

SB0843 Climate Change Adaptation and Mitigation Pr

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0843

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

Bill Sponsor: Senator Kramer

Committee: Education, Energy, and the Environment

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0843 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state with well over 30,000 members.

It is past time that the fossil fuel industry took responsibility for the billions of dollars of climate change remediation the state has had to pay for flooding and other disasters caused by climate change. All the while that the state of Maryland and its residents were footing the bill for the climate change economic and health toll caused by fossil fuels (which the industry knew about decades ago), the fossil fuel companies were making record profits.

The Climate Change Adaptation and Mitigation Payment Program makes these businesses that extract fossil fuels or sell refined petroleum products in Maryland pay a fee to support climate change adaptive or mitigation infrastructure projects, especially for vulnerable populations. The fee would be based on that business's relative share of the greenhouse gases they produced.

Based on the profits recorded from the price gouging that took place during the pandemic, the fossil fuel companies should not even feel the bite of this, but our members believe that they should be forced to take responsibility for their actions.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

Senate Favorable Climate Superfund testimony.docx

Uploaded by: Jamie DeMarco

Position: FAV



**MARYLAND
LEAGUE OF
CONSERVATION
VOTERS**



**CHESAPEAKE BAY
FOUNDATION**
Saving a National Treasure



**ccan
ACTION FUND**



**Senate Education, Energy, and Environment Committee
Testimony in Support of the Climate and Health Superfund Act
SB 0843
March 7, 2023**

We are writing to urge a favorable report on SB 0843

The costs of a warmer climate are being paid right now by municipalities across the state. Annapolis is spending \$50 million to rebuild the downtown dock because higher sea levels caused the old one to regularly flood. Howard County had to rebuild its Ellicott City twice after being hit by two once in a thousand year rain events in under two years. Everywhere cities and counties are paying to replace old culverts that are no longer able to handle the increased intensity of rain events with larger ones.

The cost of climate change will only go up in the near future. Installing air conditioning in public schools that never used to need it will cost Maryland [\\$776 million this decade](#), and with 3 thousand miles of coastline, sea level rise is expected to cost Maryland upwards of [\\$27 billion by 2040](#).

Right now, these costs are being paid by local governments and their tax paying residents. However, the liability for the climate crisis should fall squarely on the shoulders of the giant international fossil fuel companies who knew about this crisis and lied about it to stop policies that could have prevented it.

In 2021, Senator Van Hollen introduced a policy in the 116th Congress that would have taken money directly from the record profits of the largest historical emitters of fossil fuels and used it to help pay for the costs caused by climate change. SB 0843 is based on Senator Van Hollen's policy.

For half a century, superfunds have been a proven policy mechanism for making companies pay to clean up their toxic pollution. More than 30 superfunds are currently operating in Maryland

today. While SB 0843 does not officially create a superfund through the EPA, it uses the same model. It would charge the largest historical emitters of climate pollution for their contribution to the crisis. The funds would then be used to pay for adaptation costs such as installing larger culverts to handle more intense precipitation events, rebuilding from storms, construct coastal defenses, and more. The funds can also be used to install heat pumps in buildings that now need Air Conditioning because of warmer temperatures, such as public schools.

Health impacts from working in hotter climates is making clear that the climate crisis is a public health crisis. Already, [Nepal's health system is experiencing a surge of kidney failure cases](#) from people who had worked outdoor labor in middle eastern countries. These warmer parts of the world are bell weathers for what we can expect to see in Maryland in the near future.

When heat waves cause high levels of organ failure here at home, it will be important to make sure all Marylanders have access to high quality, affordable health insurance. Healthcare is climate adaptation. That is why this legislation uses a portion of the funds to expand ACA subsidies to undocumented Marylanders, something that is long overdue.

SB 0843 ensures that the costs of these charges are not passed along to energy consumers. The policy would charge only the 100 largest historical emitters of carbon dioxide, Exxon, BP, Shell, Saudi Ramco, etc... These multinational corporations will still have to compete to sell their oil in markets with smaller distributors who are not subject to this payment. If Exxon chose to pass the cost of this payment onto the price of its product, it would not be able to find any buyers because their competitors who didn't pay would have a lower asking price. In this way, SB 0843 ensures these funds come directly from the shareholder profit of giant fossil fuel companies and nowhere else.

