For forty years, Maryland League of Conservation Voters has proudly acted as the political voice of the environment, working with elected leaders to pass strong conservation legislation, while holding them accountable to voters. Through education and advocacy, we build relationships with public officials from across the state to put Maryland at the forefront of national environmental policy. With our annual Environmental Scorecard, we showcase and celebrate our champions, and encourage improvement for those whose priorities diverge from the conservation vote. After consultation with conservation leaders from across the state, Maryland LCV Board of Directors and staff present this Governor’s Report Card on the second half of the first term of Governor Larry Hogan, complimenting our previous report card of 2015–2016.

As with our previous Governor’s Report Card, we choose to offer evaluative marks, rather than a letter grade, in order to recognize and encourage improvement on issues facing the environment. We are grateful for our colleagues and partners in the environmental community for their contributions to this report, through providing feedback and subject-matter expertise, as well as their leadership on many of the issues presented in this report card.

In the 2015–2016 Report Card, we assessed the first two years of the Governor’s first term. This report builds on that one, to review his entire first term, with an eye towards his second term and the continued progress we can make together. And making progress is urgent. We know, from the 2018 report from the Intergovernmental Panel on Climate Change that we are on the brink of a point of no return in our efforts to reverse the devastating effects of climate change brought on through human actions. We must act together to meet this challenge and Maryland has an opportunity to lead the way.

Governor Hogan’s actions on climate change contribute significantly to our overall marks for his term of “Mixed.” While he receives high marks for some of the policies he embraced, there is room for further advancement, especially in the realm of fossil fuel infrastructure and transportation. We recognize and acknowledge his improvement in this broad category, which in our last report we saw as one of his more challenging areas. At that time, we included Transportation as its own category. This year, we include it under the larger category of Energy and Climate Change in recognition of the fact that the transportation sector is the largest single contributor to greenhouse gases in Maryland.

One of the most significant weaknesses in his Administration is in the enforcement arena, which is critical to ensure that our air, water, land, and health are protected in reality, not just on paper. As long as enforcement actions are under-supported and the agencies are understaffed, it will be nearly impossible to make the strides needed in all sectors.

Governor Hogan’s leadership is needed now for Maryland to meet its potential as an environmental leader during these critical times. There is urgency, there are challenges, but there is also hope—and the promise of a cleaner, greener, and more sustainable Maryland. We look forward to working with him to achieve this in his second term.

Notes to this Report Card are published on our website: www.mdlcv.org.
Energy and Climate Change: Mixed

NOx Regulations: Mixed
Waste-to-energy facilities in Maryland release emissions into the air and contribute highly toxic ash to landfills, increasing the toxicity of those facilities. This is especially true of the Baltimore Refuse Energy Systems Co. facility (BRESCO), which contributes 36% of all industrial air pollution and annually causing $55 million in health problems for residents of Baltimore.

In our last Report Card we challenged the Governor on his Administration's 2016 decision to weaken NOx emissions from coal plants, in order to propose less protective and more flexible alternatives for polluters. In 2018 the Maryland Department of the Environment began taking steps to address NOx emissions from BRESCO, at least. In September 2018, MDE issued rules that would limit waste-to-energy emissions to 150 parts per million (ppm), from the current levels of 200ppm, bringing the facility in line with standards set by neighboring states, as well as the standards of Montgomery County Resource Recovery Facility (the only similar waste-to-energy facility in Maryland).

Taken as a whole, the Governor's actions on air pollution are mixed. We applaud the efforts to begin the process of reducing Baltimore’s poor air quality by addressing the BRESCO plant, however cannot ignore his previous actions to ease restrictions on coal fired power plants.

Public Service Commission: Good
Our “needs improvement” score in the 2015–2016 Report Card reflected concerns of implicit bias of two of the Governor’s appointees to the Public Service Commission against large-scale renewable energy projects, especially offshore wind development. We were pleased by the Commission’s decision to support the development of both the proposed offshore wind projects under review in 2017. Additionally, the Commission supported 2018 legislation that would have improved transparency in their process and improved vehicles for public communication. The Commission operates independent of the Administration, however the actions of his appointees should be applauded.

With additional Commissioner appointments pending, we encourage the Governor to nominate members to the five-member panel who will help advance clean energy expansion in Maryland and the environmental and economic growth that it promises.

