

HOUSE BILL 915

M3, J5

3lr1223
CF SB 843

By: **Delegates Fraser–Hidalgo, Barve, Boyce, Charkoudian, Cullison, Embry, Foley, Lehman, Love, Pena–Melnik, Reznik, Solomon, and Stewart**

Introduced and read first time: February 9, 2023

Assigned to: Economic Matters and Environment and Transportation

A BILL ENTITLED

AN ACT concerning

Climate Change Adaptation and Mitigation Payment Program and Climate Impact Health Coverage Program – Establishment

FOR the purpose of establishing the Climate Change Adaptation and Mitigation Payment Program in the Department of the Environment to secure payments from certain businesses that extract fossil fuels or refine petroleum products in order to provide a source of revenue for certain climate change adaptive or mitigation infrastructure projects and efforts to address the health impacts of climate change on vulnerable populations; establishing the Climate Change Adaptation and Mitigation Fund as a special, nonlapsing fund; authorizing the Legislative Auditor to conduct certain audits of the Fund and of the appropriations and expenditures made for the purposes of the Climate Change Adaptation and Mitigation Payment Program; altering the purpose of the Maryland Health Benefit Exchange to include the provision of funding for the establishment and operation of the Climate Impact Health Coverage Program; requiring the Maryland Health Benefit Exchange to establish and implement the Climate Impact Health Coverage Program to facilitate the enrollment of certain individuals in qualified plans and, based on the availability of funds, provide State premium assistance and cost–sharing reductions to certain individuals enrolled in qualified plans; providing that the implementation of the Climate Impact Health Coverage Program is contingent on approval of a certain waiver application; and generally relating to the Climate Change Adaptation and Mitigation Payment Program and the Climate Impact Health Coverage Program.

BY adding to

Article – Environment

Section 2–1701 through 2–1706 to be under the new subtitle “Subtitle 17. Climate Change Adaptation and Mitigation Payment Program”

Annotated Code of Maryland

(2013 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 31–107
 Annotated Code of Maryland
 (2017 Replacement Volume and 2022 Supplement)

BY adding to
 Article – Insurance
 Section 31–123 and 31–124
 Annotated Code of Maryland
 (2017 Replacement Volume and 2022 Supplement)

Preamble

WHEREAS, Climate change, resulting primarily from the combustion of fossil fuels, is an immediate, grave threat to the State’s communities, environment, and economy; and

WHEREAS, In addition to mitigating the further buildup of greenhouse gases, the State must take action to adapt to certain consequences of climate change that are irreversible, including rising sea levels, increasing temperatures, extreme weather events, flooding, heat waves, toxic algae blooms, and other threats; and

WHEREAS, Meeting the challenge of adapting to and mitigating the effects of climate change will require a shared commitment of purpose and huge investments in new or upgraded infrastructure; and

WHEREAS, The State has previously adopted programs, such as the Cigarette Restitution Fund Program, to require industries that have profited by harming the public welfare to shoulder their share of the burden in redressing that harm; and

WHEREAS, Based on decades of research, it is now possible to determine with great accuracy the share of greenhouse gases released into the atmosphere by specific fossil fuel companies over the last 70 years or more, making it possible to assign liability and require compensation from companies commensurate with their emissions during a given time period; now, therefore,

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

Article – Environment

SUBTITLE 17. CLIMATE CHANGE ADAPTATION AND MITIGATION PAYMENT PROGRAM.

2–1701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECT” MEANS AN INFRASTRUCTURE PROJECT DESIGNED TO AVOID, MODERATE, OR REPAIR DAMAGE CAUSED BY CLIMATE CHANGE.

(2) “CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECT” INCLUDES PROJECTS TO:

(I) CONSTRUCT SEA WALLS OR OTHER COASTAL DEFENSE STRUCTURES;

(II) UPGRADE STORMWATER OR SEWER SYSTEMS;

(III) MAKE DEFENSIVE UPGRADES TO ROADS, BRIDGES, RAIL INFRASTRUCTURE, OR OTHER TRANSIT SYSTEMS;

(IV) PREPARE FOR AND RECOVER FROM HURRICANES AND OTHER EXTREME WEATHER EVENTS;

(V) RELOCATE, ELEVATE, OR RETROFIT WASTEWATER TREATMENT PLANTS THAT ARE VULNERABLE TO FLOODING;

(VI) INSTALL HEAT PUMPS AND OTHER CLEAN ENERGY RETROFITS IN PUBLIC AND PRIVATE BUILDINGS, INCLUDING SCHOOL BUILDINGS; AND

(VII) RESPOND TO TOXIC ALGAE BLOOMS, THE LOSS OF AGRICULTURAL TOPSOIL, AND OTHER CLIMATE-DRIVEN ECOSYSTEM THREATS TO FORESTS, FARMS, AND FISHERIES.

