House Environmental and Natural Resource Protection Committee

Meeting Agenda

Monday, June 2, 2025
10:00am – 11:00pm
205 Ryan Office Building

Call to Order

Roll Call

HB 501; PN 1478 (Otten) – Establishes Pennsylvania Reliable Energy Sustainability Standards (PRESS) and updates existing clean energy standards to provide for 35 percent generation from renewable sources by 2035.

- **A00794 (Pugh)** – Allows a public safety answering point to require a path study for wind power projects

SB 349; 286 (Yaw) – Provides for solar energy decommissioning requirements.

HB 589; PN 1069 (Kinkead) – [Re-referral to the Veterans Affairs and Emergency Preparedness committee] Establishes the Landslide and Sinkhole Insurance Program to provide state-run insurance coverage for landslides and sinkholes.

Any other business

Adjournment

Environmental & Natural Resource Protection Committee

State Representative Greg Vitali
Democratic Chairman
30 East Wing • PO Box 202166 • Harrisburg, PA 17120-2166 • (717) 787-7647 • Fax: (717) 705-2089
1001 Darby Road • Havertown, PA 19083 • (610) 789-3900 • Toll-Free: (833) 787-5131 • Fax: (215) 560-4197

MEMORANDUM

DATE: 5/28/2025

TO: House Environmental and Natural Resource Protection Committee Members

FROM: Representative Greg Vitali, Majority Chairman
House Environmental and Natural Resource Protection Committee

RE: Environmental and Natural Resource Protection Committee Voting Meeting – Monday, June 2th, 2025

The House Environmental and Natural Resource Protection Committee will hold a voting meeting on **Monday, June 2th, 2025, at 10:00am in 205 Ryan Office Building.**

The purpose of this voting meeting will be to consider the following legislation and any other business that may come before the committee.

- HB 501; PN 1478 (Otten) – Establishes Pennsylvania Reliable Energy Sustainability Standards (PRESS) and updates existing clean energy standards to provide for 35 percent generation from renewable sources by 2035.

- SB 349; 286 (Yaw) – Provides for solar energy decommissioning requirements.

- HB 589; PN 1069 (Kinkead) – [Re-referral to the Veterans Affairs and Emergency Preparedness committee] Establishes the Landslide and Sinkhole Insurance Program to provide state-run insurance coverage for landslides and sinkholes.

Please contact Hayley Shupe at 717-787-7647 or hshupe@pahouse.net with any questions. If you are unable to attend this meeting, please submit an Official Vote by Designation Form prior to the start of the meeting.

Thank you,

GV/hs

PRINTER'S NO. 1478

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 501 Session of 2025

INTRODUCED BY OTTEN, WAXMAN, VENKAT, SAPPEY, ABNEY, HILL-EVANS, HOWARD, MADDEN, PIELLI, SCHLOSSBERG, MALAGARI, NEILSON, VITALI, SANCHEZ, O'MARA, CEPEDA-FREYTIZ, BOROWSKI, K.HARRIS, DONAHUE, BOYD, CIRESI, McNEILL, ISAACSON, RIVERA, WARREN, HOHENSTEIN, GUENST, PROBST, D. WILLIAMS, POWELL, T. DAVIS, KHAN, SHUSTERMAN, WEBSTER, MULLINS, GIRAL, BENHAM, SAMUELSON, FRIEL, CERRATO, BRENNAN, BRIGGS, KRUEGER, PROKOPIAK, SCHWEYER, BURGOS, HANBIDGE, STEELE, SMITH-WADE-EL, PASHINSKI, BIZZARRO, HADDOCK, TAKAC, SALISBURY, SOLOMON, FIEDLER, SCOTT, MERSKI, FRANKEL, KINKEAD, DALEY, GREEN, PARKER, MADSEN, DOUGHERTY AND MAYES, APRIL 23, 2025

REFERRED TO COMMITTEE ON ENVIRONMENTAL AND NATURAL RESOURCE PROTECTION, APRIL 23, 2025

AN ACT

Amending the act of November 30, 2004 (P.L.1672, No.213), entitled "An act providing for the sale of electric energy generated from renewable and environmentally beneficial sources, for the acquisition of electric energy generated from renewable and environmentally beneficial sources by electric distribution and supply companies and for the powers and duties of the Pennsylvania Public Utility Commission," further providing for definitions; providing for force majeure; further providing for alternative energy portfolio standards, for portfolio requirements in other states, for health and safety standards and for interagency responsibilities; providing for zero emissions credits; and making editorial changes.

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

Section 1. Sections 1 and 2 of the act of November 30, 2004 (P.L.1672, No.213), known as the Alternative Energy Portfolio Standards Act, are amended to read:

Section 1. Short title.

This act shall be known and may be cited as the [Alternative Energy Portfolio] Pennsylvania Reliable Energy Sustainability Standards Act.

Section 2. 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:

"Advanced reactor." A nuclear fission reactor consistent with the definition of "advanced nuclear reactor" in 42 U.S.C. § 16271 (relating to nuclear energy). The term includes a small modular reactor.

["Alternative energy credit." A tradable instrument that is used to establish, verify and monitor compliance with this act. A unit of credit shall equal one megawatt hour of electricity from an alternative energy source. The alternative energy credit shall remain the property of the alternative energy system until the alternative energy credit is voluntarily transferred by the alternative energy system. (Def. amended July 17, 2007, P.L.114, No.35)

"Alternative energy portfolio standards." Standards establishing that a certain amount of energy sold from alternative energy sources is included as part of the sources of electric generation by electric utilities within this Commonwealth.

"Alternative energy sources." The term shall include the following existing and new sources for the production of electricity:

(1) Solar photovoltaic or other solar electric energy.

(2) Solar thermal energy.

(3) Wind power.

(4) Large-scale hydropower, which shall mean the production of electric power by harnessing the hydroelectric potential of moving water impoundments, including pumped storage that does not meet the requirements of low-impact hydropower under paragraph (5).

(5) Low-impact hydropower consisting of any technology that produces electric power and that harnesses the hydroelectric potential of moving water impoundments, provided such incremental hydroelectric development:

(i) does not adversely change existing impacts to aquatic systems;

(ii) meets the certification standards established by the Low Impact Hydropower Institute and American Rivers, Inc., or their successors;

(iii) provides an adequate water flow for protection of aquatic life and for safe and effective fish passage;

(iv) protects against erosion; and

(v) protects cultural and historic resources.

(6) Geothermal energy, which shall mean electricity produced by extracting hot water or steam from geothermal reserves in the earth's crust and supplied to steam turbines that drive generators to produce electricity.

