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SENATE BILL NO. 499

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources on February 3, 2026)

(Patron Prior to Substitute—Senator Marsden)

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.6:2, relating to Chesapeake Bay Pay for Outcomes Fund established.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.6:2 as follows:

§ 62.1-44.6:2. Chesapeake Bay Pay for Outcomes Fund.

A. There is hereby created in the state treasury a special, permanent, nonreverting fund to be known as the Chesapeake Bay Pay for Outcomes Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes established in subsection B and for program administration, including entering into contracts pursuant to subsection E. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

B. The purpose of the Fund shall be to provide outcome-based payments for verified reductions in nutrient and sediment pollution from nonpoint sources within the Chesapeake Bay watershed of the Commonwealth. Priority shall be given to projects that (i) contribute to meeting Chesapeake Bay Total Maximum Daily Load (TMDL) pollutant reduction goals or (ii) may contribute to meeting local nutrient impaired stream TMDLs or advance state waters restoration efforts. To be considered for an award from the Fund, proposed projects shall include the following criteria:

- 1. Evidence of verified reductions in nonpoint source nutrient or sediment pollutant loads supported by empirical data, monitoring, third-party validation, or other methods deemed acceptable by the Director;
- 2. Evidence of new, incremental outcomes that would not occur under existing regulatory, funding, or conservation programs, or in the absence of such projects; and
- 3. Supporting rationale that pollutant reductions are unlikely to be offset by corresponding increases elsewhere in the Chesapeake Bay watershed.

C. 1. The Department shall establish a competitive solicitation process for awarding payments from the Fund. The Department shall develop technical guidelines for quantifying assurance and load reductions and verifying projects in consultation with subject matter experts, partner agencies, and stakeholders. The Department shall consider innovative pollutant reduction techniques not currently recognized under traditional best management practices or water quality program protocols.

2. The Department shall select applicants for funding based upon a scoring rubric that prioritizes the following project criteria in order of greatest to least importance: (i) proposed cost-effectiveness in achieving nutrient reductions, (ii) assurance of the total quantity of nutrient load reduction proposed to be achieved, (iii) the readiness to proceed, (iv) habitat and resilience benefits, and (v) nutrient reduction benefits that extend beyond the grant life.

3. For the purposes of this subsection:

"Additionality" means environmental benefits that would not occur under existing regulatory, funding, or conservation programs, or in the absence of a project under this section.

"Assurance" means (i) empirical or quantitative evidence that nutrient load reductions can be achieved and (ii) additionality and minimal leakage with a supporting rationale or demonstration. Empirical or quantitative evidence that goes beyond modeling of nutrient reductions shall constitute a higher level of assurance.

"Leakage" means pollutant reductions that risk being offset by corresponding pollutant increases elsewhere.

"Project" means an activity selected by the Department to receive moneys from the Fund as compensation for verified reductions of nonpoint source nutrient and sediment pollution in the Commonwealth's portion of the Chesapeake Bay watershed.

D. The Department, in partnership with the Department of Conservation and Recreation, Virginia Polytechnic Institute and State University, and other stakeholders as the Department deems necessary, shall pursue incorporation of nutrient load reductions resulting from projects funded by the Fund into the Chesapeake Bay Program accountability framework for the Chesapeake Bay TMDL.

SENATE SUBSTITUTE

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60 *E. The Department may enter into contracts with subject matter experts, academic institutions, nonprofit*
61 *organizations, or third-party verifiers to assist in the design, implementation, monitoring, and evaluation of*
62 *projects proposed or funded pursuant to this section.*