AN ACT

Authorizing the Department of Environmental Protection to conduct a public comment process on and submit to the General Assembly a measure or action intended to abate, control or limit carbon dioxide emissions by imposing a revenue-generating tax or fee on carbon dioxide emissions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Pennsylvania Carbon Dioxide Cap and Trade Authorization Act.

Section 2. Declaration of policy.

The General Assembly finds and declares as follows:

(1) As a matter of Pennsylvania law, no statutory or constitutional authority currently exists that authorizes a State agency to regulate or impose a tax on carbon dioxide emissions.
emissions. Therefore, it is the responsibility of the General Assembly, working together with the Department of Environmental Protection, the Environmental Quality Board, the Pennsylvania Public Utility Commission and other important stakeholders, to determine whether and how to regulate or impose a tax on carbon dioxide emissions.

(2) The General Assembly recognizes that no statute, including the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, the act of February 17, 1972 (P.L.64, No.20), known as the Uniform Interstate Air Pollution Agreements Act, the act of July 9, 2008 (P.L.935, No.70), known as the Pennsylvania Climate Change Act or the Pennsylvania Constitution, authorizes the Governor, the Environmental Quality Board, the Department of Environmental Protection or any other agency or official to adopt regulations, implement a policy or take any other action to authorize the Commonwealth to join or participate in a State or regional greenhouse gas cap-and-trade program or establish a greenhouse gas cap-and-trade program.

(3) Affordable, reliable and resilient sources of electric power generated in Pennsylvania are vital to the health, safety and welfare of this Commonwealth's residents and to the prosperity of its economy.

(4) The premature deactivation or retirement of coal-fired and coal refuse electric generation units in Pennsylvania as a direct result of State action will result in significant direct economic hardship to the communities in which they operate and will adversely affect this Commonwealth's economy, environment and electric reliability and the general health, safety and welfare of its residents.
businesses and industries.

(5) Given that Pennsylvania is one of the top net exporters of electricity and the third largest coal-producing state in the nation, abating, controlling or limiting carbon dioxide emissions will have a significant, profound and long-lasting impact on this Commonwealth's economy and require its consumers to import electricity generated by out-of-State fossil fuel plants, canceling out any emission reductions.

(6) In addition to the impact on coal-fired and coal refuse electric generating facilities, as well as natural gas-fired electric generation facilities that would have to absorb a carbon tax, abating, controlling or limiting carbon dioxide emissions in Pennsylvania will have a significant negative economic impact on this Commonwealth's industrial, manufacturing and transportation sectors.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Environmental Protection of the Commonwealth.

"RGGI." The Regional Greenhouse Gas Initiative, which is a multistate compact that establishes or calls for the compacting states to establish a regional, multistate cap on the amount of greenhouse gases released by electric generation plants.

"Standing committee." The Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

Section 4. Regulation of greenhouse gas emissions.

(a) Prohibition.--Except for a measure that is required by
Federal law, the department may not adopt a measure or take any other action that is designed to abate, control or limit carbon dioxide emissions, including an action to join or participate in a State or regional greenhouse gas cap-and-trade program, including the RGGI, nor may the department establish a greenhouse gas cap-and-trade program, unless the General Assembly specifically authorizes such a measure or action by statute that is enacted on or after the effective date of this section.

(b) Submission to General Assembly.--If the department proposes a measure of action under subsection (a), the department shall submit the proposed measure or other proposed action to the General Assembly as provided under section 5.

Section 5. Process for submission to General Assembly.

(A) DUTIES OF DEPARTMENT.--Prior to submitting a proposed measure or other proposed action to the General Assembly under section 4(b), the department shall do the following:

(1) Submit to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin the proposed measure or other proposed action that is in the form of DRAFT legislation. The publication shall set a public comment period of no less than 180 days.

(2) During the public comment period, the department shall conduct a minimum of four public hearings, CONDUCTED IN ACCORDANCE WITH 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS), on the proposed measure or other proposed action and shall conduct the hearings in geographically dispersed locations in this Commonwealth, including locations in which regulated sources of carbon dioxide emissions would be directly economically affected by the proposal.
(3) Following the public comment period, the department shall compile a report that will be submitted to both standing committees. The report shall include the following information:

   (i) A list of all individual facilities, by county, that would be subject to the proposed measure or other proposed action, along with:

      (A) the amount of carbon dioxide emitted by each of the facilities;

      (B) the estimated cost that each of the facilities would incur to comply with the proposed measure or other proposed action;

      (C) the effect that the proposed measure or other proposed action would have on the price of electricity ($/MWh net) that each of the facilities generates;

      (D) a list of the facilities that, under the proposed measure or other proposed action, would be unlikely to continue to operate;

      (E) for the other electric generation facilities, an assessment of the extent to which they would be likely to operate after the proposed measure or other proposed action had been fully implemented;

      (F) an assessment of the decrease of electricity that would be exported from Pennsylvania after the proposed measure or other proposed action had been fully implemented; and

      (G) an assessment of the contribution to resilience and diversity in the Pennsylvania electric generation fleet from each of the affected facilities.
and the impacts upon the resilience and diversity in
the event that any or all of the facilities are
forced to close.

(ii) A summary of the impacts on all industries
whose public testimony or comments were received by the
department during the public comment period.

(iii) An estimate of the net carbon dioxide emission
reductions that the proposed measure or other proposed
action would engender within the PJM Interconnection
region, taking into account the electricity generation in
neighboring states where there is not a regulation or tax
on carbon dioxide emissions.

(iv) A summary and justification of any provisions
in the proposed measure or other proposed action that
would address leakage.

(v) A description of the economic and fiscal impacts
that would result from the proposed measure or other
proposed action, including the following impacts:

(A) Direct and indirect costs to the
Commonwealth and its political subdivisions and the
private sector.

(B) The impact of any action or measure upon the
wholesale and retail price of electricity, both
directly and indirectly, broken down by classes of
electricity consumers, including, but not limited to,
residential, commercial, industrial and
transportation.

(C) Adverse effects on prices of goods and
services, productivity or competition.

(D) The nature of the reports, forms or other
paperwork that would be required for implementation and administration of the action or measure and the estimated cost for individuals, businesses and organizations in the public and private sectors to prepare them.

(E) The nature and estimated cost of legal, consulting or accounting services that the public or private sector would be required or likely to incur for implementation and administration of the action or measure.

(F) The impact that it would have on the public interest to exempt individuals, employers or facilities from compliance or require the individuals, employers or facilities to comply with less stringent standards when it would be lawful, desirable and feasible.

(vi) Whether a less costly or less intrusive alternative method of achieving the goal of the proposed measure or other proposed action has been considered for an employer or facility that would otherwise be subject to the proposed measure or proposed action.

1 REFERRED TO THE STANDING COMMITTEE.

2 Section 6. Effective date.

3 This act shall take effect immediately.