Maryland is faced with a pressing question: who will pay for the costs incurred by the climate crisis? If the legislature takes no action, these costs will be borne by taxpayers, however if the Maryland legislature passes SB 0842, these costs will be paid for by the shareholders of the fossil fuel companies who knowingly caused this crisis.

For these reasons, we urge a favorable report.

SB843 Written Testimony.pdf

Uploaded by: Jose Coronado Flores

Position: FAV



**Testimony in SUPPORT of SB843
Climate Change Adaptation and Mitigation Payment Program and Climate Impact Health
Coverage Program – Establishment**

Senate - Education, Energy, and Environment Committee

Jose Coronado-Flores , On Behalf of CASA

March 7th, 2023

Dear Honorable Chair Feldman and Members of the Committee,

CASA is pleased to offer **favorable testimony in support of SB843 - Climate Change Adaptation and Mitigation Payment Program and Climate Impact Health Coverage Program – Establishment.**

CASA is the largest immigrant services and advocacy organization in Maryland, and in the Mid-Atlantic region, with a membership of over 120,000 Black and Latino immigrants and working families. We thank Senator Kramer for his leadership on this bill.

SB843 is important legislation that will address current and future climate change related weather and health impacts by holding the fossil fuel companies with the largest stakes in the industry accountable for pushing a product they knew was dangerous for the Earth and people. CASA is invested in seeing this bill pass because of the health risks climate change poses on the immigrant community in particular and the need for climate resilient infrastructure in our communities.

The most at-risk individuals regarding climate change are outdoor workers, sensitive populations, and those who reside in flood-prone areas.¹ Many CASA members are construction workers, landscapers, and holders of other manual labor outdoor positions. Regretfully, they are also among Maryland's uninsured. As temperatures rise and more brutal summers come, they will be at extreme risk of heat-related illness. This bill directly addresses their needs for health insurance relating to the effects of climate change.

Lastly, our members also live in flood-prone areas. Take Rock Creek Wood Apartments in Rockville, MD as an example. This particular complex is notorious for severe flooding. Last year, severe rain leading to flooding resulted in a death and 150 tenants displaced. Property damages, loss of valuables, and the trauma evoked by these events, which are forecasted to happen more frequently and intensely, add to the reasons why communities like Rock Creek Wood need climate resilient infrastructure.

In conclusion, SB843 will help protect those in the state who are most vulnerable to the imminent effects of climate change. CASA urges a favorable report.

Jose Coronado-Flores

Research and Policy Analyst

jcoronado@wearecasa.org, 240-393-7840

¹

<https://extension.umd.edu/programs/environment-natural-resources/program-areas/coastal-climate-program/climate-change-maryland>

sb843- mitigation fund, GHG effects- EEE 3-7-'23.p

Uploaded by: Lee Hudson

Position: FAV



Delaware-Maryland Synod
Evangelical Lutheran Church in America

God's work. Our hands.

Testimony prepared for the
Education, Energy, and the Environment Committee
on

Senate Bill 843

March 7, 2023

Position: **Favorable**

Mr. Chairman and members of the Committee, thank you for the opportunity to testify about stewardship in the natural world. I am Lee Hudson, assistant to the bishop for public policy in the Delaware-Maryland Synod, Evangelical Lutheran Church in America. We are a faith community of congregations in three ELCA synods, located in every part of the State.

Our community named greenhouse gas emissions an environmental threat to the natural world in 1993. Despite rhetoric in public discourse, time has validated that assertion. It no longer matters what is thought and said about a climate crisis. Earth's atmosphere is dictating the vocabulary. If what we value is what we spend money for, it's getting expensive to live in our settled communities and their built contexts.

It's gotten very expensive to live in a changing climate. Private enterprises *and* public institutions must calculate the costs of warming, inundation, infrastructure hardening, health and safety, in their forward-facing finances.

The cost of burning stuff has been successfully shifted onto what we are pleased to call "the public," so that the profit of doing so can be appropriated to proprietary entities. The cost of the climate crisis exceeds the cost of carbon-neutrality. It is therefore necessary to allocate some costs at their sources to balance that equation.

Senate Bill 843 weighs the calculations with a measure of the historical emissions from the largest for-profit operations (not with projections). It aggregates resource into a fund to be used to help pay for damage and risk still being apportioned to the public year-on-year. Earth's atmosphere tells us someone is going to pay for this crisis one way or another. We may as well begin resourcing public relief now as later when more expensive damage will have been done.