(7) Biomass energy, which shall mean the generation of electricity utilizing the following:

(i) organic material from a plant that is grown for the purpose of being used to produce electricity or is protected by the Federal Conservation Reserve Program (CRP) and provided further that crop production on CRP lands does not prevent achievement of the water quality

protection, soil erosion prevention or wildlife enhancement purposes for which the land was primarily set aside; or

(ii) any solid nonhazardous, cellulosic waste material that is segregated from other waste materials, such as waste pallets, crates and landscape or right-of-way tree trimmings or agricultural sources, including orchard tree crops, vineyards, grain, legumes, sugar and other crop by-products or residues.

(8) Biologically derived methane gas, which shall include methane from the anaerobic digestion of organic materials from yard waste, such as grass clippings and leaves, food waste, animal waste and sewage sludge. The term also includes landfill methane gas.

(9) Fuel cells, which shall mean any electrochemical device that converts chemical energy in a hydrogen-rich fuel directly into electricity, heat and water without combustion.

(10) Waste coal, which shall include the combustion of waste coal in facilities in which the waste coal was disposed or abandoned prior to July 31, 1982, or disposed of thereafter in a permitted coal refuse disposal site regardless of when disposed of, and used to generate electricity, or such other waste coal combustion meeting alternate eligibility requirements established by regulation. Facilities combusting waste coal shall use at a minimum a combined fluidized bed boiler and be outfitted with a limestone injection system and a fabric filter particulate removal system. Alternative energy credits shall be calculated based upon the proportion of waste coal utilized to produce electricity at the facility.

(11) Coal mine methane, which shall mean methane gas emitting from abandoned or working coal mines.

(12) Demand-side management consisting of the management of customer consumption of electricity or the demand for electricity through the implementation of:

(i) energy efficiency technologies, management practices or other strategies in residential, commercial, institutional or government customers that reduce electricity consumption by those customers;

(ii) load management or demand response technologies, management practices or other strategies in residential, commercial, industrial, institutional and government customers that shift electric load from periods of higher demand to periods of lower demand; or

(iii) industrial by-product technologies consisting of the use of a by-product from an industrial process, including the reuse of energy from exhaust gases or other manufacturing by-products that are used in the direct production of electricity at the facility of a customer.

(13) Distributed generation system, which shall mean the small-scale power generation of electricity and useful thermal energy.

"Alternative energy system." A facility or energy system that uses a form of alternative energy source to generate electricity and delivers the electricity it generates to the distribution system of an electric distribution company or to the transmission system operated by a regional transmission organization.]

"Biogas energy." The generation of electricity that uses:

(1) biogas resultant of anaerobic digestion of organic

material, including yard waste such as grass clippings and leaves, food waste, animal waste and sewage sludge; or

(2) landfill gas.

"Biomass energy." The generation of electricity that uses:

(1) organic material from a plant that is grown for the purpose of being used to produce electricity or is protected by the Federal Conservation Reserve Program, and provided that crop production on Federal Conservation Reserve Program lands does not prevent achievement of the water quality protection, soil erosion prevention or wildlife enhancement purposes for which the land is primarily set aside; or

(2) any solid nonhazardous, cellulosic waste material that is segregated from other waste material, including waste pallets, crates and landscape or right-of-way tree trimmings or agricultural sources, including orchard tree crops, vineyards, grain, legumes, sugar and other crop by-products or residues.

"Clean hydrogen." Hydrogen produced through a process that results in a lifecycle greenhouse gas emissions rate of less than 0.45 kilograms of CO2e per kilogram of hydrogen.

"Coal mine fugitive emissions." Methane gas emitted from an abandoned or working coal mine.

"Combined heat and power system." A combined heat and power system installed on a commercial, institutional or industrial facility site within this Commonwealth that is a qualified facility under the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617, 92 Stat. 3117) and has an annual operating efficiency of at least 60% with at least 25% of the total annual energy output being useful thermal energy. A combined heat and power system shall qualify as a Tier II PRESS

energy source for up to 25 megawatts of aggregate electric nameplate capacity on a site.

"Commission." The Pennsylvania Public Utility Commission.

["Cost-recovery period." The longer of:

(1) the period during which competitive transition charges under 66 Pa.C.S § 2808 (relating to competitive transition charge) or intangible transition charges under 66 Pa.C.S. § 2812 (relating to approval of transition bonds) are recovered; or

(2) the period during which an electric distribution company operates under a Pennsylvania Public Utility Commission-approved generation rate plan that has been approved prior to or within one year of the effective date of this act, but in no case shall the cost-recovery period under this act extend beyond December 31, 2010.]

"Customer-generator." A nonutility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 50 kilowatts if installed at a residential service or not larger than 3,000 kilowatts at other customer service locations, except for customers whose systems are above three megawatts and up to five megawatts who make their systems available to operate in parallel with the electric utility during grid emergencies as defined by the regional transmission organization or where a microgrid is in place for the primary or secondary purpose of maintaining critical infrastructure, such as homeland security assignments, emergency services facilities, hospitals, traffic signals, wastewater treatment plants or telecommunications facilities, provided that technical rules for operating generators interconnected with facilities of an electric distribution company, electric

cooperative or municipal electric system have been promulgated by the Institute of Electrical and Electronic Engineers and the Pennsylvania Public Utility Commission.

"Demand-side management." The management of customer consumption of electricity or the demand for electricity through the implementation of:

(1) energy efficiency technologies, management practices or other strategies in residential, commercial, institutional or government customers that reduce electricity consumption by those customers;

(2) load management or demand response technologies, management practices or other strategies in residential, commercial, industrial, institutional and government customers that shift electric load from periods of higher demand to periods of lower demand, such as virtual power plants; or

(3) industrial by-product technologies consisting of the use of a by-product from an industrial process, including the reuse of energy from exhaust gases or other manufacturing by-products, including combined heat and power systems and waste-heat-to-power systems, that are used in the direct production of electricity at the facility of a customer.

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

"Distributed generation system." Small-scale power generation of electricity, not including combined heat and power.

"Electric distribution company." The term shall have the same meaning given to it in 66 Pa.C.S. Ch. 28 (relating to restructuring of electric utility industry).

"Electric generation supplier." The term shall have the same meaning given to it in 66 Pa.C.S. Ch. 28 (relating to restructuring of electric utility industry).

"Energy price index." The average of the day-ahead locational marginal prices at the highest PJM Interconnection, L.L.C., pricing node in Pennsylvania for each hour of the three prior years.