(C) “COAL” INCLUDES:

(1) BITUMINOUS COAL;

(2) ANTHRACITE COAL; AND

(3) LIGNITE.

(D) “COMMUNITY DISPROPORTIONATELY AFFECTED BY CLIMATE IMPACTS” MEANS A COMMUNITY IDENTIFIED IN ACCORDANCE WITH § 1-702 OF THIS ARTICLE.

(E) “CONTROLLED GROUP” MEANS TWO OR MORE ENTITIES TREATED AS A SINGLE EMPLOYER UNDER:

(1) § 52(A) OR (B) OF THE INTERNAL REVENUE CODE, WITHOUT REGARD TO § 1563(B)(2)(C) OF THE INTERNAL REVENUE CODE; OR

(2) § 414(M) OR (O) OF THE INTERNAL REVENUE CODE.

(F) “COST RECOVERY DEMAND” MEANS A CHARGE ASSERTED AGAINST A RESPONSIBLE PARTY FOR COST RECOVERY PAYMENTS UNDER THE PROGRAM.

(G) “COVERED GREENHOUSE GAS EMISSIONS” MEANS THE TOTAL QUANTITY OF GREENHOUSE GASES RELEASED INTO THE ATMOSPHERE DURING THE COVERED PERIOD, EXPRESSED IN METRIC TONS OF CARBON DIOXIDE EQUIVALENT, RESULTING FROM THE USE OF FOSSIL FUELS OR PETROLEUM PRODUCTS EXTRACTED, PRODUCED, REFINED, OR SOLD BY AN ENTITY.

(H) “COVERED PERIOD” MEANS JANUARY 1, 2000, THROUGH DECEMBER 31, 2018, INCLUSIVE.

(I) (1) “CRUDE OIL” MEANS OIL OR PETROLEUM OF ANY KIND AND IN ANY FORM.

(2) “CRUDE OIL” INCLUDES:

(I) BITUMEN;

(II) OIL SANDS;

(III) HEAVY OIL;

(IV) CONVENTIONAL AND UNCONVENTIONAL OIL;

(V) SHALE OIL;

(VI) NATURAL GAS LIQUIDS;

(VII) CONDENSATES; AND

(VIII) RELATED FOSSIL FUELS.

(J) “ENTITY” MEANS ANY INDIVIDUAL, TRUSTEE, AGENT, PARTNERSHIP, ASSOCIATION, CORPORATION, COMPANY, MUNICIPAL CORPORATION, POLITICAL

SUBDIVISION, OR OTHER PERSON, INCLUDING A FOREIGN NATION, THAT HOLDS OR HELD AN OWNERSHIP INTEREST IN A FOSSIL FUEL BUSINESS DURING THE COVERED PERIOD.

(K) “FOSSIL FUEL” MEANS COAL, PETROLEUM PRODUCTS, AND FUEL GASES.

(L) “FOSSIL FUEL BUSINESS” MEANS A BUSINESS ENGAGING IN THE EXTRACTION OF FOSSIL FUELS OR THE REFINING OF PETROLEUM PRODUCTS.

(M) “FUEL GAS” INCLUDES:

- (1) METHANE;
- (2) NATURAL GAS;
- (3) LIQUIFIED NATURAL GAS; AND
- (4) MANUFACTURED FUEL GASES.

(N) “FUND” MEANS THE CLIMATE CHANGE ADAPTATION AND MITIGATION FUND ESTABLISHED UNDER § 2-1704 OF THIS SUBTITLE.

(O) “GREENHOUSE GAS” HAS THE MEANING STATED IN § 2-1202 OF THIS TITLE.

(P) “NOTICE OF COST RECOVERY DEMAND” MEANS A WRITTEN COMMUNICATION INFORMING A RESPONSIBLE PARTY OF THE AMOUNT OF THE COST RECOVERY DEMAND PAYABLE TO THE DEPARTMENT UNDER THIS SUBTITLE.