We will continue to urge reductions of current GHG emissions. Seawalls, dredge-fill islands, flood insurances, and the treatment of latent health conditions within demographic cohorts, are necessary, but insufficient if we keep burning stuff. We ought to incentivize GHG reductions. We ought, at least, to capture some resource to pay for what is happening now. Our community urges a favorable report.

Lee Hudson

SB 843_mgoldstein_fav.pdf

Uploaded by: Mathew Goldstein

Position: FAV



Secular Maryland

secularmaryland@tutanota.com

March 07, 2023

SB 843 - SUPPORT

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

Dear Chair Feldman, Vice -Chair Kagan, and members of the Education, Health, and Environmental Affairs Committee,

Secular Maryland appeals to our lawmakers to enact new laws to tackle climate change now. Being rational requires following the empirical evidence wherever it takes us. Climate warming denialism is an attack against rationality that needs to be unequivocally opposed. Air pollution is a significant public health problem. This bill responsibly confronts this serious problem by establishing a Climate Change Adaptation and Mitigation Payment Program in the Department of the Environment to secure payments from businesses that extract fossil fuels or refine petroleum products that would provide a source of revenue for climate change adaptive or mitigation infrastructure projects and efforts to address the health impacts of climate change on vulnerable populations.

People who live and work in areas with high levels of air pollution are significantly more likely to die from COVID-19 and suffer from various other ailments such as asthma and dementia. A recent study [Erika Garcia, Jill Johnston, Rob McConnell, Lawrence Palinkas, Sandrah P. Eckel. California's early transition to electric vehicles: Observed health and air quality co-benefits. Science of The Total Environment, 2023; 161761 DOI: 10.1016/j.scitotenv.2023.161761] of California's transition to zero emissions vehicles (ZEVs) compared data on total ZEV registration, air pollution levels and asthma-related emergency room visits across the state between 2013 to 2019. As ZEV adoption increased within a given zip code, local air pollution levels and emergency room visits both dropped.

Respectfully,

Mathew Goldstein
3838 Early Glow Ln
Bowie, MD

Letter - Mayor Buckley in Support SB843.pdf

Uploaded by: Rossio Smith

Position: FAV



Office of the Mayor
Gavin Buckley

160 Duke of Gloucester
Annapolis, MD 21401

March 6, 2023

Education, Energy and the Environment Committee
Maryland State Senate
Annapolis, MD

Letter in Support of SB 843: Climate Change Adaptation and Mitigation Payment Program

Dear Senators in the Education, Energy and the Environment Committee,

I write in strong support of SB 843. While Annapolis pursues different funding sources to meet the challenges of climate change, we believe those who pollute should pay to help clean up the mess.

Annapolis sits at the convergence of two major rivers and is surrounded by creeks, making the Capital City of Maryland especially vulnerable to the challenges of sea level rise. While we are prepared to meet the challenge of climate change with ideas for resiliency, we are not prepared to meet the price tag.

With increased frequency and more intense flooding in many coastal communities, Annapolis has been named as one of the most vulnerable cities in America. Here, we face challenges from both land subsidence and sea level rise. In fact, Stanford University selected Annapolis as the subject of a study to demonstrate revenue lost through climate change impacts. Rising seas also threaten the cultural heart of Annapolis as well as structures important to our nation's history.

Annapolis will soon be endeavoring to reimagine our downtown harbor, "Annapolis City Dock," with a more than \$65 million infrastructure project to divert floodwaters and create barriers to rising seas. The City is working with the United States Naval Academy to protect our downtown businesses and residential and cultural assets. This is the first of too-numerous-to-count, costly projects required along our 24-miles of coastline.

Many other projects will need to be completed and City taxpayers should not, and cannot, fund such large scale infrastructure. Those who knew their business operations were causing climate change should be held to account. Thank you for this legislation and I urge a YES vote in your committee with the proposed amendment that ensures that this legislation does not inhibit or preclude a local jurisdiction from pursuing a civil action or other remedies against fossil fuel companies.

Best regards

A handwritten signature in black ink, appearing to read "Gavin Buckley".

