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

7 **9-1605.4.**

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (2) “ACCOUNT” MEANS THE CLEAN WATER COMMERCE ACCOUNT.

11 (3) “AGGREGATOR” MEANS A PERSON THAT FACILITATES OR  
12 COORDINATES THE ESTABLISHMENT OF PRACTICES OR PROJECTS THAT:

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

14 (II) PRODUCE A QUANTIFIABLE ENVIRONMENTAL OUTCOME;

15 (III) ARE REGISTERED BY THE PERSON; AND

16 (IV) ARE MADE AVAILABLE FOR PURCHASE BY THE  
17 DEPARTMENT UNDER THIS SECTION.

18 ~~(3)~~ (4) (I) “AGRICULTURAL PRACTICE” MEANS A BEST  
19 MANAGEMENT PRACTICE THAT IS:

20 1. APPROVED BY THE CHESAPEAKE BAY PROGRAM  
21 PARTNERSHIP; AND

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

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

26 (5) “CHESAPEAKE BAY TMDL” MEANS THE TOTAL MAXIMUM DAILY  
27 LOAD ~~ADOPTED~~ APPROVED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY  
28 UNDER THE CLEAN WATER ACT FOR THE CHESAPEAKE BAY.

29 ~~(4)~~ (6) “ENVIRONMENTAL OUTCOME” MEANS ~~ANY OF THE~~  
30 FOLLOWING QUANTITATIVE OUTCOMES NITROGEN LOAD REDUCTIONS THAT CAN BE

1 DIRECTLY MEASURED OR MODELED ~~AT THE EDGE OF TIDE~~ USING THE CHESAPEAKE  
 2 BAY PROGRAM ~~WATERSHED MODEL MODELS OR ANY OTHER METHOD OR MODEL~~  
 3 ~~IN A QUANTIFICATION PLAN;~~

4 ~~(I) NITROGEN LOAD REDUCTION;~~

5 ~~(II) PHOSPHORUS LOAD REDUCTION; OR~~

6 ~~(III) SEDIMENT LOAD REDUCTION.~~

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

8 ~~(6)~~ (7) (I) "NONAGRICULTURAL LANDSCAPE RESTORATION  
 9 PROJECT" MEANS A PROJECT THAT:

10 ~~(I)~~ 1. IS INSTALLED ON NONAGRICULTURAL LANDS;

11 ~~(II)~~ 2. HAS AN INTENDED LIFESPAN OF AT LEAST ~~15~~ 10  
 12 YEARS; AND

13 ~~(III)~~ 3. ~~IS ESTIMATED BY THE CHESAPEAKE BAY PROGRAM~~  
 14 ~~CHESAPEAKE ASSESSMENT TOOL TO PROVIDE~~ PROVIDES ENVIRONMENTAL  
 15 OUTCOMES.

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

19 ~~(7)~~ (8) "QUANTIFICATION PLAN" MEANS A PLAN APPROVED BY THE  
 20 DEPARTMENT THAT DESCRIBES:

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

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

25 (III) ANY VERIFICATION STEPS THAT MAY BE CARRIED OUT BY  
 26 THE DEPARTMENT OR THE OWNER OF A PROJECT OR PRACTICE TO CONFIRM ~~THE~~  
 27 ~~MODEL RESULTS OR THE ACCURATE MEASUREMENT OF~~ ENVIRONMENTAL  
 28 OUTCOMES; AND

29 (IV) THE TIMELINE FOR PROPOSED PAYMENTS UNDER A  
 30 CONTRACT WITH THE DEPARTMENT.



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

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

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

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

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

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

11 (1) REVENUE ~~DISTRIBUTED~~ TRANSFERRED TO THE ~~FUND~~ ACCOUNT  
12 UNDER § 9-1605.2(I)(2)(XIII) OF THIS SUBTITLE; AND

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

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

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

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

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

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

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

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

28 1. A FIXED NATURAL FILTER PRACTICE, AS DEFINED IN  
29 § 8-701 OF THE AGRICULTURE ARTICLE; OR

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

3                                   **(II) AT LEAST 20% SHALL BE USED TO PROCURE**  
4 **ENVIRONMENTAL OUTCOMES FROM PROJECTS, INCLUDING STORMWATER**  
5 **MANAGEMENT AND GREEN INFRASTRUCTURE PROJECTS, ESTABLISHED IN**  
6 **~~DISADVANTAGED COMMUNITIES IMPACTED BY ENVIRONMENTAL JUSTICE~~**  
7 **~~CONCERNS,~~ DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND**  
8 **RISKS AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE**  
9 **COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES;**  
10 **AND**

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

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

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

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

24                                   **(4) A PROJECT MAY INCLUDE ENVIRONMENTAL OUTCOMES FROM**  
25 **ONE OR MORE OF THE PROJECT TYPES SPECIFIED UNDER PARAGRAPH (2) OF THIS**  
26 **SUBSECTION.**