(Q) “PETROLEUM PRODUCT” MEANS ANY PRODUCT REFINED OR RE-REFINED FROM:

- (1) SYNTHETIC OR CRUDE OIL; OR
- (2) CRUDE OIL EXTRACTED FROM NATURAL GAS LIQUIDS OR OTHER SOURCES.

(R) “PROGRAM” MEANS THE CLIMATE CHANGE ADAPTATION AND MITIGATION PAYMENT PROGRAM ESTABLISHED UNDER § 2-1702 OF THIS SUBTITLE.

(S) (1) “QUALIFYING EXPENDITURE” MEANS AN AUTHORIZED PAYMENT FROM THE FUND IN SUPPORT OF A CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECT.

(2) “QUALIFYING EXPENDITURE” INCLUDES, TO THE EXTENT AUTHORIZED IN DEPARTMENT REGULATIONS, A PAYMENT TOWARD THE OPERATION AND MAINTENANCE OF A CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECT.

(T) (1) “RESPONSIBLE PARTY” MEANS AN ENTITY, OR A SUCCESSOR IN INTEREST TO AN ENTITY, THAT:

(I) DURING ANY PART OF THE COVERED PERIOD, WAS ENGAGED IN THE TRADE OR BUSINESS OF EXTRACTING FOSSIL FUEL OR REFINING CRUDE OIL; AND

(II) IS DETERMINED BY THE DEPARTMENT TO BE RESPONSIBLE FOR MORE THAN 1,000,000,000 TONS OF COVERED GREENHOUSE GAS EMISSIONS.

(2) “RESPONSIBLE PARTY” DOES NOT INCLUDE ANY PERSON THAT LACKS SUFFICIENT CONNECTION WITH THE STATE TO SATISFY THE NEXUS REQUIREMENTS OF THE UNITED STATES CONSTITUTION.

2-1702.

(A) THERE IS A CLIMATE CHANGE ADAPTATION AND MITIGATION PAYMENT PROGRAM IN THE DEPARTMENT.

(B) THE PURPOSE OF THE PROGRAM IS TO:

(1) SECURE COMPENSATORY PAYMENTS FROM FOSSIL FUEL BUSINESSES BASED ON A STANDARD OF STRICT LIABILITY IN ORDER TO PROVIDE A SOURCE OF REVENUE FOR:

(I) CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS WITHIN THE STATE; AND

(II) STATE EFFORTS TO ADDRESS THE HEALTH IMPACTS OF CLIMATE CHANGE ON VULNERABLE POPULATIONS;

(2) DETERMINE THE PROPORTIONAL LIABILITY OF RESPONSIBLE PARTIES IN ACCORDANCE WITH § 2-1703 OF THIS SUBTITLE;

(3) IMPOSE COST RECOVERY DEMANDS ON RESPONSIBLE PARTIES AND ISSUE NOTICES OF COST RECOVERY DEMANDS;

(4) ACCEPT AND COLLECT COST RECOVERY PAYMENTS FROM RESPONSIBLE PARTIES;

(5) IDENTIFY CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS WITHIN THE STATE;

(6) DISBURSE FUNDS IN ACCORDANCE WITH THIS SUBTITLE; AND

(7) ENSURE THAT AT LEAST 40% OF THE QUALIFIED EXPENDITURES FROM THE PROGRAM GO TO CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS THAT DIRECTLY BENEFIT COMMUNITIES DISPROPORTIONATELY AFFECTED BY CLIMATE IMPACTS.

2-1703.

(A) (1) A RESPONSIBLE PARTY IS STRICTLY LIABLE, WITHOUT REGARD TO FAULT, FOR A SHARE OF THE COSTS OF CLIMATE CHANGE ADAPTIVE OR MITIGATION PROJECTS, INCLUDING OPERATING AND MAINTENANCE COSTS, SUPPORTED BY THE FUND.

(2) FOR PURPOSES OF THIS SECTION, ENTITIES IN A CONTROLLED GROUP:

(I) SHALL BE TREATED BY THE DEPARTMENT AS A SINGLE ENTITY FOR THE PURPOSES OF IDENTIFYING RESPONSIBLE PARTIES; AND

(II) ARE JOINTLY AND SEVERALLY LIABLE FOR PAYMENT OF ANY COST RECOVERY DEMAND OWED BY ANY ENTITY IN THE CONTROLLED GROUP.