Mayor Gavin Buckley
City of Annapolis

Testimony in Support of Sb 843, Climate and Health

Uploaded by: Vincent DeMarco

Position: FAV



**Testimony Before the Senate Education, Environment and Energy Committee
In Support of Senate Bill 843 – Climate and Health Superfund Act
By Vincent DeMarco, Maryland Citizens’ Health Initiative**

March 6, 2023

Mr. Chairman and Members of the Senate Education, Environment and Energy Committee, on behalf of the Maryland Citizens’ Health Initiative, I am here to support, SB 843, the Climate and Health Superfund Act. We commend Senator Ben Kramer for sponsoring this legislation. Thanks to the Affordable Care Act and to the leadership of the Maryland General Assembly, our state has made great strides in expanding health care coverage, reducing the percentage of our people without health insurance from 13% to 6% in the last few years. But, as Governor Wes Moore said in his Inaugural address, we must do all we can to expand coverage to the hundreds of thousands of our fellow Marylanders still without health care coverage. We can only accomplish this with a new revenue source which would fund our goal of quality, affordable health care for all Marylanders. Because SB 843 allocates 20 percent of the proceeds from this program to expanding health care coverage, it would provide the resources we need to cover all Marylanders. For that reason, we strongly urge you to pass this life saving measure. I am submitting this testimony on behalf of our individual organization, Maryland Citizens’ Health Initiative, Inc., because we have not reviewed this legislation with our entire Maryland Health Care For All! Coalition.

SB 843_MDCC_Climate Change Adaptation and Mitigati

Uploaded by: Andrew Griffin

Position: UNF



LEGISLATIVE POSITION:

Unfavorable

Senate Bill 843 - Climate Change Adaptation and Mitigation Payment Program and Climate Impact Health Coverage Program – Establishment

Senate Education, Energy, and the Environment Committee

Tuesday, March 7, 2023

Dear Chairman Feldman and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,400 members and federated partners working to develop and promote strong public policy that ensures sustained economic health and growth for Maryland businesses, employees, and families.

SB 843 establishes the Climate Change Adaptation and Mitigation Program (the Program) in the Department of the Environment, which would serve to secure payments from businesses that derive revenue from fossil fuels or petroleum products. The Program would be used to fund climate change mitigation infrastructure projects, address health impacts of climate change, and impose and collect cost recovery payments on responsible parties. The bill also outlines the total liability will be proportionately divided by “responsible parties.”

The Maryland Chamber has serious concerns over the strict liability outlined in this legislation, among many other factors. SB 843 is retroactive and will apply to businesses engaged in the trade or business of extracting fossil fuel or refining crude oil beginning Jan. 1, 2000. Reaching back 23 years is extremely harsh and excessive, along with imposing potential liability of up to \$9 billion on prior activities that were legal. Additionally, businesses should not be held liable because fossil fuels they extracted or refined were placed into the marketplace and used by a third party. The Chamber would urge the committee to consider removing the strict liability and apply this legislation only prospectively to ensure the affected business community has proper notice.

Further, the Chamber is concerned that domestic companies will take on greater costs as companies not completely connected to the state, like foreign entities, may argue that they have insufficient connections to Maryland and do not satisfy the nexus requirement of the U.S. Constitution, as outlined in the legislation.

This legislation concludes that one segment of the economy should bear these large and excessive costs. Singling out the refining industry, placing a sizeable financial burden on them, and even specific companies for other’s use of fossil fuels is inappropriate and tremendously

unfair. The Maryland Chamber of Commerce urges the committee to not consider passing legislation that retroactively imposes costs and liability during a period when the target companies' actions were lawful.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report** on SB 843.



FINAL_MD_sb843_Superfund_Bill_march2023.pdf

Uploaded by: Bernie Marczyk

Position: UNF



March 7, 2023

Senate Education, Energy and the Environment Committee
Miller Senate Building
2 West
Annapolis, Maryland 21401

IN RE: SB 843 “An Act Concerning Climate Change Adaptation and Mitigation Payment Program and Climate Impact ...”

Dear Chair Feldman, Vice Chair Kagan, and Members of the Committee:

Thank you for this opportunity to provide comments related to the above-referenced legislation. The American Petroleum Institute (API)¹ **opposes SB 843**. While API appreciates the goal of funding environmental programs, this legislation is not the way to effectuate this objective. API believes it is bad public policy and may be unconstitutional. Among other things, as discussed below, API is extremely concerned that the bill: retroactively imposes costs and liability on prior activities that were legal, violates equal protection and due process rights by holding companies responsible for the actions of society at large; and is preempted by federal law.