"Energy storage resource." A technology, including any electromechanical, thermal and electromechanical technology, or any technology defined as "energy storage technology" in 26 U.S.C. § 48E (relating to clean electricity investment credit) or 26 CFR 1.48E-2(g)(6) (relating to qualified investments in qualified facilities and EST for purposes of section 48E) as of the effective date of this definition that is capable of absorbing and storing electrical energy for use at a later time.

"Environmental justice area." A geographic area characterized by increased pollution burden and sensitive or vulnerable populations based on demographic and environmental data as identified by the department.

"Force majeure." [Upon its own initiative or upon a request of an electric distribution company or an electric generator supplier, the Pennsylvania Public Utility Commission, within 60 days, shall determine if alternative PRESS energy resources are reasonably available in the marketplace in sufficient quantities or are likely to be developed in sufficient quantities due to alternative compliance payments or economics for the electric distribution companies and electric generation suppliers to meet their obligations for that reporting period under this act. In making this determination, the commission shall consider whether electric distribution companies or electric generation suppliers

have made a good faith effort to acquire sufficient PRESS alternative energy to comply with their obligations. Such good faith efforts shall include, but are not limited to, banking reliable alternative energy credits during their transition periods, seeking reliable alternative energy credits through competitive solicitations and seeking to procure reliable alternative energy credits or PRESS alternative energy through long-term contracts. In further making its determination, the commission shall assess the availability of alternative reliable energy credits in the Generation Attributes Tracking System (GATS) or its successor and the availability of reliable alternative energy credits generally in Pennsylvania and other jurisdictions in the PJM Interconnection, L.L.C. regional transmission organization (PJM) or its successor. The commission may also require solicitations for reliable alternative energy credits as part of default service before requests of force majeure can be made. If the commission further determines that PRESS alternative energy resources are not reasonably available in sufficient quantities in the marketplace for the electric distribution companies and electric generation suppliers to meet their obligations under this act, then the commission shall modify the underlying obligation of the electric distribution company or electric generation supplier or recommend to the General Assembly that the underlying obligation be eliminated. Commission modification of the electric distribution company or electric generation supplier obligations under this act shall be for that compliance period only. Commission modification shall not automatically reduce the obligation for subsequent compliance years. If the commission modifies the electric distribution company or electric generation supplier obligations

under this act, the commission may require the electric distribution company or electric generation supplier to acquire additional reliable alternative energy credits in subsequent years equivalent to the obligation reduced due to a force majeure declaration if the commission determines that sufficient reliable alternative energy credits exist in the marketplace.] The determination made by the commission under section 2.1.

"Fuel cells." A device that converts chemical energy in a hydrogen-rich fuel directly into electricity, heat and water without combustion including an integrated system comprised of a fuel cell stack assembly or linear generator assembly and associated balance of plant components which converts a fuel into electricity using electromechanical means. The term does not include an assembly which contains rotating parts.

"Fusion energy." The product of fusion reactions inside a fusion device and used to generate electricity.

"Geothermal energy." The utilization of natural heat of the earth found below the surface of the earth, which is then used to generate electricity.

(1) The term includes:

(i) Devices that generate electricity using a product of geothermal process including heat, indigenous steam, pressure, hot water and hot brines, gases and byproducts.

(ii) Devices that generate or distribute energy from a geothermal heating and cooling system.

(2) The term does not include helium, oil, hydrocarbon gas or any other hydrocarbon substances.

"Geothermal heating and cooling system." A system that:

(1) Exchanges thermal energy from groundwater or a

shallow ground source to generate thermal energy through an electric geothermal heat pump or a system of electric geothermal heat pumps interconnected with a geothermal extraction facility that:

(i) Is a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing.

(ii) Does not come in contact with the outside environment or an open loop system in which ground or surface water is:

(A) circulated in an environmentally safe manner directly into the facility; and

(B) returned to the same aquifer or surface water source.

(2) Meets or exceeds the current Federal Energy Star product specification standards.

(3) Replaces or displaces less efficient space or water heating systems, regardless of fuel type.

(4) Replaces or displaces less efficient space cooling systems that do not meet Federal Energy Star product specification standards.

(5) Does not feed electricity back to the grid.

"Hydropower." The production of electric power by harnessing the hydroelectric potential of moving water impoundments, including pumped storage that does not meet the requirements of low-impact hydropower.

"Lifecycle greenhouse gas emissions." As defined under 26 CFR §§ 1.45V-1 (relating to credit for production of clean hydrogen), 1.45V-2 (relating to special rules), 1.45V-3 (relating to rules relating to the increased credit amount for

prevailing wage and apprenticeship), 1.45V-4 (relating to procedures for determining lifecycle greenhouse gas emissions rates for qualified clean hydrogen), 1.45V-5 (relating to procedures for verification of qualified clean hydrogen production and sale or use) and 1.45V-6 (relating to rules for determining the placed in service date for an existing facility that is modified or retrofitted to produce qualified clean hydrogen) as of the effective date of this definition.

"Low-impact hydropower." Technology that produces electric power and harnesses the hydroelectric potential of moving water impoundments, if the incremental hydroelectric development:

(1) Does not adversely change existing impacts to aquatic systems.

(2) Meets the certification standards established by the Low Impact Hydropower Institute and American Rivers, Inc., or its successors.

(3) Provides an adequate water flow for protection of aquatic life and for safe and effective fish passage.

(4) Protects against erosion.

(5) Protects cultural and historic resources.

"Municipal solid waste." This will include energy from existing waste to energy facilities which the Department of Environmental Protection has determined are in compliance with current environmental standards, including, but not limited to, all applicable requirements of the Clean Air Act (69 Stat. 322, 42 U.S.C. § 7401 et seq.) and associated permit restrictions and all applicable requirements of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

"Net metering." The means of measuring the difference between the electricity supplied by an electric utility and the

electricity generated by a customer-generator when any portion of the electricity generated by the [alternative] PRESS energy [generating] system is used to offset part or all of the customer-generator's requirements for electricity. [Virtual] The term includes virtual meter aggregation on properties owned or leased and operated by a customer-generator and located within two miles of the boundaries of the customer-generator's property and within a single electric distribution company's service territory [shall be eligible for net metering].

"PRESS energy sources." The term shall include existing and new sources for the production of electricity including Tier I, Tier II and Tier III PRESS energy sources.

"PRESS energy system." A facility or energy system that uses a form of PRESS energy sources to generate electricity and delivers the electricity generated to the distribution system of an electric distribution company or to the transmission system operated by a regional transmission organization.

"Regional transmission organization." An entity approved by the Federal Energy Regulatory Commission [(FERC)] that is created to operate and manage the electrical transmission grids of the member electric transmission utilities as required under [FERC] Federal Energy Regulatory Commission Order 2000, Docket No. RM99-2-000, [FERC] Federal Energy Regulatory Commission Chapter 31.089 (1999) or any successor organization approved by the [FERC] Federal Energy Regulatory Commission.