(B) WITH RESPECT TO EACH RESPONSIBLE PARTY, THE COST RECOVERY DEMAND SHALL BE EQUAL TO AN AMOUNT THAT BEARS THE SAME RATIO TO \$9,000,000,000 AS THE RESPONSIBLE PARTY'S APPLICABLE SHARE OF COVERED GREENHOUSE GAS EMISSIONS BEARS TO THE AGGREGATE APPLICABLE SHARES OF ALL RESPONSIBLE PARTIES' COVERED GREENHOUSE GAS EMISSIONS.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A RESPONSIBLE PARTY'S APPLICABLE SHARE OF GREENHOUSE GAS EMISSIONS SHALL BE THE AMOUNT BY WHICH THE COVERED GREENHOUSE GAS EMISSIONS ATTRIBUTABLE TO THE RESPONSIBLE PARTY EXCEEDS 1,000,000,000 METRIC TONS.

(2) IF A RESPONSIBLE PARTY OWNS A MINORITY INTEREST OF 10% OR MORE IN ANOTHER ENTITY, THE RESPONSIBLE PARTY'S APPLICABLE SHARE OF GREENHOUSE GAS EMISSIONS SHALL BE CALCULATED AS THE APPLICABLE SHARE OF GREENHOUSE GAS EMISSIONS FOR THE ENTITY IN WHICH THE RESPONSIBLE PARTY HOLDS A MINORITY INTEREST, AS CALCULATED UNDER PARAGRAPH (1) OF THIS SUBSECTION, MULTIPLIED BY THE PERCENTAGE OF THE MINORITY INTEREST HELD BY THE RESPONSIBLE PARTY.

(3) IN DETERMINING THE AMOUNT OF GREENHOUSE GAS EMISSIONS ATTRIBUTABLE TO AN ENTITY, THE DEPARTMENT SHALL ASSUME THAT:

(I) 942.5 METRIC TONS OF CARBON DIOXIDE EQUIVALENT IS RELEASED FOR EVERY 1,000,000 POUNDS OF COAL ATTRIBUTABLE TO THE ENTITY;

(II) 432,180 METRIC TONS OF CARBON DIOXIDE EQUIVALENT IS RELEASED FOR EVERY 1,000,000 BARRELS OF CRUDE OIL ATTRIBUTABLE TO THE ENTITY; AND

(III) 53,440 METRIC TONS OF CARBON DIOXIDE EQUIVALENT IS RELEASED FOR EVERY 1,000,000 CUBIC FEET OF FUEL GASES ATTRIBUTABLE TO THE ENTITY.

(D) THE DEPARTMENT MAY ADJUST THE COST RECOVERY DEMAND AMOUNT OF A RESPONSIBLE PARTY THAT REFINES PETROLEUM PRODUCTS OR THAT IS A SUCCESSOR IN INTEREST TO AN ENTITY THAT REFINES PETROLEUM PRODUCTS, IF THE RESPONSIBLE PARTY ESTABLISHES TO THE SATISFACTION OF THE DEPARTMENT THAT:

(1) A PORTION OF THE COST RECOVERY DEMAND AMOUNT WAS ATTRIBUTABLE TO THE REFINING OF CRUDE OIL EXTRACTED BY ANOTHER ENTITY; AND

(2) THE CRUDE OIL EXTRACTED BY THE OTHER ENTITY WAS ACCOUNTED FOR WHEN THE DEPARTMENT DETERMINED THE COST RECOVERY DEMAND AMOUNT FOR THE OTHER ENTITY OR A SUCCESSOR IN INTEREST OF THE OTHER ENTITY.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A RESPONSIBLE PARTY SHALL PAY THE COST RECOVERY DEMAND AMOUNT IN FULL ON OR BEFORE OCTOBER 1, 2025.

(2) (I) A RESPONSIBLE PARTY MAY ELECT TO PAY THE COST RECOVERY DEMAND AMOUNT IN NINE ANNUAL INSTALLMENTS IN ACCORDANCE WITH THIS PARAGRAPH.

