AN ACT

Establishing the CO2 Budget Trading Program; providing for powers and duties of department; establishing the Energy Transition Fund; providing for revenue from sale of carbon allowances; establishing the Energy Transition Board; and providing for energy transition plan.

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 Energy Transition and Recovery Act.

Section 2. Findings and declarations.

The General Assembly finds and declares as follows:

(1) This Commonwealth's electric power sector is experiencing a rapid and unprecedented transition. Until recently, this Commonwealth produced nearly all of its electricity from coal-fired and nuclear power plants. However, since 2011, low natural gas prices and wholesale
electricity market rules that favor gas have driven a massive
increase in gas-fired generation.

(2) Over the last decade, the replacement of coal plants
with gas plants has led to lower carbon dioxide emissions
from this Commonwealth's electric power sector, which is
responsible for approximately one-third of this
Commonwealth's overall greenhouse gas emissions and is the
largest source of carbon pollution in this Commonwealth.
However, gas plants are currently threatening to replace this
Commonwealth's nuclear plants and lock in high pollution
levels for decades.

(3) Emissions of carbon dioxide and other greenhouse
gases pose a significant threat to the health and well-being
of the residents of this Commonwealth and to this
Commonwealth's economy. The most comprehensive scientific
analysis has determined that to avoid the worst impacts of
climate change, the United States must reduce its greenhouse
gas emissions from all sectors of its economy to a net zero
by the year 2050. To achieve the reductions, this
Commonwealth must ensure that greenhouse gas emissions are
eliminated from its electric power sector before the year
2050.

(4) To ensure continuing reductions of carbon pollution,
this Commonwealth needs to regulate carbon pollution, as well
as drive investments in energy efficiency, renewable energy,
battery storage and other clean energy technologies.

(5) In accordance with Executive Order 2019-07 issued by
Governor Wolf on October 3, 2019, the Department of
Environmental Protection has developed a proposed rulemaking
under the act of January 8, 1960 (1959 P.L.2119, No.787),
known as the Air Pollution Control Act, that would establish a CO2 Budget Trading Program to reduce carbon pollution from the electric power sector through the year 2030 and enable this Commonwealth to participate in the Regional Greenhouse Gas Initiative beginning in the year 2022.

(6) Consistent with the Department of Environmental Protection's existing statutory authority, the proceeds from carbon allowances sold at auction through the Regional Greenhouse Gas Initiative would be deposited into the Clean Air Fund administered by the Department of Environmental Protection for use in the elimination of air pollution.

(7) This act deposits one-fourth of the proceeds from carbon allowances sold at auction through the Regional Greenhouse Gas Initiative into the Clean Air Fund and deposits three-fourths of the proceeds into a newly established Energy Transition Fund.

(8) The Energy Transition Fund serves a broader set of social and economic purposes than the Clean Air Fund, including electricity bill reductions for low-income residents of this Commonwealth, additional investments in environmental justice communities and transition assistance for workers and communities affected by the closure of power plants and other energy infrastructure.

(9) Enhanced investments in these areas are critical to reduce air pollution as this Commonwealth addresses the impacts of the COVID-19 pandemic, the ongoing transition of this Commonwealth's electric power sector and climate change.

(10) Furthermore, this act requires that carbon dioxide emissions from this Commonwealth's power sector be reduced to zero before the year 2050.
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:


"Board." The Environmental Quality Board of the Commonwealth.

"Climate change action plan." The plan required under section 7 of the act of July 9, 2008 (P.L.935, No.70), known as the Pennsylvania Climate Change Act.


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

"Electric power sector." The generation of electricity from power plants in this Commonwealth with nameplate capacity of 15 megawatts or greater.

"Emissions leakage." Incremental carbon dioxide emissions that result from the shift of power generation from this Commonwealth to a jurisdiction that has no limits on carbon dioxide emissions or that has limits less stringent than the limits adopted by regulation.

"Energy transition agencies." All of the following:

(1) The department.
(2) The Department of Community and Economic Development.
(3) The Department of Human Services.
(4) The Department of Labor and Industry.
(5) The commission.