"Reliable energy credit." A tradable instrument that is used to establish, verify and monitor compliance with this act. A unit of credit shall equal one megawatt hour of electricity from a PRESS energy source. The reliable energy credit shall remain the property of the reliable energy system until the reliable

energy credit is voluntarily transferred by the reliable energy system.

"Reliable energy sustainability standards." Standards establishing that a certain amount of energy sold from PRESS energy sources is included as part of the sources of electric generation by electric utilities within this Commonwealth.

"Reporting period." The 12-month period from June 1 through May 31. A reporting year shall be numbered according to the calendar year in which it begins and ends.

"Retail electric customer." The term shall have the same meaning given to it in 66 Pa.C.S. Ch. 28 (relating to restructuring of electric utility industry).

"Small modular reactors." An advanced nuclear reactor with a rated capacity of less than 300 electrical megawatts that can be constructed and operated in combination with similar reactors at a single site.

["Tier I alternative energy source." Energy derived from:

(1) Solar photovoltaic and solar thermal energy.

(2) Wind power.

(3) Low-impact hydropower.

(4) Geothermal energy.

(5) Biologically derived methane gas.

(6) Fuel cells.

(7) Biomass energy.

(8) Coal mine methane.

"Tier II alternative energy source." Energy derived from:

(1) Waste coal.

(2) Distributed generation systems.

(3) Demand-side management.

(4) Large-scale hydropower.

(5) Municipal solid waste.

(6) Generation of electricity utilizing by-products of the pulping process and wood manufacturing process, including bark, wood chips, sawdust and lignin in spent pulping liquors.

(7) Integrated combined coal gasification technology.]

"Tier I PRESS energy source." Electric energy derived from:

(1) Solar photovoltaic and solar thermal energy.

(2) Wind power.

(3) Low-impact hydropower.

(4) Geothermal energy.

(5) Advanced reactors.

(6) Fusion energy.

(7) Coal mine fugitive emissions.

(8) Biogas energy.

"Tier II PRESS energy source." Electric energy derived from:

(1) Natural gas or coal using at least 80% clean hydrogen co-fired blend or equivalent carbon intensity reduction technologies.

(2) Non-Tier I distributed generation systems.

(3) Demand-side management.

(4) Hydropower.

(5) Fuel cells.

(6) Biomass energy.

(7) Storage resources co-located with a Tier I PRESS energy source certified to possess the technical capacity to deliver 10% nameplate capacity of the Tier I PRESS energy source every hour for a 24-hour period.

(8) Combined heat and power system.

(9) Tier I PRESS energy source that meets the

requirements of section 3(e)(16).

"Tier III PRESS energy source." Electric energy derived from:

(1) Natural gas or coal using 20% clean hydrogen co-fired blend or equivalent carbon reduction technologies.

(2) Waste coal.

(3) Municipal solid waste.

(4) Integrated combined coal gasification technology.

(5) Generation of electricity utilizing by-products of the pulping process, including bark, wood chips, sawdust and lignin in spent pulping liquors.

(6) Tier I PRESS energy source that meets the requirements of section 3(e)(16).

"True-up period." The period each year from the end of the reporting year until September 1.

"Virtual currency." A type of digital unit that is used as a medium of exchange or a form of digitally stored value. The term shall be broadly construed to include a digital unit of exchange that:

(1) has a centralized repository or administrator;

(2) is decentralized and has no centralized repository or administrator; or

(3) may be created or obtained by computing or manufacturing effort.

"Waste coal." The combustion of waste coal in a facility:

(1) In which the waste coal was disposed or abandoned prior to July 31, 1982, or disposed of thereafter in a permitted coal refuse disposal site regardless of when disposed of, and used to generate electricity, or other waste coal combustion meeting alternate eligibility requirements

established by regulation.

(2) That uses at a minimum a combined fluidized bed boiler and is outfitted with a limestone injection system and a fabric filter particulate removal system.

Reliable energy credits shall be calculated based upon the proportion of waste coal utilized to produce electricity at the facility.

"ZEC." A zero emission credit authorized under section 8.1.

Section 2. The act is amended by adding a section to read:

Section 2.1. Force majeure.

(a) Determination of commission.--

(1) Upon the commission's own initiative or upon a request of an electric distribution company or an electric generator supplier, the commission shall determine if PRESS energy resources are reasonably available in the marketplace in sufficient quantities or are likely to be developed in sufficient quantities due to alternative compliance payments or economics for the electric distribution companies and electric generation suppliers to meet their obligations for that reporting period under this act.

(2) In making the determination under paragraph (1), the commission shall consider whether electric distribution companies or electric generation suppliers have made a good faith effort to acquire sufficient PRESS energy to comply with their obligations. The good faith efforts shall include, but are not limited to, banking reliable energy credits during their transition periods, seeking reliable energy credits through competitive solicitations and seeking to procure reliable energy credits or PRESS energy through long-term contracts.

(3) In further making a determination, the commission shall assess the availability of reliable energy credits in the Generation Attributes Tracking System or its successor and the availability of reliable energy credits generally in this Commonwealth and other jurisdictions in the PJM Interconnection, L.L.C., regional transmission organization or its successor. The commission may also require solicitations for reliable energy credits as part of default service before requests of force majeure can be made.

(b) Modifications of obligations.--

(1) If the commission further determines that PRESS energy resources are not reasonably available in sufficient quantities in the marketplace for the electric distribution companies and electric generation suppliers to meet the obligations under this act, then the commission shall modify the underlying obligation of the electric distribution company or electric generation supplier or recommend to the General Assembly that the underlying obligation be eliminated.

(2) Commission modification of the electric distribution company or electric generation supplier obligations under this act shall be for that compliance period only. Commission modification shall not automatically reduce the obligation for subsequent compliance years.

(3) If the commission modifies the electric distribution company or electric generation supplier obligations under this act, the commission may require the electric distribution company or electric generation supplier to acquire additional reliable energy credits in subsequent years equivalent to the obligation reduced due to a force

majeure declaration if the commission determines that sufficient reliable energy credits exist in the marketplace.

Section 3. Sections 3, 4, 6 and 7 of the act are amended to read:

Section 3. [Alternative energy portfolio] Pennsylvania reliable energy sustainability standards.