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

29                                   ~~**(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED**~~  
30 ~~**TO THE FUND.**~~

31                                   ~~**(I) (G)**~~ **(G) EXPENDITURES FROM THE FUND ACCOUNT MAY BE MADE ONLY**  
32 **IN ACCORDANCE WITH THE STATE BUDGET.**

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

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

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

11 ~~(M) (J)~~ IN CALCULATING POLLUTION REDUCTIONS UNDER THE  
12 CHESAPEAKE BAY TMDL BY VARIOUS MAJOR SOURCE SECTORS RECOGNIZED IN  
13 THE WATERSHED IMPLEMENTATION PLAN, CREDIT FOR ANY REDUCTIONS FUNDED  
14 UNDER THIS SECTION SHALL BE ATTRIBUTED TO THE SECTOR OF THE SOURCE THAT  
15 MAKES THE REDUCTIONS.

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

17 (I) USE A COMPETITIVE PROCESS TO INVITE FUNDING  
18 PROPOSALS FROM AGGREGATORS AND OTHER PERSONS FOR THE PROVISION OF  
19 ENVIRONMENTAL OUTCOMES THAT WILL CONTRIBUTE TOWARD THE ACHIEVEMENT  
20 OF THE CHESAPEAKE BAY TMDL;

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

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

27 ~~(H) (IV)~~ AT LEAST ONCE A YEAR, PUBLICLY ANNOUNCE A  
28 REQUEST FOR PROPOSALS OR OTHERWISE INITIATE A PROCUREMENT PROCESS FOR  
29 ENVIRONMENTAL OUTCOMES TO BE FUNDED UNDER THIS SECTION.

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

32 (I) THE LEGAL NAME OF THE PERSON SUBMITTING THE  
33 PROPOSAL;

1           **(II) A DESCRIPTION OF THE PROJECTS OR PRACTICES TO BE**  
2 **USED OR IMPLEMENTED TO ACHIEVE THE ENVIRONMENTAL OUTCOMES;**

3           ~~**(H) (III)**~~     **THE LOCATION WHERE THE PROJECTS OR PRACTICES**  
4 **WILL BE USED OR IMPLEMENTED;**

5           ~~**(HH) (IV)**~~    **THE EXPECTED LIFE OF EACH ENVIRONMENTAL**  
6 **OUTCOME THAT WILL BE ACHIEVED UNDER THE PROJECTS OR PRACTICES;**

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

11           **(VI) A PROPOSED QUANTIFICATION PLAN AND VERIFICATION**  
12 **PROCEDURE;**

13           ~~**(IV) (VII)**~~   **AN IMPLEMENTATION TIMETABLE FOR THE**  
14 **PROJECTS OR PRACTICES;**

15           **(VIII) A PROPOSED COST AND PAYMENT SCHEDULE;**

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

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

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

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

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

1                                   **3.    THE PORTION OF THE PROJECTS OR PRACTICES FOR**  
 2 **WHICH THE FUNDS ARE BEING OR WILL BE PROVIDED; AND**

3                                   ~~(VI)~~ **(XII)** ANY OTHER INFORMATION REQUIRED BY THE  
 4 DEPARTMENT.

5                                   **(3)    (I)    WHEN INITIATING A COMPETITIVE PROCESS UNDER THIS**  
 6 **SUBSECTION, THE DEPARTMENT SHALL ANNOUNCE THE CRITERIA THAT WILL BE**  
 7 **USED TO EVALUATE FUNDING PROPOSALS.**

8                                   **(II)    WHEN EVALUATING FUNDING PROPOSALS, THE**  
 9 **DEPARTMENT SHALL PRIORITIZE THE FOLLOWING FACTORS IN THE FOLLOWING**  
 10 **ORDER:**

11                                   **1.    THE DOLLAR COST PER UNIT OF ENVIRONMENTAL**  
 12 **OUTCOME; AND**

13                                   **2.    THE PROVISION OF EXPECTED CO-BENEFITS**  
 14 **RELATED TO:**

15                                   **A.    ENHANCING THE MITIGATION OF AND RESILIENCY TO**  
 16 **THE ANTICIPATED ADVERSE EFFECTS OF CLIMATE CHANGES;**

17                                   **B.    ~~ADDRESSING DIVERSITY, EQUITY, OR~~**  
 18 **~~ENVIRONMENTAL JUSTICE CONCERNS; OR~~ ALLEVIATING THE ENVIRONMENTAL**  
 19 **HARMS AND RISKS BORNE BY COMMUNITIES DISPROPORTIONATELY BURDENED BY**  
 20 **ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE DEPARTMENT IN**  
 21 **CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE AND**  
 22 **SUSTAINABLE COMMUNITIES;**

23                                   **C.    CONTRIBUTING TOWARD THE ATTAINMENT OF**  
 24 **WATER QUALITY STANDARDS IN A LOCALLY IMPAIRED WATERSHED; OR**