"Environmental justice community." A census block group in 20200HB2856PN4348
which minorities represent at least 30% of the population or in
which 20% of the residents are at or below the Federal poverty
level according to the most recent decennial census by the
United States Census Bureau.

"Executive Order." Executive Order No. 2019-07 issued by
Governor Tom Wolf on October 3, 2019.

"Fund." The Energy Transition Fund established under section
6.

"Greenhouse gases." Carbon dioxide and other gases that
absorb and re-emit infrared radiation when in the earth's
atmosphere.

"Low-income residential customers." A residential electric
utility customer with a household income below 150% of the
Federal poverty level.

"Moderate-income residential customers." A residential
electric utility customer with a household income between 151%
and 250% of the Federal poverty level.

"PJM." The regional transmission organization, or its
successor, that coordinates the movement of wholesale
electricity in a multistate region that includes this
Commonwealth.

Section 4. CO2 Budget Trading Program.

(a) Emissions reduction.--In accordance with the Executive
Order, the board shall promulgate a regulation to establish a
CO2 Budget Trading Program for the electric power sector. The
regulation shall include an annually declining carbon budget and
shall enable this Commonwealth to participate in the Regional
Greenhouse Gas Initiative beginning January 1, 2022. The
regulation may include measures that mitigate emissions leakage
to other jurisdictions.

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(b) Review.--Implementation of the regulation promulgated under subsection (a) shall be evaluated by the department on a triennial basis in the climate change action plan. The department's review shall include, but may not be limited to:

1. An assessment of the electric power sector's progress toward the emission reduction required under subsection (a).

2. An analysis of whether the regulation has resulted in emissions leakage.

3. A determination of what revisions to the regulation are necessary to reduce emissions from the electric power sector to net zero by the year 2050.


(c) Revision.--The department's review under subsection (b) shall propose any changes necessary to ensure that the regulation reduces emissions in the electric power sector to zero no later than the year 2050. If the department's review under subsection (b) determines that the regulation has resulted in emissions leakage or any negative economic or environmental impacts on environmental justice communities, low-income residential customers or moderate-income residential customers, the department shall recommend and propose changes to the regulation to fully mitigate the identified negative impacts.

Section 5. Powers and duties of department.

The following apply:

1. The department shall have the power and duty to implement and enforce regulations promulgated by the board under this act.

2. The department may delegate the implementation and
administrative support functions for any CO2 allowance auction conducted under the CO2 Budget Trading Program to an agent qualified to conduct auctions, including a regional entity, if the agent performs all functions under the direction and oversight of the department.

Section 6. Energy Transition Fund.

The Energy Transition Fund is established as a special nonlapsing fund in the State Treasury to support energy affordability, energy efficiency, renewable energy and a just and equitable transition to a decarbonized economy for environmental justice communities and workers and communities affected by the closure of power plants and other energy facilities. The fund shall be administered as a trust for the purposes specified under this section.

Section 7. Revenue from sale of carbon allowances.

(a) Energy Transition Fund.--Three-fourths of the revenue from the sale, allocation, exchange or conveyance of carbon allowances under this act shall be deposited into the fund.

(b) Clean Air Fund.--One-fourth of the revenue from the sale, allocation, exchange or conveyance of carbon allowances under this act shall be deposited into the Clean Air Fund and shall be disbursed in accordance with the Air Pollution Control Act.

Section 8. Energy Transition Board.

The Energy Transition Board is established and shall consist of the following members:

(1) The Secretary of Community and Economic Development.

(2) The Secretary of Environmental Protection.

(3) The Secretary of Human Services.

(4) The Secretary of Labor and Industry.
(5) The chair of the commission.

(6) The Director of the Office of Environmental Justice within the department.

(7) One member appointed by the President pro tempore of the Senate.

(8) One member appointed by the Speaker of the House of Representatives.

(9) One member appointed by the Minority Leader of the Senate.