Retroactive Law Making

Generally speaking, legislation should apply prospectively to ensure notice to the regulated community and protect due process rights and interests. SB 843 imposes strict liability on actions that occurred almost a quarter century ago. While retroactive *ex post facto* laws may be justifiable under certain circumstances, there is reason to believe that a court would view this legislation as unconstitutional given the harsh and oppressive nature of the bill.² Stated another way, there is a persuasive argument that the bill’s extreme retroactivity (reaching back 23 years to 2000) and amount of potential liability (up to \$9 billion) makes the law “harsh and oppressive” considering that the targeted companies’ actions were lawful during the relevant period and the emissions were actually produced by others farther down the supply chain.

Law May Be Contrary to Excessive Fines and Takings Clauses

The U.S. Constitution includes both an “Excessive Fines” Clause, which prohibits disproportionate fines like those proposed in SB 843, and a “Takings” Clause, which prevents the government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole. The legislation at issue may effectively result in a taking, as it will impose a considerable financial burden for conduct that legally occurred decades earlier in a way that singles out the refining industry for others’ use of fossil fuels. Singling out energy production for exorbitant and disproportionate penalties while ignoring the economy-sustaining use of that energy is misguided.

¹ The American Petroleum Institute represents all segments of America’s natural gas and oil industry, which supports more than 11 million U.S. jobs. Our nearly 600 members produce, process, and distribute the majority of the nation’s energy. API members participate in API Energy Excellence, through which they commit to a systematic approach to safeguard our employees, environment and the communities in which they operate. Formed in 1919 as a standards-setting organization, API has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

² *McKesson Corp. v. Div. of Alcoholic Beverages & Tobacco*, 496 U.S. 18, 41 n.23 (1990) (internal quotation marks omitted); see, e.g., *E. Enters. v. Apfel*, 524 U.S. 498, 549-550 (Kennedy, J., concurring in the judgment) (opining that a law that “create[ed] liability for events which occurred 35 years ago” violated due process); *James Square Assocs. LP v. Mullen*, 21 N.Y.3d 233, 249 (N.Y. 2013) (holding that a tax law with a 16-month retroactivity period was unconstitutional because the sole state purpose offered—“raising money for the state budget”—was “insufficient to warrant [such] retroactivity”).



Arbitrary Penalties and Estimated Fines Create Due Process and Fairness Issues

The bill incorrectly suggests that emissions by companies over the past 70 years can be determined with great accuracy. That is simply not true. At best the state can only estimate emissions; and these estimates are imprecise and not accurate enough to base a prorated share of a \$9 billion dollar penalty. Additionally, this bill mirrors legislation introduced this year in Massachusetts and New York. In none of these bills is the total penalty justified or explained; rather in all three jurisdictions the total penalty is arbitrary.

No Nexus Between Fine and Actual Responsibility

The bill as introduced imposes liability without regard to the extent of a particular business's actual responsibility. Given the magnitude of the fines at play, API believes that the state must offer more than an asserted causal connection between a company's greenhouse gas emissions and negative impacts or injuries to the environment or public health and welfare. Liability should not attach simply because a company extracted or refined fossil fuels that were placed into commerce and combusted by a third party.

Improper Use of Strict Liability Standard

The goal of the bill is to effectively impose strict liability for purported present and future damages caused by alleged past emissions from extracted or refined fuels no matter where in the world those emissions were released, or who released them. It is patently unfair to charge a group of large companies that did not combust fossil fuels but simply extracted or refined them in order to meet the needs and demands of the people. The bill is arguably discriminatory because it singles out certain companies. With respect to impact attribution from source emissions, it seems obvious that those who drafted this legislation are aware of the difficulties of establishing a conclusive link between anthropogenic climate change and alleged injuries to Maryland. The legislation also neglects to even consider that companies responded with a supply of product to meet the demand for them in the marketplace. Through their use of the strict liability standard, proponents of this legislation concluded that only one segment of the economy should pay the state for excessive costs.

Disproportionate Penalties

The bill as written places an unfair burden on domestic companies. The bill envisions the total liability will be proportionately divided by so-called "responsible parties." As written, "responsible party" excludes "any person who lacks sufficient connection with the state to satisfy the nexus requirements of the United States Constitution." There will be situations where certain companies, including foreign companies, can suggest they have an insufficient connection with Maryland, which would mean that other domestic companies may shoulder greater financial responsibility than their true applicable share.