(II) THE FIRST INSTALLMENT SHALL BE PAID ON OR BEFORE OCTOBER 1, 2025, AND SHALL BE EQUAL TO 20% OF THE TOTAL COST RECOVERY DEMAND AMOUNT.

(III) EACH SUBSEQUENT INSTALLMENT SHALL BE PAID ON OR BEFORE SEPTEMBER 30 EACH SUBSEQUENT YEAR AND SHALL BE EQUAL TO 10% OF THE TOTAL COST RECOVERY DEMAND AMOUNT.

(IV) 1. THE UNPAID BALANCE OF ALL REMAINING INSTALLMENTS SHALL BECOME DUE IMMEDIATELY IF:

A. THE RESPONSIBLE PARTY FAILS TO PAY ANY INSTALLMENT IN A TIMELY MANNER, AS SPECIFIED IN DEPARTMENT REGULATIONS;

B. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THERE IS A LIQUIDATION OR SALE OF SUBSTANTIALLY ALL THE ASSETS OF THE RESPONSIBLE PARTY, INCLUDING IN A BANKRUPTCY PROCEEDING; OR

C. THE RESPONSIBLE PARTY CEASES TO DO BUSINESS.

2. IN THE CASE OF A SALE OF SUBSTANTIALLY ALL THE ASSETS OF A RESPONSIBLE PARTY, THE REMAINING INSTALLMENTS SHALL NOT BECOME DUE IMMEDIATELY IF THE BUYER ENTERS INTO AN AGREEMENT WITH THE DEPARTMENT UNDER WHICH THE BUYER ASSUMES LIABILITY FOR THE REMAINING INSTALLMENTS DUE UNDER THIS SUBPARAGRAPH IN THE SAME MANNER AS IF THE BUYER WERE THE RESPONSIBLE PARTY.

(F) THE DEPARTMENT SHALL DEPOSIT COST RECOVERY PAYMENTS COLLECTED UNDER THIS SECTION TO THE CLIMATE CHANGE ADAPTATION AND MITIGATION FUND ESTABLISHED UNDER § 2-1704 OF THIS SUBTITLE.

(G) A RESPONSIBLE PARTY MAY REQUEST A HEARING UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE (ADMINISTRATIVE PROCEDURE ACT – CONTESTED CASES) TO CONTEST A COST RECOVERY DEMAND MADE BY THE DEPARTMENT UNDER THIS SECTION.

(A) THERE IS A CLIMATE CHANGE ADAPTATION AND MITIGATION FUND.

(B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS IN THE STATE.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

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

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

(E) THE FUND CONSISTS OF:

(1) COST RECOVERY PAYMENTS DISTRIBUTED TO THE FUND UNDER § 2-1703 OF THIS SUBTITLE;

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

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) THE FUND MAY BE USED ONLY:

(1) TO PAY:

(i) QUALIFIED EXPENDITURES FOR CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS IDENTIFIED BY THE DEPARTMENT IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER § 2-1705 OF THIS SUBTITLE; AND

(ii) REASONABLE ADMINISTRATIVE COSTS OF THE PROGRAM;
AND

(2) FOR DISBURSEMENTS TO THE MARYLAND DEPARTMENT OF HEALTH AND THE MARYLAND HEALTH BENEFIT EXCHANGE FUND IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.

(G) IN EACH FISCAL YEAR, THE DEPARTMENT SHALL DISBURSE AT LEAST:

(1) 5% OF TOTAL REVENUES RECEIVED BY THE FUND TO THE MARYLAND DEPARTMENT OF HEALTH'S OFFICE OF MINORITY HEALTH AND HEALTH DISPARITIES TO ADDRESS THE HEALTH IMPACT OF CLIMATE CHANGE ON MINORITY ADULTS, CHILDREN, AND INFANTS; AND

(2) 20% OF TOTAL REVENUES RECEIVED BY THE FUND TO THE MARYLAND HEALTH BENEFIT EXCHANGE FUND ESTABLISHED UNDER § 31-107 OF THE INSURANCE ARTICLE TO PROVIDE HEALTH INSURANCE STATE PREMIUM ASSISTANCE AND COST-SHARING REDUCTIONS TO POPULATIONS WITH HIGH RATES OF UNINSURANCE AND INDIVIDUALS WHO ARE INELIGIBLE FOR FEDERAL FINANCIAL ASSISTANCE.