Climate Action: Mixed
We previously praised Governor Hogan for signing the Greenhouse Gas Reduction Act Renewal Authorization bill, which passed nearly unanimously after compelling testimony by the Maryland Secretary of the Environment, Ben Grumbles.

On January 11, 2017, Maryland became the 16th state to join the United States Climate Alliance, begun by Governors Cuomo, Inslee, and Brown in response to the Trump Administration’s decision to withdraw the U.S. from the Paris Agreement on Climate Change. We applauded his commitment to working with other states to reach the important goals set by the Paris Agreement. His leadership on this issue is only somewhat questioned by his delay in making this announcement until the day after the introduction of HB3, which would have required this action. The bill had been pre-filed several months earlier, immediately after the founding of the Climate Alliance. Still, we are pleased that he took this action when he did, and that he signed the bill that added additional reporting requirements when it reached his desk.

In the 2015–2016 Report Card, we expressed concerns over posturing by the Governor’s Secretary of the Environment over potentially withdrawing Maryland from the Regional Greenhouse Gas Reduction Act—a statement which was mostly walked back in the weeks following. In 2018, Governor Hogan signed legislation that required legislative approval for any such withdrawal from the program, as well as another bill which requires investments by the State Retirement and Pension System assets be evaluated for risks associated with climate change.

While recognizing these actions on climate change, there is increasing concern that he and Maryland’s state agencies aren’t doing enough to adequately address the causes and growing impacts of climate change through taking active and significant policy initiatives that would drive the state towards addressing the climate crisis—even as the anticipated impacts are becoming more and more dire with each new scientific study/report. It is very much hoped that Governor Hogan and his Administration will work to ensure that Maryland’s pending 2019 climate action plan is comprehensive and ambitious enough to genuinely address our growing climate related concerns.

We look forward to the Governor developing a nation leading climate action plan that exceeds, as science demands, the State’s current 40% reduction target and does so in a way that markedly improves the health and economic well-being of all Marylanders and Maryland communities.

Governor Hogan gets mixed marks in this category, but we look forward to working with him in his second term to make Maryland a national leader on issues of climate action.

Renewable Energy vs. Fossil Fuel Infrastructure: Mixed
Governor Hogan began the second half of his first term by announcing an environmental agenda that included efforts to advance the clean energy economy even as the General Assembly prepared to override his veto of the Clean Energy Jobs Act. Other parts of his plan will be addressed elsewhere in this document, however it included investment in Tier 1 renewable resources through the Strategic Energy Investment Fund, as well as to the Maryland EARN Program to train workers in the solar, wind, hydroelectric, and other green industries. Much of these proposals were identical to clauses originally proposed by the vetoed Clean Energy Jobs Act, so we were glad to see them included.
Also in 2017, after a massive grassroots effort built over the previous seven years successfully advocated for the passage of a ban on hydraulic fracking, Governor Hogan surprised advocates, as well as his own allies, by reversing his previous positions favorable to fracking development in Western Maryland and announcing his support for the effort. Although this support came late in the process, we are grateful for his ultimate support to make Maryland the first state with natural gas deposits to enact a legislative ban on the practice.

Given his support to ban fracking, Governor Hogan’s administrative positions on fracked gas infrastructure throughout the state is inconsistent. In 2018, the Department of the Environment waived their right to do a Section 401 Water Quality Certification review, which establishes baseline water quality assessments and conducts a risk assessment of potential projects on the state’s water resources. This action would have expedited the development of the Potomac Pipeline through fragile Western Maryland geology, putting the water table of thousands of Marylanders at risk of contamination. Gratefully, however, in early 2019 (in one of his last actions of his first term), Governor Hogan, himself, responded to the demands of activist and voted with both of his Board of Public Works colleagues to deny the permit for the very same project to travel through five miles of state lands.

As a whole, Governor Hogan should be applauded for many of these actions, even though the concerns raised by his agency’s actions on the 401 Certification will be addressed elsewhere in this document, and his veto of the 2016 Clean Energy Jobs Act continues to raise questions on his commitment to the clean energy economy.

Energy Agencies: Good
In our last Report Card we gave low marks in this category, in large measure due to the high staff attrition and concerns over the move of the Agency to a facility co-located with the Maryland Department of the Environment. Over the past two years, the staff has stabilized significantly, with an almost full staff roster. Additionally, Governor Hogan, in his 2017 environmental plan, dedicated significant funds to the creation of a Green Energy Institute to attract private investment and commercialize clean energy innovations in Maryland. The institute was designed as a collaboration between the University of Maryland Energy Research Center and the Maryland Clean Energy Center.