(a) General compliance and cost recovery.--

(1) [From the effective date of this act through and including the 15th year after enactment of this act and each year thereafter,] Beginning February 28, 2005, the electric energy sold by an electric distribution company or electric generation supplier to retail electric customers in this Commonwealth shall be comprised of electricity generated from [alternative] PRESS energy sources and in the percentage amounts as described under subsections (b), [and] (c) and (c.1).

(2) Electric distribution companies and electric generation suppliers shall satisfy [both] requirements [set forth] specified in subsections (b), [and] (c) and (c.1), provided, however, that an electric distribution company or an electric generation supplier shall be excused from its obligations under this section to the extent that the commission determines that force majeure exists.

(3) All costs for:

(i) the purchase of electricity generated from [alternative] PRESS energy sources, including the costs of the regional transmission organization, in excess of the regional transmission organization real-time locational marginal pricing, or its successor, at the delivery point of the [alternative] PRESS energy source

for the electrical production of the [alternative] PRESS energy sources; and

(ii) [payments for alternative energy credits, in both cases that are voluntarily acquired by an electric distribution company during the cost recovery period on behalf of its customers shall be deferred as a regulatory asset by the electric distribution company and fully recovered, with a return on the unamortized balance, pursuant to an automatic energy adjustment clause under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) as a cost of generation supply under 66 Pa.C.S. § 2807 (relating to duties of electric distribution companies) in the first year after the expiration of its cost-recovery period. After the cost-recovery period,] any reasonable or prudent direct or indirect costs for the purchase by electric distribution of resources to comply with this section, including, but not limited to, the purchase of electricity generated from [alternative] PRESS energy sources, payments for [alternative] reliable energy credits, cost of credits banked, payments to any third party administrators for performance under this act and costs levied by a regional transmission organization to ensure that [alternative] PRESS energy sources are reliable, shall be recovered on a full and current basis pursuant to an automatic energy adjustment clause under 66 Pa.C.S. § 1307 as a cost of generation supply under 66 Pa.C.S. § 2807.

(b) Tier I and solar photovoltaic shares.--

(1) [Two years after the effective date of this act and through May 31, 2025,] Beginning February 28, 2007, through

May 31, 2026, at least 1.5% of the electric energy sold by an electric distribution company or electric generation supplier to retail electric customers in this Commonwealth shall be generated from Tier I [alternative] PRESS energy sources. Except as provided in this section, the minimum percentage of electric energy required to be sold to retail electric customers from [alternative] Tier I PRESS energy sources shall increase to 2% three years after the effective date of this act. The minimum percentage of electric energy required to be sold to retail electric customers from [alternative] PRESS energy sources shall increase by at least 0.5% each year so that at least 8% of the electric energy sold by an electric distribution company or electric generation supplier to retail electric customers in that certificated territory in the 15th year after the effective date of this subsection is sold from [alternative] Tier I PRESS energy resources.

(1.1) Beginning on June 1, 2026, at least 10.7% of electric energy sold by an electric distribution company or electric generation supplier to retail electric customers in this Commonwealth shall be generated from Tier I PRESS energy sources. Beginning on June 1, 2027, through May 31, 2035, the minimum percentage of electric energy required to be sold to retail electric customers from Tier I PRESS energy sources shall increase by at least 3% each year so that at least 35% of the electric energy sold by an electric distribution company or electric generation supplier to retail electric customers in that certificated territory is sold from Tier I PRESS energy resources by May 31, 2035.

(2) The total percentage of the electric energy sold by an electric distribution company or electric generation

supplier to retail electric customers in this Commonwealth that must be sold from solar photovoltaic technologies is:

(i) 0.0013% for June 1, 2006, through May 31, 2007.

(ii) 0.0030% for June 1, 2007, through May 31, 2008.

(iii) 0.0063% for June 1, 2008, through May 31, 2009.

(iv) 0.0120% for June 1, 2009, through May 31, 2010.

(v) 0.0203% for June 1, 2010, through May 31, 2011.

(vi) 0.0325% for June 1, 2011, through May 31, 2012.

(vii) 0.0510% for June 1, 2012, through May 31, 2013.

(viii) 0.0840% for June 1, 2013, through May 31, 2014.

(ix) 0.1440% for June 1, 2014, through May 31, 2015.

(x) 0.2500% for June 1, 2015, through May 31, 2016.

(xi) 0.2933% for June 1, 2016, through May 31, 2017.

(xii) 0.3400% for June 1, 2017, through May 31, 2018.

(xiii) 0.3900% for June 1, 2018, through May 31, 2019.

(xiv) 0.4433% for June 1, 2019, through May 31, 2020.

(xv) 0.5000% for June 1, 2020, [and thereafter] through May 31, 2031.

(3) Upon commencement of the beginning of the 6th reporting year, the commission shall undertake a review of the compliance by electric distribution companies and electric generation suppliers with the requirements of this act. The review shall also include the status of [alternative] PRESS energy technologies within this

Commonwealth and the capacity to add additional [alternative] PRESS energy resources. The commission shall use the results of this review to recommend to the General Assembly additional compliance goals beyond year 15. The commission shall work with the department in evaluating the future [alternative] PRESS energy resource potential.

(c) Tier II share.--Of the electrical energy required to be sold from [alternative] PRESS energy sources identified in Tier II, the percentage that must be from these technologies is for:

(1) Years 1 through 4 - 4.2%.

(2) Years 5 through 9 - 6.2%.

(3) Years 10 through 14 - 8.2%.

(4) Years 15 [and thereafter] through 19 - 10.0%.

(5) Beginning on June 1, 2026, through May 31, 2027, the electrical energy required to be sold from PRESS energy sources identified in Tier II, the percentage that shall be from these technologies is 6%.

(6) Beginning June 1, 2027, through May 31, 2035, the percentage that must be from these technologies shall increase by 0.5% each year so that at least 10% of the electric energy is sold from PRESS energy sources identified in Tier II by May 31, 2035, and each year thereafter.

(c.1) Tier III share.--Of the electrical energy required to be sold from PRESS energy sources identified in Tier III, the percentage that must be from these technologies is:

(1) June 1, 2026, through May 31, 2029 - 3.8%.

(2) June 1, 2029, through May 31, 2032 - 4.4%.

(3) June 1, 2032, and thereafter - 5%.

(d) [Exemption during cost-recovery period.--Compliance with subsections (a), (b) and (c) shall not be required for any

electric distribution company that has not reached the end of its cost-recovery period or for electric generation supplier sales in the service territory of an electric distribution company that has not reached the end of its cost-recovery period. At the conclusion of an electric distribution company's cost-recovery period, this exception shall no longer apply, and compliance shall be required at the percentages in effect at that time. Electric distribution companies and electric generation suppliers whose sales are exempted under this subsection and who voluntarily sell electricity generated from Tier I and Tier II sources during the cost-recovery period may bank credits consistent with subsection (e)(7).] (Reserved).