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

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

2-1705.

(A) ON OR BEFORE OCTOBER 1, 2024, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROGRAM.

(B) THE REGULATIONS SHALL INCLUDE:

(1) METHODOLOGIES USING THE BEST AVAILABLE SCIENCE TO IDENTIFY RESPONSIBLE PARTIES AND DETERMINE RESPONSIBLE PARTIES' APPLICABLE SHARES OF GREENHOUSE GAS EMISSIONS;

(2) RULES RELATING TO:

(I) REGISTERING ENTITIES DETERMINED TO BE RESPONSIBLE PARTIES UNDER THE PROGRAM;

(II) ISSUING NOTICES OF COST RECOVERY DEMANDS, WHICH SHALL INCLUDE:

1. THE COST RECOVERY DEMAND AMOUNT;

2. THE TIME AND MANNER IN WHICH COST RECOVERY PAYMENTS MUST BE MADE;

3. THE CONSEQUENCES OF NONPAYMENT OR LATE PAYMENT; AND

4. INFORMATION REGARDING THE RIGHT TO REQUEST A CONTESTED CASE HEARING; AND

(III) ACCEPTING PAYMENTS FROM, PURSUING COLLECTION EFFORTS AGAINST, AND NEGOTIATING SETTLEMENT AGREEMENTS WITH RESPONSIBLE PARTIES; AND

(3) SUBJECT TO SUBSECTION (C) OF THIS SECTION, PROCEDURES FOR IDENTIFYING CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS ELIGIBLE TO RECEIVE QUALIFYING EXPENDITURES FROM THE FUND.

(C) (1) THE DEPARTMENT MAY BY REGULATION PROVIDE FOR CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS TO BE IDENTIFIED FOR FUNDING THROUGH:

(I) LEGISLATIVE BUDGET APPROPRIATIONS;

(II) THE ISSUANCE OF REQUESTS FOR PROPOSALS FROM LOCAL GOVERNMENTS, NONPROFIT ORGANIZATIONS, OR COMMUNITY GROUPS; OR

(III) ANY OTHER METHOD THE DEPARTMENT DEEMS APPROPRIATE.

(2) THE DEPARTMENT SHALL ENSURE THAT AT LEAST 40% OF THE QUALIFIED EXPENDITURES FROM THE PROGRAM GO TO CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS THAT DIRECTLY BENEFIT COMMUNITIES DISPROPORTIONATELY AFFECTED BY CLIMATE IMPACTS.

2-1706.

(A) ON OR BEFORE OCTOBER 1, 2026, AND EACH OCTOBER 1 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE COST RECOVERY PAYMENTS RECEIVED AND THE FUNDING DISBURSED FROM THE FUND DURING THE PRECEDING FISCAL YEAR;

(2) THE STATUS OF CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS FUNDED UNDER THE PROGRAM;

(3) THE PERCENTAGE OF QUALIFIED EXPENDITURES MADE DURING THE PRECEDING FISCAL YEAR THAT FUNDED CLIMATE CHANGE ADAPTIVE OR MITIGATION INFRASTRUCTURE PROJECTS THAT DIRECTLY BENEFITED COMMUNITIES DISPROPORTIONATELY AFFECTED BY CLIMATE IMPACTS; AND

(4) THE EFFECTIVENESS OF THE PROGRAM IN ACHIEVING THE PURPOSES OF THIS SUBTITLE.

(B) (1) THE LEGISLATIVE AUDITOR MAY CONDUCT POST AUDITS OF A FISCAL AND COMPLIANCE NATURE OF THE FUND AND OF THE APPROPRIATIONS AND EXPENDITURES MADE FOR THE PURPOSES OF THIS SUBTITLE.

(2) THE COST OF THE FISCAL PORTION OF AN AUDIT SHALL BE PAID FROM THE FUND AS AN ADMINISTRATIVE COST.

Article – Insurance

31–107.

(a) There is a Maryland Health Benefit Exchange Fund.