Transportation: Needs Improvement
In our last Report Card, we gave Governor Hogan low marks in this category, based on his unilateral decision to cancel the Baltimore Red Line, his limited support for the Montgomery/Prince George’s County Purple Line, and his strident opposition to efforts to ensure transparency and oversight in transportation spending decisions.

Governor Hogan gets high marks at the start for his decision in December 2018 for joining with eight other states to form a Regional Transportation & Climate Initiative. This coalition of Northeast and Mid-Atlantic states and District of Columbia is committed to designing a regional approach to capping greenhouse gas pollution from transportation emissions. While the scope of this effort is still in development, this initiative promises to address the largest single contributor to our state’s contribution to greenhouse gases.

Unfortunately in other areas of this section, Governor Hogan has fallen short. While his Clean Cars Act of 2017 aimed to increase the investment in the Electric Vehicle tax credit program by more than 30% and doubling the Charging Station rebate, Maryland has still fallen significantly short of its goals. The Zero Emission Vehicle (ZEV) Memorandum of Understanding outlined a goal of 60,000 electric vehicles on the road by 2020 on the way to 300,000 ZEV’s by 2025. As of June of 2018, there were only 13,000 vehicles on the road. This number will undoubtedly increase by the 2020 preliminary deadline, but we are far short of our state’s goals. This certainly cannot entirely be laid at the feet of Governor Hogan, however this shortfall demands more aggressive action be taken to meet his administration’s stated goals. We recognize and appreciate the Governor’s acknowledgement of the importance of converting the State’s diesel school bus fleet to electric by dedicating $600,000 for electric school buses, however this represents less than 1% of the total Volkswagen settlement.

Our most serious concern remains Governor Hogan’s commitment to highway funding over public transit. Under the state’s six-year plan, spending for the MTA is scheduled to drop by 58%, even while he puts significant attention on expansion of highways to accommodate more vehicle traffic.
We believe that the Governor is committed to reducing greenhouse gases in the transportation sector, however this is inconsistent with prioritizing personal vehicle travel over public transit. Although we acknowledge and applaud several of his recent actions, especially the TCI, this is one of Governor Hogan’s more consistently problematic policy areas. He is not helped by his repeated effort to block the transparency requirements of the Open Transportation Investment Decision Act of 2016, which sought to rationalize and make public information on the decision-making over the spending of state transit dollars.6

Administration and Appointments: Mixed

Governor Hogan had stability in his Administration during his first term, with his Secretaries of Environment, Natural Resources, and Agriculture remaining throughout the entire term. While we often found ourselves on opposite sides of the table from the Departments of Natural Resources (DNR) and Agriculture, we continue to respect the leaders as capable and qualified (with caveats related to the forced attrition of several qualified scientists and enforcement staff, especially in the DNR). Going into his second term, Governor Hogan retains Secretaries Bartenfelder and Grumbles, but has recently appointed former Deputy Chief-of-Staff Jeannie Haddaway-Riccio to fill the post vacated by Natural Resources Secretary Belton. There are certainly concerns among the community related to Ms. Haddaway-Riccio’s role in firing of qualified, professional, departmental scientists, as well as her positions with regards to fisheries management. At the same time, she has consistently been the most accessible member of the Governor’s staff for the environmental community, and has committed to continuing that openness in her new role.

On the other hand, Governor Hogan’s staffing in the Department of Planning is problematic. After his first Secretary resigned to take a different position within the Administration, the Governor appointed Wendi Peters to fill the role, whose lack of qualifications led her to be rejected by the Senate Executive Nominations Committee. After a public battle, Peters remains in the Department as a Special Secretary of Smart Growth. The Current Acting Secretary similarly lacks any experience with the subject matter of his agency, although he has not encountered the same internal resistance to his leadership as did Ms. Peters.

Enforcement: Poor

The Issue Papers Report for the 2019 Legislative Session, released by the non-partisan Department of Legislative Services, highlighted enforcement concerns as one of the top three environmental issues for the 2019 Session. This reflects a disturbing trend over the last two decades of reductions in inspection and enforcement staff and funding, especially in the Department of the Environment. Even when the number of inspectors increased in 2017 from the previous year, the number of enforcement actions decreased sharply, likely resulting from the Administration’s stated goals of “compliance assistance” over enforcement.