(e) [Alternative] Reliable energy credits.--

(1) The commission shall establish [an alternative] a reliable energy credits program as needed to implement this act. The provision of services pursuant to this section shall be exempt from the competitive procurement procedures of 62 Pa.C.S. (relating to procurement).

(2) The commission shall approve an independent entity to serve as the [alternative] reliable energy credits program administrator. The administrator shall have those powers and duties assigned by commission regulations. [Such] The powers and duties shall include, but not be limited to, the following:

(i) To create and administer [an alternative] a reliable energy credits certification, tracking and reporting program. [This program should] The program shall include, at a minimum, a process for qualifying [alternative] PRESS energy systems and determining the manner credits can be created, accounted for, transferred

and retired.

(ii) To submit reports to the commission at such times and in such manner as the commission shall direct.

(3) All qualifying [alternative] PRESS energy systems [must] shall include a qualifying meter to record the cumulative electric production to verify the advanced energy credit value. Qualifying meters will be approved by the commission as defined in paragraph (4).

(4) (i) An electric distribution company or electric generation supplier shall comply with the applicable requirements of this section by purchasing sufficient [alternative] reliable energy credits and submitting documentation of compliance to the program administrator.

(ii) For purposes of this subsection, one [alternative] reliable energy credit shall represent one megawatt hour of qualified [alternative] electric generation, whether self-generated, purchased along with the electric commodity or separately through a tradable instrument and otherwise meeting the requirements of commission regulations and the program administrator.

(5) The [alternative] reliable energy credits program shall include provisions requiring a reporting period [as defined in section 2] for all covered entities under this act. The [alternative] reliable energy credits program shall also include a true-up period [as defined in section 2]. The true-up period shall provide entities covered under this act the ability to obtain the required number of [alternative] reliable energy credits or to make up any shortfall of the [alternative] reliable energy credits they may be required to obtain to comply with this act. A force majeure provision

shall also be provided for under the true-up period provisions.

(6) An electric distribution company and electric generation supplier may bank or place in reserve [alternative] reliable energy credits produced in one reporting year for compliance in either or both of the two subsequent reporting years, subject to the limitations [set forth] specified in this subsection and provided that the electric distribution company and electric generation supplier are in compliance for all previous reporting years. [In addition, the] The electric distribution company and electric generation supplier shall demonstrate to the satisfaction of the commission that [such] the credits:

(i) were in excess of the [alternative] reliable energy credits needed for compliance in the year in which they were generated and that [such] the excess credits have not previously been used for compliance under this act;

(ii) were produced by the generation of electrical energy by [alternative] PRESS energy sources and sold to retail customers during the year in which they were generated; and

(iii) have not otherwise been nor will be sold, retired, claimed or represented as part of satisfying compliance with alternative or renewable energy portfolio standards in other states.

[(7) An electric distribution company or an electric generation supplier with sales that are exempted under subsection (d) may bank credits for retail sales of electricity generated from Tier I and Tier II sources made

prior to the end of the cost-recovery period and after the effective date of this act. Bankable credits shall be limited to credits associated with electricity sold from Tier I and Tier II sources during a reporting year which exceeds the volume of sales from such sources by an electric distribution company or electric generation supplier during the 12-month period immediately preceding the effective date of this act. All credits banked under this subsection shall be available for compliance with subsections (b) and (c) for no more than two reporting years following the conclusion of the cost-recovery period.]

(8) The commission or its designee shall develop a registry of pertinent information regarding all available [alternative] reliable energy credits, credit transactions among electric distribution companies and electric generation suppliers, the number of [alternative] reliable energy credits sold or transferred and the price paid for the sale or transfer of the credits. The registry shall provide current information to electric distribution companies, electric generation suppliers and the general public on the status of [alternative] reliable energy credits created, sold or transferred within this Commonwealth.

(9) The commission may impose an administrative fee on [an alternative] a reliable energy credit transaction. The amount of this fee may not exceed the actual direct cost of processing the transaction by the [alternative] reliable energy credits administrator. The commission [is authorized to] may utilize up to 5% of the alternative compliance fees generated under subsection (f) for administrative expenses directly associated with this act.

(10) The commission shall establish regulations governing the verification and tracking of energy efficiency and demand-side management measures [pursuant to] under this act, which shall include benefits to all utility customer classes. When developing regulations, the commission [must] shall give reasonable consideration to existing and proposed regulations and rules in existence in the regional transmission organizations that manage the transmission system in any part of this Commonwealth. All verified reductions shall accrue credits starting with the [passage] enactment of this act.

(11) The commission shall [within 120 days of the effective date of this act] not later than March 30, 2005, develop a depreciation schedule for [alternative] reliable energy credits created through demand-side management, energy efficiency and load management technologies and shall develop standards for tracking and verifying savings from energy efficiency, load management and demand-side management measures. The commission shall allow for a 60-day public comment period and shall issue final standards within 30 days of the close of the public comment period.

(12) Unless a contractual provision explicitly assigns [alternative] reliable energy credits in a different manner, the owner of the [alternative] reliable energy system or a customer-generator owns any and all [alternative] reliable energy credits associated with or created by the production of electric energy by such facility or customer, and the owner or customer shall be entitled to sell, transfer or take any other action to which a legal owner of property is entitled to take with respect to the credits.

(13) No PRESS energy system shall be eligible to sell reliable energy credits associated with or created by the production of electric energy subsequently utilized to generate or produce virtual currency at a facility co-located with the PRESS energy system, or where a power purchase agreement commits the offtake of electric energy to a virtual currency generator or producer. Reliable energy credits may be sold based upon the proportion of electric energy at the facility that is not utilized to generate or produce virtual currency.

(14) An individual generating unit with a nameplate capacity over 250 megawatts must be located inside or within 15 miles of this Commonwealth to be eligible for reliable energy credits. The commission may promulgate a regulation to change the nameplate capacity for purposes of this paragraph if the commission determines that a change to the nameplate capacity is necessary to prevent a force majeure event or the ongoing imposition of alternative compliance payments due to lack of availability of reliable energy credits.

(15) No PRESS energy source may be offered to meet the compliance requirements of more than one tier unless:

(i) the source is owned or leased by and located on the grounds of a school district as defined in section 102 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949. If a PRESS energy source is owned or leased by and located on the grounds of a school district, a school district may offer credits from a Tier I PRESS energy source to meet the compliance requirements of Tier I and either Tier II or Tier III. A school district may not offer credits to meet the

compliance obligations of more than one tier in any year in excess of the school district's requirement for electricity in the same year.