(b) (1) The purpose of the Fund is to:

(i) provide funding for the operation and administration of the Exchange in carrying out the purposes of the Exchange under this subtitle;

(ii) provide funding for the establishment and operation of the State Reinsurance Program authorized under this subtitle;

(iii) provide funding for the Medical Assistance Program and the Senior Prescription Drug Assistance Program;

(iv) provide funding for the establishment and operation of Health Equity Resource Communities under Title 20, Subtitle 14 of the Health – General Article; [and]

(v) provide funding for the establishment and operation of the State–Based Young Adult Health Insurance Subsidies Pilot Program authorized under this subtitle; AND

(VI) PROVIDE FUNDING FOR THE ESTABLISHMENT AND OPERATION OF THE CLIMATE IMPACT HEALTH COVERAGE PROGRAM UNDER §

31–124 OF THIS SUBTITLE.

(2) The operation and administration of the Exchange, the State Reinsurance Program, and the State–Based Young Adult Health Insurance Subsidies Pilot Program may include functions delegated by the Exchange to a third party under law or by contract.

(c) The Exchange shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) any user fees or other assessments collected by the Exchange;

(2) all revenue deposited into the Fund that is received from the distribution of the premium tax under § 6–103.2 of this article;

(3) income from investments made on behalf of the Fund;

(4) interest on deposits or investments of money in the Fund;

(5) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Exchange or the Fund;

(6) money donated to the Fund;

(7) money awarded to the Fund through grants;

(8) any pass–through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act;

(9) any funds designated by the federal government to provide reinsurance to carriers that offer individual health benefit plans in the State;

(10) any funds designated by the State to provide reinsurance to carriers that offer individual health benefit plans in the State;

(11) any funds designated by the State to provide State–based health insurance subsidies to young adults in the State;

(12) any federal funds received in accordance with § 31–121 of this subtitle for the administration of small business tax credits; [and]

(13) FUNDS RECEIVED FROM THE CLIMATE CHANGE ADAPTATION AND MITIGATION FUND IN ACCORDANCE WITH § 2-1704 OF THE ENVIRONMENT ARTICLE; AND

(14) any other money from any other source accepted for the benefit of the Fund.

(f) (1) The Fund may be used only:

(i) 1. for the operation and administration of the Exchange in carrying out the purposes authorized under this subtitle;

2. for the establishment and operation of the State Reinsurance Program; and

3. for appropriations to the Health Equity Resource Community Reserve Fund under § 20-1407 of the Health – General Article;

(ii) in fiscal years 2021 and 2022, for the Medical Assistance Program within the Medical Care Programs Administration of the Maryland Department of Health;

(iii) in fiscal year 2022, for the Senior Prescription Drug Assistance Program established under Title 15, Subtitle 10 of the Health – General Article; [and]

(iv) for the establishment and operation of the State-Based Young Adult Health Insurance Subsidies Pilot Program; **AND**

(V) FOR THE ESTABLISHMENT AND OPERATION OF THE CLIMATE IMPACT HEALTH COVERAGE PROGRAM.

(2) In each of fiscal years 2023 through 2025, the Governor shall:

(i) transfer \$15,000,000 to the Health Equity Resource Community Reserve Fund; and

(ii) include the funds transferred in accordance with item (i) of this paragraph in the annual budget bill as an appropriation to the Health Equity Resource Community Reserve Fund under § 20-1407 of the Health – General Article.

(g) (1) The Board shall maintain separate accounts within the Fund for Exchange operations, for the State Reinsurance Program, [and] for the State-Based Young Adult Health Insurance Subsidies Pilot Program, **AND FOR THE ESTABLISHMENT AND OPERATION OF THE CLIMATE IMPACT HEALTH COVERAGE PROGRAM.**

(2) Accounts within the Fund shall contain the money that is intended to support the purpose for which each account is designated.

(3) Funds received from the distribution of the premium tax under § 6–103.2 of this article shall be placed in the account for Exchange operations and may be used only for the purpose of funding the operation and administration of the Exchange.

(4) The following funds may be used only for the purposes of funding the State Reinsurance Program:

(i) any pass-through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act to provide reinsurance to carriers that offer individual health benefit plans in the State;

(ii) any funds designated by the federal government to provide reinsurance to carriers that offer individual health benefit plans in the State;

(iii) any funds designated by the State to provide reinsurance to carriers that offer individual health benefit plans in the State; and

(iv) except as provided in subsection (f) of this section, funds received from the distribution of the assessment under § 6–102.1 of this article.