The decline in enforcement staffing levels predates the Hogan administration, but the sharp decrease in enforcement in core water pollution prevention programs over the last several years can be laid exclusively at his feet. In the Water and Science Administration, the number of actions decreased 46% from the previous year, to the lowest number since FY2008. In the Land and Materials Administration, the number of actions taken in 2017 was lower than the 10-year average and the lowest since FY2011. It should be noted that the 2017 enforcement report is the most recent available at the time of this printing, reflecting consistent delays in the release of required agency reporting documents.

In 2018, the Department of Legislative Services released analysis that showed staffing shortages across the state agencies and identified MDE as one of several agencies that suffered the highest levels of chronic under-staffing. In 2017, environmental advocates successfully pressed for funding to be fenced off for additional enforcement staff. It appears that Governor Hogan chose to decline spending the money on additional inspectors, letting the money sit idle and effectively vetoing the will of the General Assembly to address this serious problem impacting public health and the Chesapeake Bay.7

6 / www.mdlcv.org
Land Preservation and Open Space: Good

When we published our last Report Card, our sole consideration in this category was the Governor’s strong support for full funding of Program Open Space. In 2019, we see some additional nuance.

As called out in the ’15–’16 Report Card, Governor Hogan sponsored legislation that would guarantee full funding to Program Open Space, and to repay funds that had been borrowed over the previous administrations. His budgets have consistently honored this promise, for which he should be applauded.

On the other hand, there are some concerns from preservation advocates over a proposed land swap with former Secretary of the Interior Ryan Zinke. Under this proposal, the Federal Government would trade Oxon Cove National Park in Prince George’s County for 2,500 acres to be turned into a new stadium for the Washington football team, in return for Maryland state park land at the South Mountain Battlefield. While the specific trade has been arrested, the possibility of a land swap for other purposes is still being pursued. In addition to the lack of transparency in the process, Governor Hogan’s assertion that the South Mountain State Battlefield was a property “we’re not using.” This is antithetical to what we know to be the myriad benefits of open space to the wellbeing of individuals and communities.

Taken as a whole, Governor Hogan’s first term record on open space is strong, but not without problems.

Water Quality: Mixed

Phosphorous Management Plan: Mixed
The Hogan Administration’s implementation of the long-overdue Phosphorus Management Tool—which experts say is one of the most significant actions to improve the Chesapeake Bay in decades—continues to move slowly. This threatens to delay the process further. Data collection is incomplete, and many unanswered questions about proper implementation remain, including where Maryland’s excess chicken litter will go and if there are sufficient funds available to transport, handle, apply, or alternatively use it.

The PMT Advisory Committee is considering a motion made at its 2018 meeting to delay implementation of the program and requested an evaluation of manure handling capacity required by regulations. We urge the Administration to fully implement the PMT as they committed to do, in order to make important strides in reducing pollution to the Bay—our state’s most important ecological, cultural, and economic resource.

Oyster Sanctuaries: Mixed
In late 2018, the Department of Natural Resources, in consultation with the University of Maryland Center for Environmental Science, released a stock assessment report that revealed that the oyster population in Maryland has decreased 50% since 1999, two years after the devastation of the 1997 pfiesteria outbreak. Nearly half of the public fishery areas are experiencing over-harvesting, and most of those would not sustain any harvesting without the plantings and restorations in those areas. Although these problems predate Governor Hogan’s Administration, he hasn’t taken actions that would have slowed or reversed the trend.

In choosing the last two restoration sanctuaries, Governor Hogan chose the Manokin River and decided to use only state dollars to carry out the restoration. This raises concerns, since federal funding would place additional obligations on the state to keep the sanctuaries closed. Without those protections, the possibility is opened to re-opening the sanctuaries for harvest in the future. These decisions build on the concerns raised in the past Report Card and demonstrate a continued narrative of placing the demands of watermen over the ecological health of the oyster population and the Bay as a whole.

We do recognize the Administration’s decision to allow the use of alternative substrates in restoration sanctuaries. This will allow for more rapid growth of the sanctuaries, whose restoration has often been delayed due to lack of available oyster shell as substrate. This decision recognizes the results of tests in the Harris Creek sanctuary showing that reefs built using alternative substrate performed a magnitude better than the reefs using fossilized shells.