(ii) The source is a Tier I PRESS energy source co-located with an energy storage resource, certified to possess the technical capacity to deliver 10% nameplate capacity of the Tier I PRESS energy source every hour for a 24-hour period. The Tier I PRESS energy source co-located with a certified energy storage resource may receive credits to reach the compliance requirements of Tier 1 equal to the energy output of the Tier I energy source and may additionally receive credits to meet the compliance requirements of Tier II equal to the energy output of the co-located storage resource.

(16) (i) PRESS energy sources eligible for compliance requirements in Tier II, Tier III and solar photovoltaic technologies eligible for compliance requirements under subsection (b)(2) must meet one of the following requirements:

(A) directly deliver the electricity generated to a retail customer of an electric distribution company or to the distribution system operated by an electric distribution company operating within this Commonwealth and obligated to meet the compliance requirements contained under this act;

(B) be directly connected to the electric system of an electric cooperative or municipal electric system operating within this Commonwealth;

(C) connect directly to the electric transmission system at a location that is within the

service territory of an electric distribution company operating within this Commonwealth; or

(D) generate electricity at generation units whose construction and operation is subject to and complies with permits issued by the department under the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, or the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

(ii) This paragraph shall not be construed to affect a binding written contract, entered into prior to the effective date of this paragraph, for the sale and purchase of alternative energy credits derived from alternative energy sources until June 1, 2029.

(iii) Beginning June 1, 2031, 6% of the electric energy sold by an electric distribution company or electric generation supplier to retail electric customers in this Commonwealth and that is used to satisfy Tier I obligations shall be generated from Tier I PRESS energy sources that meet one of the requirements of subparagraph (i). The percentage shall increase by 1.333% in each subsequent compliance year through June 1, 2036, and increase by 0.6% in each subsequent compliance year through June 1, 2051.

(17) Energy from a geothermal heating and cooling system is eligible to sell reliable energy credits associated with or created by the production of energy of the system. Reliable energy credits from a geothermal heating and cooling system shall be created based on the amount of energy, converted from BTUs to kilowatt-hours, that is generated by a

geothermal heating and cooling system for space heating and cooling or water heating. The commission shall determine the form and manner in which the reliable energy credits are verified.

(18) For binding written contracts for the sale and purchase of alternative energy credits derived from alternative energy sources entered into prior to the effective date of this paragraph, the following shall apply until June 1, 2029:

(i) A Tier I alternative energy source may be offered for compliance purposes as a Tier I PRESS energy source.

(ii) A Tier II alternative energy source may be offered for compliance purposes as a Tier II PRESS energy source.

(f) Alternative compliance payment.--

(1) At the end of each program year, the program administrator shall provide a report to the commission and to each covered electric distribution company showing their status level of [alternative] reliable energy acquisition.

(2) The commission shall conduct a review of each determination made under subsections (b), [and] (c) and (c.1). If, after notice and hearing, the commission determines that an electric distribution company or electric generation supplier has failed to comply with subsections (b), [and] (c) and (c.1), the commission shall impose an alternative compliance payment on that company or supplier.

(3) [The] (i) Through May 31, 2027, the alternative compliance payment, with the exception of the solar photovoltaic share compliance requirement [set forth]

specified in subsection (b)(2), shall be $45 times the number of additional [alternative] reliable energy credits needed in order to comply with subsection (b) or (c).

(ii) Subject to subparagraph (iii), beginning June 1, 2027, and continuing each year thereafter, the alternative compliance payment, with the exception of the solar photovoltaic share compliance requirement specified in subsection (b)(2), shall be $45 times the number of additional reliable energy credits needed in order to comply with subsection (b). The alternative compliance payment shall be $35 times the number of reliable energy credits needed in order to comply with subsection (c). The alternative compliance payment shall be $15 times the number of reliable energy credits needed in order to comply with subsection (c.1).

(iii) Beginning June 1, 2030, and continuing each year thereafter, the commission shall adjust the alternative compliance payment amount applicable in any tier under this paragraph by the percentage difference between the energy price index on June 1 of the prior year and the current value of the energy price index.

(4) The alternative compliance payment for the solar photovoltaic share shall be 200% of the average market value of solar renewable energy credits sold during the reporting period within the service region of the regional transmission organization, including, where applicable, the levelized up-front rebates received by sellers of solar renewable energy credits in other jurisdictions in the PJM Interconnection, L.L.C. transmission organization (PJM) or its successor.

(5) The commission shall establish a process to provide for, at least annually, a review of the [alternative] PRESS energy market within this Commonwealth and the service territories of the regional transmission organizations that manage the transmission system in any part of this Commonwealth. The commission will use the results of this study to identify any needed changes to the cost associated with the alternative compliance payment program. If the commission finds that the costs associated with the alternative compliance payment program must be changed, the commission shall present these findings to the General Assembly for legislative enactment.

(g) Transfer to sustainable development funds.--

(1) Notwithstanding the provisions of 66 Pa.C.S. §§ 511 (relating to disposition, appropriation and disbursement of assessments and fees) and 3315 (relating to disposition of fines and penalties), alternative compliance payments imposed pursuant to this act shall be paid into Pennsylvania's Sustainable Energy Funds created under the commission's restructuring orders under 66 Pa.C.S. Ch. 28 (relating to restructuring of electric utility industry). Alternative compliance payments shall be paid into a special fund of the Pennsylvania Sustainable Energy Board, established by the commission under Docket M-00031715, and made available to the Regional Sustainable Energy Funds under procedures and guidelines approved by the Pennsylvania Energy Board.

(2) The alternative compliance payments shall be utilized solely for <u>reliability</u> projects that will increase the amount of electric energy generated from [alternative energy resources for purposes of compliance with subsections

(b) and (c).]:

(i) geothermal energy;

(ii) storage resources co-located with a Tier I PRESS energy source certified to possess technical capacity to deliver 10% nameplate capacity of the Tier I PRESS energy resource every hour for a 24-hour period; or

(iii) a Tier I PRESS energy source owned or leased by and located on the grounds of a school district as defined in section 102 of the Public School Code of 1949.

(3) No less than 40% of funds shall be dedicated to reliability projects located in environmental justice areas under paragraph (2).

(h) Nonseverability.--The provisions of subsection (a) are declared to be nonseverable. If any provision of subsection (a) is held invalid, the remaining provisions of this act shall be void.

Section 4. Portfolio requirements in other states.