(h) (1) Expenditures from the Fund for the purposes authorized by this subtitle may be made only:

(i) with an appropriation from the Fund approved by the General Assembly in the State budget; or

(ii) by the budget amendment procedure provided for in Title 7, Subtitle 2 of the State Finance and Procurement Article.

(2) Notwithstanding § 7–304 of the State Finance and Procurement Article, if the amount of the distribution from the premium tax under § 6–103.2 of this article exceeds in any State fiscal year the actual expenditures incurred for the operation and administration of the Exchange, funds in the Exchange operations account from the premium tax that remain unspent at the end of the State fiscal year shall revert to the General Fund of the State.

(3) If operating expenses of the Exchange may be charged to either State or non-State fund sources, the non-State funds shall be charged before State funds are charged.

(i) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the Fund.

(3) Except as provided in subsection (h)(2) of this section, no part of the Fund may revert or be credited to the General Fund or any special fund of the State.

(j) A debt or an obligation of the Fund is not a debt of the State or a pledge of credit of the State.

31-123.

(A) ON OR BEFORE JULY 1, 2024, THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL SUBMIT A STATE INNOVATION WAIVER APPLICATION UNDER § 1332 OF THE AFFORDABLE CARE ACT TO ALLOW INDIVIDUALS TO ENROLL IN QUALIFIED PLANS OFFERED THROUGH THE EXCHANGE REGARDLESS OF IMMIGRATION STATUS.

(B) ON OR BEFORE DECEMBER 31, 2024, THE COMMISSIONER MAY WAIVE ANY NOTIFICATION OR OTHER REQUIREMENTS THAT APPLY TO A CARRIER UNDER THIS ARTICLE IN CALENDAR YEAR 2024 DUE TO THE IMPLEMENTATION OF A WAIVER APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT.

31-124.

(A) IN THIS SECTION, “PROGRAM” MEANS THE CLIMATE IMPACT HEALTH COVERAGE PROGRAM.

(B) THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL ESTABLISH AND IMPLEMENT A CLIMATE IMPACT HEALTH COVERAGE PROGRAM:

(1) TO FACILITATE THE ENROLLMENT OF INDIVIDUALS IN QUALIFIED PLANS;

(2) BASED ON THE AVAILABILITY OF FUNDS, TO PROVIDE STATE PREMIUM ASSISTANCE AND COST-SHARING REDUCTIONS TO INDIVIDUALS ENROLLED IN QUALIFIED PLANS;

(3) THAT MEETS THE REQUIREMENTS OF A WAIVER APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT; AND

(4) THAT IS CONSISTENT WITH FEDERAL AND STATE LAW.

(C) (1) BASED ON AVAILABLE FUNDS, THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL ESTABLISH PROGRAM ELIGIBILITY AND PAYMENT PARAMETERS FOR CALENDAR YEAR 2025 AND

EACH SUBSEQUENT CALENDAR YEAR.

(2) THE PROGRAM ELIGIBILITY AND PAYMENT PARAMETERS ESTABLISHED BY THE EXCHANGE SHALL, TO THE GREATEST EXTENT POSSIBLE, PROVIDE STATE PREMIUM ASSISTANCE AND COST-SHARING REDUCTIONS TO:

(I) POPULATIONS WITH HIGH RATES OF UNINSURANCE; AND

(II) INDIVIDUALS WHO ARE INELIGIBLE FOR FEDERAL FINANCIAL ASSISTANCE.

(D) BEGINNING JANUARY 1, 2025, FUNDING FOR THE PROGRAM MAY BE MADE BY USING:

(1) ANY PASS-THROUGH FUNDS RECEIVED FROM THE FEDERAL GOVERNMENT UNDER A WAIVER APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT; AND

(2) FUNDS RECEIVED FROM THE CLIMATE CHANGE ADAPTATION AND MITIGATION FUND IN ACCORDANCE WITH § 2-1704 OF THE ENVIRONMENT ARTICLE.

(E) THE IMPLEMENTATION OF THE PROGRAM SHALL BE CONTINGENT ON APPROVAL FROM THE U.S. SECRETARY OF HEALTH AND HUMAN SERVICES AND THE U.S. SECRETARY OF THE TREASURY OF A STATE INNOVATION WAIVER APPLICATION UNDER § 1332 OF THE AFFORDABLE CARE ACT.

(F) ON OR BEFORE JANUARY 1, 2025, THE EXCHANGE SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.