Conowingo Dam: Mixed
We want to give Governor Hogan credit for taking proactive steps to address the challenges presented by the sediment build-up behind the Conowingo Dam. To date, he has hosted two summits to discuss solutions to the sediment flowing through the aging hydroelectric dam. His administration has solicited proposals to determine the costs of dredging behind the Dam and potential uses for the dredged materials. In April of 2017, the Maryland Department of the Environment issued a new permit to Exelon, to continue managing the facility, contingent on a requirement that they reduce at least 260,000 pounds of nitrogen and phosphorous pollution annually, equal to the amount previously trapped behind the Dam.

While these represent important positive steps, the permit did not require that Exelon develop a nutrient management plan to meet its obligation, or specifically require Exelon reduce sediment. The lack of benchmarks is especially concerning given the public statements by the Governor and members of his Administration acknowledging the importance of addressing sediment and pollution controls to meet our Chesapeake Bay clean-up goals.
Additionally, the Governor and his Administration should push to require Exelon to pay significantly towards the cost of sediment clean-up, which would not impede the economic benefit to the company for the continued operation of the Dam. The Chesapeake Bay Program has recently developed a framework for a Conowingo Phase III WIP. This WIP is based on the belief and assumption that there will be cooperation in achieving the strategic goals—including those of the 401 Water Quality Certification—by the Chesapeake partner states, federal government, and Exelon. If Exelon is successful in dodging their responsibilities through these legal challenges, the Conowingo WIP will fall on the shoulders of the other Bay states.

**Regulations: Poor**

The previous Report Card criticized the Hogan Administration for two important regulatory rollbacks of programs that were designed to improve the health of the Chesapeake Bay by limiting run-off: limiting the spreading of manure during the coldest months and requiring nitrogen-reducing Best Available Technology septic systems statewide.

Following his rollback of the O’Malley-era septic regulations, Governor Hogan promised to propose alternate solutions for septic system pollution. The Administration resisted a 2017 effort by several environmental groups to restore the rolled-back regulations, but also failed to reach a reasonable compromise based on distance to water bodies or other restrictions.

The Governor’s “Septic Stewardship Act,” introduced during the 2018 General Assembly, was inadequate. In addition to lacking any minimum standards for septic systems, it opened BRF money to incentivize septic system pump outs. While this process is important to the long-term maintenance of the individual system, they do not provide an answer to the nitrogen pollution from septic systems that continues to increase.11

Additionally, we are concerned with the Administration’s unwillingness to follow the intent of the General Assembly with regard to antibiotics regulations.

In 2017, the General Assembly passed legislation to eliminate the non-therapeutic use of antibiotics on healthy livestock to address the growth of drug resistant bacteria, which affects approximately 2 million Americans, and leads to the deaths of 23,000 people, each year. The bill went into law without the Governor’s signature.

Of concern is the way the Administration has written the regulations required by this legislation (which was a 2017 Environmental Community priority). Proposed regulations only limit the use of drugs in a manner already illegal through federal statute and add definitions that may not sufficiently restrict the routine or preventative use of antibiotics. Fundamentally, the draft regulations run counter to the intent of the law passed by a supermajority of elected members of the General Assembly, and acts as a de facto veto of the legislation out of the public eye.

**Democracy: Mixed**

**Election Law: Poor**

The 2015–2016 Report Card took issue with the Governor’s decision to veto the bill that would reinstate voting rights to convicted felons, released on parole. The Legislature overrode his veto.

In 2018, the Governor failed to support efforts for election day registration (which passed in the General Assembly and was confirmed by referendum in the November 2018 election), or automatic voter registration. While constitutional amendments (as the election day registration action was) do not require gubernatorial support, Governor Hogan’s support of the other constitutional amendment being considered in the November election made his silence on this issue conspicuous.

Additionally, we are concerned by the Governor’s encouragement of the Deputy Secretary of State to join President Trump’s Voter Fraud Commission. The Commission never gained momentum and no report was ever issued, the proposed commission was based on false reports of widespread national voter fraud, and threatened to create systems of restricting voting access.

**Open Government and Redistricting: Good**

In 2017, we assessed Governor Hogan’s commitment to redistricting, which has remained consistent through the second half of his first term. We also continue to applaud his commitment to funding the gubernatorial public funding program. We continue to encourage the Governor to show greater leadership on public funding initiatives at the local and county level, where he has been silent.

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### Larry Hogan’s Overall Grade: Mixed

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