Preemption

The payments required by the bill may be preempted by federal law. Greenhouse gas emissions are global in nature and subject to numerous federal statutory regimes, including the Clean Air Act. They are also a matter of federal and international law, not state law. The U.S. Court of Appeals for the Second Circuit recently noted this fact in *City of New York v. Chevron Corp.*,³ where the court rejected state-law nuisance claims based on global emissions because "a federal rule of decision is necessary to protect uniquely federal interests." As this bill seeks compensation for alleged harms to the environment based on global emissions, it is preempted by federal law.

Conclusion

For all the reasons articulated above, API strongly opposes this bill and recommends an unfavorable report.

³ See 993 F.3d 81, 90 (2d Cir. 2021).

230306-SB843-climate-change-pmt-prog.pdf

Uploaded by: Christine Hunt

Position: UNF

Christine Hunt and Jay Crouthers
1014 Dockser Drive
Crownsville, MD 21032

March 6, 2023

Maryland General Assembly
Members of the Education, Energy and the Environment Committee
Annapolis, MD

RE: SB 843 – Climate Change Adaptation and Mitigation Payment Program and Climate Impact Health Coverage Program - Establishment

Dear Senators,

We oppose SB 843 and respectfully request that you vote against it.

Payments to the State by the oil industry for this fund will most likely substantially increase the cost of fuel prices for Maryland's residents, causing further financial hardship, on people who have been hard hit by events of the last 3 years, which affected employment and up to 40% increases in cost-of-living expenses.

If the State gets money from the oil companies, it is us who will make up the difference in the increase of fuel prices and is not something that we endorse.

Yet another "program" to punish and extract money from the "evil" oil industry.

Not everyone is in agreement with the "climate change" narrative, originated by the World Economic Forum, that seems to push so much legislation world-wide. We are not.

Sincerely,

Christine Hunt and Jay Crouthers

SB0843ClimateChangeAdaptation-UNFAV.pdf

Uploaded by: Nelda Fink

Position: UNF

Unfavorable – SB0843 Climate Change Adaptation

Nelda Fink
MD District 32

The first problem of this bill is the assumption that the root cause of the climate change being experienced is only fossil fuel extraction and use. This narrative is absolutely false!

The earth is being warmed exponentially by the use of aerosols in our skies in the climate control programs (cloud seeding) being run by our federal government (<https://www.geoengineeringwatch.org/the-dimming-full-length-climate-engineering-documentary/>)

and allowed by my legislators (you folks) and local government against already existing policies.



Studies show there is so much aluminum oxide and other metal particulates in the air that those particulates create a blanket metal shield reflecting the sun and causing a greenhouse effect just like a light weight shiny aluminum blanket is used for survival.

Penalizing fossil fuels for a condition because you haven't done your research is misleading your constituents and your state for the purpose of inflating costs on a specific industry, which is fraudulent. This is unnecessarily adding to the current inflation that our communities are already experiencing. It is negligence on your part to continue to support inflationary acts without having done enough research to understand the root cause of the problem you're trying to solve.

Start doing your job. Maryland already has legislation against cloud seeding which needs to be supported and enforced and which WILL stop the climate changes we are currently experiencing.

<https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000683/html/am683--1121.html>

I oppose this bill and urge the members of the committee to vote unfavorable.

Nelda Fink

SB0843 - MIA - LOI - FINAL.pdf

Uploaded by: Andrew Tress

Position: INFO

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



KATHLEEN A. BIRREANE
Commissioner

TAMMY R. J. LONGAN
Acting Deputy Commissioner

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2215 Fax: 410-468-2204
1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

Date: March 7, 2023

Bill # / Title: Senate Bill 843 – Climate Change Adaptation and Mitigation Payment Program and Climate Impact Health Coverage Program – Establishment

Committee: Senate Education, Energy, and the Environment Committees

Position: Letter of Information (LOI)

The Maryland Insurance Administration (MIA) appreciates the opportunity to provide information regarding Senate Bill 843.

Senate Bill 843 seeks to establish 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. Portions of the funds secured under this program are to be used for disbursements to the Maryland Health Benefit Exchange (MHBE) Fund, and will help to support the Climate Impact Health Coverage Program (the “Program”), which MHBE is required to establish and implement under the bill. The Program is intended 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 populations with high rates of uninsurance and individuals who are ineligible for federal financial assistance.

