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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 15 Session of  
2020

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INTRODUCED BY COSTA, FONTANA, SANTARSIERO, MUTH, HUGHES,  
COLLETT, YUDICHAK, FARNESE, SCHWANK, LEACH, BLAKE, HAYWOOD,  
STREET, SABATINA, DINNIMAN, KILLION, L. WILLIAMS AND  
TARTAGLIONE, AUGUST 11, 2020

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, AUGUST 11, 2020

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AN ACT

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

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Energy  
10 Transition and Recovery Act.

11 Section 2. Findings and declarations.

12 The General Assembly finds and declares as follows:

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

1 increase in gas-fired generation.

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

11 (3) Emissions of carbon dioxide and other greenhouse  
12 gases pose a significant threat to the health and well-being  
13 of the residents of this Commonwealth and to this  
14 Commonwealth's economy. The most comprehensive scientific  
15 analysis has determined that to avoid the worst impacts of  
16 climate change, the United States must reduce its greenhouse  
17 gas emissions from all sectors of its economy to a net zero  
18 by the year 2050. To achieve the reductions, this  
19 Commonwealth must ensure that greenhouse gas emissions are  
20 eliminated from its electric power sector before the year  
21 2050.

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

26 (5) In accordance with Executive Order 2019-07 issued by  
27 Governor Wolf on October 3, 2019, the Department of  
28 Environmental Protection has developed a proposed rulemaking  
29 under the act of January 8, 1960 (1959 P.L.2119, No.787),  
30 known as the Air Pollution Control Act, that would establish

1 a CO2 Budget Trading Program to reduce carbon pollution from  
2 the electric power sector through the year 2030 and enable  
3 this Commonwealth to participate in the Regional Greenhouse  
4 Gas Initiative beginning in the year 2022.

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

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

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

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

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

30 Section 3. Definitions.

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

4 "Air Pollution Control Act." The act of January 8, 1960  
5 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.

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

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

11 "Commission." The Pennsylvania Public Utility Commission.

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

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

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

22 "Energy transition agencies." All of the following:

23 (1) The department.

24 (2) The Department of Community and Economic  
25 Development.

26 (3) The Department of Human Services.

27 (4) The Department of Labor and Industry.

28 (5) The commission.

29 "Environmental justice community." A census block group in  
30 which minorities represent at least 30% of the population or in

1 which 20% of the residents are at or below the Federal poverty  
2 level according to the most recent decennial census by the  
3 United States Census Bureau.

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

6 "Fund." The Energy Transition Fund established under section  
7 6.

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

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

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

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

21 Section 4. CO2 Budget Trading Program.

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

30 (b) Review.--Implementation of the regulation promulgated

1 under subsection (a) shall be evaluated by the department on a  
2 triennial basis in the climate change action plan. The  
3 department's review shall include, but may not be limited to:

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

7 (2) An analysis of whether the regulation has resulted  
8 in emissions leakage.

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

12 (4) An assessment of the impacts of the regulation on  
13 environmental justice communities.

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

24 Section 5. Powers and duties of department.

25 The following apply:

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

29 (2) The department may delegate the implementation and  
30 administrative support functions for any CO2 allowance

1 auction conducted under the CO2 Budget Trading Program to an  
2 agent qualified to conduct auctions, including a regional  
3 entity, if the agent performs all functions under the  
4 direction and oversight of the department.

5 Section 6. Energy Transition Fund.

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

14 Section 7. Revenue from sale of carbon allowances.

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

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

23 Section 8. Energy Transition Board.

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

- 26 (1) The Secretary of Community and Economic Development.
- 27 (2) The Secretary of Environmental Protection.
- 28 (3) The Secretary of Human Services.
- 29 (4) The Secretary of Labor and Industry.
- 30 (5) The chair of the commission.

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

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

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

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

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

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

13 (i) Environmental justice communities.

14 (ii) Labor organizations.

15 (iii) Renewable energy companies.

16 (iv) Energy efficiency companies.

17 (v) Environmental organizations.

18 (vi) Energy-intensive industries.

19 (vii) Organizations representing low-income

20 Pennsylvanians.

21 Section 9. Disbursements from fund.

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

28 (1) Fifteen percent of the money in the fund shall be  
29 used to provide electricity bill assistance to low-income  
30 residential customers. The money used under this paragraph



1 shall be in addition to any existing funding for electricity  
2 bill assistance programs.

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

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

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

18 (b) Administrative costs.--

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

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

25 Section 10. Energy transition plan.

26 (a) Development.--An energy transition plan shall be  
27 developed through a Statewide public input process conducted by  
28 the energy transition agencies. The energy transition agencies  
29 shall jointly submit a draft energy transition plan and the  
30 final energy transition plan to the Legislative Reference Bureau

1 for publication in the Pennsylvania Bulletin and post the draft  
2 plan and final plan on the publicly accessible Internet websites  
3 of the energy transition agencies. The Statewide public input  
4 process shall include all of the following:

5 (1) At least five public hearings in the fossil fuel  
6 producing regions of this Commonwealth.

7 (2) At least five public hearings in environmental  
8 justice communities.

9 (3) The opportunity for public comment after the draft  
10 plan is made available in the Pennsylvania Bulletin and on  
11 the publicly accessible Internet websites of the energy  
12 transition agencies.

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

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

23 (1) If a community experienced the closure of a power  
24 plant in the last 15 years.

25 (2) If a community experienced the loss of other major  
26 fossil fuel infrastructure in the last 15 years.

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

1 Section 11. Regional cooperation.

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

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

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

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

19 Section 12. Prohibition.

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

23 Section 13. Effective date.

24 This act shall take effect in 60 days.