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

29                                   ~~(E)~~ **(L)**       **THE DEPARTMENT SHALL:**

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

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

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

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

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

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

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

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

23           ~~(I) ANNUAL OR LESS FREQUENT PAYMENTS OVER THE~~  
 24 **~~DURATION OF THE CONTRACT FOLLOWING VERIFICATION OF ENVIRONMENTAL~~**  
 25 **~~OUTCOMES; OR~~**

26           ~~(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FULL~~  
 27 **~~OR SUBSTANTIAL PAYMENT AFTER CONSTRUCTION IS COMPLETED AND~~**  
 28 **~~INCREMENTAL PAYMENTS AFTER LONG TERM ENVIRONMENTAL OUTCOMES ARE~~**  
 29 **~~VERIFIED UNDER A PAY FOR SUCCESS CONTRACT.~~**

30           ~~(2) INITIAL AND INCREMENTAL PAYMENTS MAY BE MADE UNDER A~~  
 31 **~~PAY FOR SUCCESS CONTRACT AS WARRANTED BY THE FINANCIAL RESOURCES OF~~**  
 32 **~~THE APPLICANT, THE NATURE OF THE PROJECT OR PRACTICE, AND OTHER~~**  
 33 **~~RELEVANT CIRCUMSTANCES.~~**

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

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

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

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

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

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

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

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

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

26 (2) MAKE THE REGISTRY AVAILABLE TO THE PUBLIC ON THE  
27 DEPARTMENT'S WEBSITE.

28 ~~(T)~~ (Q) (1) (I) SUBJECT TO ~~PARAGRAPH (2)~~ SUBPARAGRAPH (II) OF  
29 THIS ~~SUBSECTION~~ PARAGRAPH, A PROJECT OR PRACTICE THAT IS PARTIALLY  
30 FINANCED WITH ANOTHER SOURCE OF STATE FUNDS MAY BE FUNDED UNDER THIS  
31 SECTION.

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

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

7           (II) IF AN ENVIRONMENTAL OUTCOME IS PARTIALLY FUNDED  
 8 WITH PUBLIC FUNDS AND IS VERIFIED UNDER SUBSECTION (L) OF THIS SECTION,  
 9 FUNDS FROM THE ACCOUNT MAY BE USED TO PURCHASE THE REMAINING PORTION  
 10 OF THE ENVIRONMENTAL OUTCOME THAT IS NOT FUNDED WITH PUBLIC FUNDS.

11           ~~(U)~~ (R) ON IN CONJUNCTION WITH THE REPORT REQUIRED UNDER §  
 12 9-1605.2(J)(6) OF THIS SUBTITLE, ON OR BEFORE DECEMBER 31 EACH YEAR, THE  
 13 DEPARTMENT BAY RESTORATION FUND ADVISORY COMMITTEE SHALL REPORT TO  
 14 THE BAY RESTORATION FUND ADVISORY COMMITTEE AND, IN ACCORDANCE WITH  
 15 § 2-1257 OF THE STATE GOVERNMENT, TO THE SENATE EDUCATION, HEALTH, AND  
 16 ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENT AND  
 17 TRANSPORTATION COMMITTEE ON:

18           (1) THE TOTAL AMOUNT EXPENDED AND ENCUMBERED UNDER THIS  
 19 SECTION:

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

21           (II) SINCE JULY 1, 2022;

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

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

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

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

32           (4) ~~INFORMATION ON THE~~ THE COST-EFFECTIVENESS OF  
 33 ENVIRONMENTAL OUTCOMES PURCHASED UNDER THIS SECTION AS COMPARED



1 WITH OTHER APPROACHES TO REDUCING NITROGEN, PHOSPHORUS, AND SEDIMENT;  
 2 AND

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

9 ~~(v)~~ (s) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT  
 10 THIS SECTION.

11 ~~Article—State Finance and Procurement~~

12 ~~6-226.~~

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

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

21 ~~122. the Racing and Community Development Financing Fund;~~  
 22 ~~[and]~~

23 ~~123. the Racing and Community Development Facilities Fund;~~  
 24 ~~AND~~

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

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

28 Chapter 366 of the Acts of 2017

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

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

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

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

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

14 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
15 1, 2017. It shall remain effective for a period of [4] 13 years and, at the end of June 30,  
16 [2021] 2030, with no further action required by the General Assembly, this Act shall be  
17 abrogated and of no further force and effect.

#### 18 Chapter 367 of the Acts of 2017

19 [SECTION 2. AND BE IT FURTHER ENACTED, That the nutrient load reductions  
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3 [2021] 2030, with no further action required by the General Assembly, this Act shall be  
4 abrogated and of no further force and effect.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
6 1, 2021. It shall remain effective for a period of 9 years and 1 month and, at the end of June  
7 30, 2030, this Act, with no further action required by the General Assembly, shall be  
8 abrogated and of no further force and effect.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.