The MIA understands that the Program established through Senate Bill 843 has the potential to decrease the uninsured population in the State. The MIA, however, has noted a technical issue regarding a funding source identified in the bill as drafted that can be addressed with a technical amendment.

In 2018, Maryland applied for and was granted a waiver under Section 1332 of the Patient Protection and Affordable Care Act (“ACA”) to implement a state reinsurance fund in an effort to lower premiums and increase enrollment in the State. Under the waiver, Maryland began receiving federal pass-through funds to supplement state funding for the state reinsurance program in 2019. In 2022, this body amended § 31–107 (g)(4)(i) of the Insurance Article to require that federal pass-through funding received through the 1332 waiver only be used for the reinsurance program.

As currently drafted, Senate Bill 843 conflicts with the funding use limitation set forth in § 31–107(g)(4)(i). Senate Bill 843 would enact a new § 31-124(D)(1), which includes “any pass-through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act” as a funding source for the Program.

As currently drafted, Section 31-123 of the bill indicates that a 1332 State Innovation Waiver application is to be submitted by July 1, 2024 to allow individuals to enroll in qualified plans offered through the Exchange regardless of immigration status. The MIA notes that legislation had been introduced during the 2022 legislative session seeking to establish a similar program, requiring a 1332 application be submitted. At that time, it was envisioned that Maryland would apply for a separate 1332 waiver to support that proposed program. CMS has since advised that two separate 1332 waivers are not permissible; there can only be one 1332 waiver per state per marketplace. So, in order to establish the Program proposed in Senate Bill 843, the State will be required to amend the existing 1332 waiver to include the Program, rather than submit an application for an additional waiver. If CMS approves the amendment, there would still only be a single 1332 waiver for the Maryland Individual market, with a single source of pass-through funding that the federal government would permit to be used for all programs under the waiver. However, at present, Maryland law only allows the federal pass-through funding to be used for one of those programs: the state reinsurance program.

This conflict can be resolved either by amending § 31–107 to allow federal pass-through funding received through a waiver approved under § 1332 of the ACA to be used for the Program, or any program approved under the waiver or, alternatively, § 31-124(D)(1) be removed from the proposed bill.

Further, the MIA notes two instances of ambiguity in the bill language as drafted that could benefit from additional clarity. First, there is a lack of clear understanding of what requirements could potentially be waived, subject to § 31-123(B). The language as drafted appears overly broad and the MIA is not clear on what “notifications or other requirements” are being referenced. Second, the bill does not define a “qualified resident” under the Program, but instead requires that program eligibility requirements established by the Exchange be provided to the greatest extent possible to populations with high rates of uninsurance and individuals who are ineligible for federal financial assistance. An explicit definition of “qualified resident” would provide necessary clarity as to the population intended to benefit from the Program.

Thank you for the opportunity to provide this letter of information. The MIA is available to provide additional information and assistance to the Committee.

3 - SB 843 - EEE - MHBE - LOI.docx.pdf

Uploaded by: State of Maryland (MD)

Position: INFO

March 7, 2023

The Honorable Brian J. Feldman
Chair, Senate Education, Energy, and the Environment Committee
Miller Senate Office Building, 2 West
11 Bladen St.
Annapolis, MD 21401

Re: Letter of Information – SB 843 – Climate Change Adaptation and Mitigation Payment Program and Climate Impact Health Coverage Program - Establishment

Dear Chair Feldman and Members of the Senate Education, Energy, and the Environment Committee:

The Maryland Health Benefit Exchange (MHBE) respectfully submits this letter of information on Senate Bill (SB) 843 - Climate Change Adaptation and Mitigation Payment Program and Climate Impact Health Coverage Program – Establishment. Under the scope of this bill, SB 843 would direct 20 percent of revenues raised under the Climate Change Adaptation and Mitigation Fund established by this bill, for the Exchange to establish and operate a Climate Impact Health Coverage Program. The Program would provide health insurance state premium assistance and cost-sharing reductions targeted to populations with high rates of uninsurance and individuals who are ineligible for federal financial assistance. The Exchange would establish program and eligibility payment parameters beginning calendar year 2025.