(10) One member appointed by the Minority Leader of the House of Representatives.

(11) Seven members appointed by the Governor, which shall be representatives of each of the following:

   (i) Environmental justice communities.

   (ii) Labor organizations.

   (iii) Renewable energy companies.

   (iv) Energy efficiency companies.

   (v) Environmental organizations.

   (vi) Energy-intensive industries.

   (vii) Organizations representing low-income Pennsylvanians.

Section 9. Disbursements from fund.

(a) Disbursement.--Money in the fund shall be disbursed annually by the State Treasurer in accordance with an energy transition plan developed by the energy transition agencies and approved by the Energy Transition Board. After the payment of administrative costs as authorized under subsection (b)(2), the money in the fund shall be used as follows:

(1) Fifteen percent of the money in the fund shall be used to provide electricity bill assistance to low-income
residential customers. The money used under this paragraph shall be in addition to any existing funding for electricity bill assistance programs.

(2) Twenty percent of the money in the fund and any unexpended funds under paragraph (1) at the end of each fiscal year shall be used to supplement Federal funding for the Weatherization Assistance Program.

(3) Thirty percent of the money in the fund shall be invested in distributed solar generation programs, energy demand reduction programs and projects and energy efficiency programs and projects, not including the Weatherization Assistance Program, with a priority given directly to benefit environmental justice communities, low-income residential customers and moderate-income residential customers.

(4) Thirty-five percent of the money in the fund shall be used for programs and projects that support workers and communities impacted by the closure of energy facilities or support environmental justice communities.

(b) Administrative costs.--

(1) Administrative costs incurred by the department shall be paid from the Clean Air Fund.

(2) Administrative costs incurred by the State Treasurer and the energy transition agencies under this act shall be paid from the fund and capped at 2.5% of the available proceeds in the fund as determined on an annual basis.

Section 10. Energy transition plan.

(a) Development.--An energy transition plan shall be developed through a Statewide public input process conducted by the energy transition agencies. The energy transition agencies shall jointly submit a draft energy transition plan and the
The final energy transition plan to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin and post the draft plan and final plan on the publicly accessible Internet websites of the energy transition agencies. The Statewide public input process shall include all of the following:

1. At least five public hearings in the fossil fuel producing regions of this Commonwealth.
2. At least five public hearings in environmental justice communities.
3. The opportunity for public comment after the draft plan is made available in the Pennsylvania Bulletin and on the publicly accessible Internet websites of the energy transition agencies.

(b) Public input.--During the Statewide public input process under subsection (a), the energy transition agencies shall specifically seek input from organized labor, environmental justice organizations, local elected officials, local and regional economic development organizations and educational and workforce development service providers.

(c) Criteria.--The energy transition agencies shall establish criteria for the purpose of identifying the communities impacted by the closure of energy facilities under section 9(a)(4), including, but not limited to, the following:

1. If a community experienced the closure of a power plant in the last 15 years.
2. If a community experienced the loss of other major fossil fuel infrastructure in the last 15 years.

(d) Existing structures.--The energy transition agencies shall design the energy transition plan to maximize disbursements to existing State and local agency programs that
serve the purposes of the fund.

Section 11. Regional cooperation.

The commission and the department shall do all of the following:

(1) Consult with PJM to maximize regional cooperation and consistency throughout the PJM region with respect to greenhouse gas emissions reduction goals, mitigation of emissions leakage, grid modernization and resiliency, deployment of renewable energy generation and storage and consumer costs.

(2) Request that PJM work with the Commonwealth and other states served by PJM to reduce greenhouse gas emissions, including adopting such market mechanisms or frameworks as may be necessary to avoid market distortions and minimize emissions leakage during the implementation of this act.

(3) Request from PJM any information that may be necessary or useful to the commission and the department in implementing this act and minimizing emissions leakage.

Section 12. Prohibition.

Revenue from the sale, allocation, exchange or conveyance of carbon allowances may not be used or disbursed except as provided under this act.

Section 13. Effective date.

This act shall take effect in 60 days.