In the last ten years, Maryland’s uninsured rate has fallen in half and stands at about six (6) percent. Maryland has been a national leader in working to reduce the uninsured rate, including by implementing a state-based health insurance marketplace, launching the State Reinsurance Program which has reduced individual market premiums by more than **25 percent** since 2019, enacting the Easy Enrollment Program to allow uninsured individuals to get connected to health coverage by checking a box on their state tax return or unemployment claim, and instituting state premium assistance for young adults. However, as of 2019 approximately **357,000 individuals** remain uninsured in Maryland. For many of those who remain uninsured, costs continue to be a barrier to enrolling in coverage. While the State Reinsurance Program has effectively reduced average premiums in the last several years, it is not an effective way to reduce premiums for individuals below 400% of the federal poverty level (FPL).^{1,2} Premium subsidies are the most effective way to reduce costs for lower income individuals.

It’s possible that establishing a Climate Impact Health Coverage Program would reduce premiums across the individual market due to the increased affordability of qualified health plans, and subsequent increased enrollment. The extent of premium reductions would depend on the quantity and health status of new enrollees, which would be affected by the level of state premium assistance provided. Increased enrollment and lower uninsured rates can have a cascade of other net positive impacts, including improving the overall health of the State’s population, and decreasing costs of uncompensated care. In fiscal year 2021 Maryland hospitals provided over **\$780 million** in uncompensated care, with some hospitals paying upward of **10 percent** of their total allocated budget towards uncompensated care.³

¹ MHBE: [Report on Establishing State-Based Individual Market Health Insurance Subsidies](#) (December 2020). Pursuant to Chapter 104 of the Acts of 2020. See pages 10-11.

² MHBE: [Draft Maryland 1332 State Innovation Waiver Five-Year Extension Application 2024-2028](#) (February 2023). See Appendix A, page 2.

³ Health Services Cost Review Commission (HSCRC): [Rate Year 2023 Uncompensated Care Report](#) (June 2022).

In addition to state funds, under the federal Affordable Care Act (ACA) Section 1332 innovation waiver program, states receive federal “pass-through” funds equal to the amount that the waiver program saves the federal government. It is difficult to estimate the amount of pass-through funding Maryland might receive as a consequence of the proposed 1332 waiver amendment. The higher the level of state subsidies, the more likely that the program would attract significantly more, relatively healthy enrollees to the individual market. This could lower the federal government’s cost of providing advance premium tax credits (APTCs) to existing Marketplace enrollees, thereby increasing federal “pass-through” funds the state receives.

Other states have implemented state-funded insurance subsidy programs, including **Massachusetts** and **Vermont** who have two of the lowest uninsured rates in the country:

- Massachusetts (2.5 percent uninsured rate) operates their ConnectorCare program, which covers consumers with household income up to 300 percent of the federal poverty level (FPL), supplementing federal premium and cost-sharing reductions for around **193,000** low to moderate income residents.⁴
- Vermont (3.7 percent uninsured rate) operates supplementary state cost-sharing reductions and their Vermont Premium Assistance (VPA) program which reduces the maximum allowed premium for certain plans to 1.5 percent lower than the federal guidelines, for households with income up to 300 percent FPL.⁵

In addition, in 2022 **Colorado** received approval for a package of reforms under a 1332 waiver, including provision of a subsidy to undocumented individuals.⁶

The Exchange has one technical amendment on page 17 line 8, to read: “(STATE) INNOVATION WAIVER APPLICATION **AMENDMENT** UNDER §1332 OF THE AFFORDABLE CARE ACT...”. The State has a 1332 waiver, and this amendment clarifies the Exchange would be submitting an *amendment* to the currently approved waiver.

MHBE supports continued initiatives that aim to further reduce the uninsured rate, and that promote health equity and access to care in Maryland. For further discussions or questions on Climate Impact Health Coverage Program proposed under SB 843, please contact Johanna Fabian-Marks, Director of Policy and Plan Management at johanna.fabian-marks@maryland.gov.

Sincerely,



Michele Eberle
Executive Director

⁴ Massachusetts Health Connector: [Massachusetts Cost Sharing Subsidies in ConnectorCare: Design, Administration, and Impact](#) (August 2021).

⁵ Department of Vermont Health Access – Vermont Health Connect. Accessed at <https://info.healthconnect.vermont.gov/financial-help> (February 2023).

⁶ Centers for Medicare & Medicaid Services. <https://www.cms.gov/newsroom/fact-sheets/colorado-state-innovation-waiver-0>