If an electric distribution supplier or electric generation company provider sells electricity in any other state and is subject to renewable energy portfolio requirements in that state, they shall list any such requirement and shall indicate how it satisfied those renewable energy portfolio requirements. To prevent double-counting, the electric distribution supplier or electric generation company shall not satisfy Pennsylvania's [alternative] reliable energy [portfolio] requirements using [alternative] PRESS energy used to satisfy another state's portfolio requirements or alternative energy credits already purchased by individuals, businesses or government bodies that do not have a compliance obligation under this act unless the individual, business or government body sells those credits to

the electric distribution company or electric generation supplier. Energy derived from [alternative] PRESS energy sources inside the geographical boundaries of this Commonwealth shall be eligible to meet the compliance requirements under this act. Energy derived from [alternative] PRESS energy sources located outside the geographical boundaries of this Commonwealth but within the service territory of a regional transmission organization that manages the transmission system in any part of this Commonwealth shall only be eligible to meet the compliance requirements of electric distribution companies or electric generation suppliers located within the service territory of the same regional transmission organization. For purposes of compliance with this act, [alternative] PRESS energy sources located in the PJM Interconnection, L.L.C. regional transmission organization (PJM) or its successor service territory shall be eligible to fulfill compliance obligations of all Pennsylvania electric distribution companies and electric generation suppliers. Energy derived from [alternative] PRESS energy sources located outside the service territory of a regional transmission organization that manages the transmission system in any part of this Commonwealth shall not be eligible to meet the compliance requirements of this act. Electric distribution companies and electric generation suppliers shall document that this energy was not used to satisfy another state's renewable energy portfolio standards.

Section 6. Health and safety standards.

The department shall cooperate with the Department of Labor and Industry as necessary in developing health and safety standards, as needed, regarding facilities generating energy from [alternative] PRESS energy sources. The department shall

establish appropriate and reasonable health and safety standards to ensure uniform and proper compliance with this act by owners and operators of facilities generating energy from [alternative] PRESS energy sources [as defined in this act].

Section 7. Interagency responsibilities.

(a) Commission responsibilities.--The commission [will] shall carry out the responsibilities delineated within this act. The commission also shall, in cooperation with the department, conduct an ongoing [alternative] PRESS energy resources planning assessment for this Commonwealth. [This assessment will] The assessment shall, at a minimum, identify current and operating [alternative] PRESS energy facilities, the potential to add future [alternative] PRESS energy generating capacity and the conditions of the [alternative] PRESS energy marketplace. The assessment [will] shall identify needed methods to maintain or increase the relative competitiveness of the [alternative] PRESS energy market within this Commonwealth.

(b) Department responsibilities.--The department shall ensure that all qualified [alternative] PRESS energy sources meet all applicable environmental standards and shall verify that [an alternative] a PRESS energy source meets the standards [set forth] specified in section 2.

(c) Cooperation between commission and department.--The commission and the department shall work cooperatively to monitor the performance of all aspects of this act and [will] shall provide an annual report to the chairman and minority chairman of the Environmental Resources and Energy Committee of the Senate and the chairman and minority chairman of the Environmental [Resources and Energy] and Natural Resource Protection Committee of the House of Representatives. The report

shall include at a minimum:

(1) The status of the compliance with the provisions of this act by electric distribution companies and electric generation suppliers.

(2) Current costs of [alternative] PRESS energy on a per kilowatt hour basis for all [alternative] PRESS energy technology types.

(3) Costs associated with the [alternative] reliable energy credits program under this act, including the number of alternative compliance payments.

(4) The status of the [alternative] PRESS energy marketplace within this Commonwealth.

(5) Recommendations for program improvements.

Section 4. The act is amended by adding a section to read:

Section 8.1. Zero emissions credits.

(a) Beneficial nuclear facility.--A nuclear reactor that provides benefits to this Commonwealth may apply to the commission for ZECs.

(b) Duty of commission.--After notice and opportunity for a hearing, the commission shall approve or disapprove an application submitted under subsection (a) within nine months after the application is filed, provided that approval may be in whole or in part and may be subject to limitations and qualifications as may be deemed necessary and in the public interest. The limitations shall include, but are not limited to, a cap of 75,000,000 megawatt-hours of ZECs approved each year.

(c) Price of ZEC.--The price of a ZEC shall be the amount by which $9 per MWh exceeds 80% of the difference of the gross receipts of the nuclear reactor for the previous year expressed as a dollar per MWh, and $31 per MWh. The $9 per MWh and $31 per

MWh values in this subsection shall be adjusted annually by the commission to reflect the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area after 2033. The commission shall transmit a notice of the adjustment to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.

(d) Regulations.--Within 365 days prior to the expiration of the availability of zero-emission nuclear power production credits established under section 45U of the Internal Revenue Code of 1986 (26 U.S.C. § 45U), the commission shall promulgate regulations to implement the requirements of this section. The regulations shall include the following:

(1) Data submission requirements necessary to evaluate projected environmental benefits and to verify annual gross receipts.

(2) Recapture of the allocation of any credit within the previous three years to a beneficial nuclear reactor that permanently terminates operations, except in the case of force majeure.

(e) Ineligibility.--A beneficial nuclear facility shall not be eligible to receive ZECs during any period in which they are receiving zero-emission nuclear power production credits established under section 45U of the Internal Revenue Code of 1986.

(f) Recovery of costs.--If the commission has approved ZECs under subsection (a) it shall allow the public utility to recover all prudent and reasonable costs associated with the credits, provided that the prudent and reasonable costs must be recovered in accordance with appropriate accounting principles.

(g) Expiration.--This section shall expire 10 years after the effective date of the regulations promulgated by the commission under subsection (d).

Section 5. A reference in statute or regulation to "Alternative Energy Portfolio Standards" shall be deemed a reference to "Pennsylvania Reliable Energy Sustainability Standards."

Section 6. This act shall take effect as follows:

(1) The addition of section 3(e)(16)(ii) and (18) of the act shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect June 1, 2026.

HOUSE OF REPRESENTATIVES
DEMOCRATIC COMMITTEE BILL ANALYSIS

Bill No:	HB0501 PN1478	**Prepared By:**	Andrew McMenamin (717) 783-4043,6941
Committee:	Environmental & Natural Resource Protection	**Executive Director:**	Evan Franzese
Sponsor:	Otten, Danielle		
Date:	4/25/2025		

A. Brief Concept

Establishes Pennsylvania Reliable Energy Sustainability Standards (PRESS) and updates existing clean energy standards to provide for 35 percent generation from renewable sources by 2035.

C. Analysis of the Bill

HB 501 (Otten) replaces Alternative Energy Portfolio Standards (AEPS) with PA Reliable Energy Sustainability Standards (PRESS) and updates renewable energy standards in PA.

PRESS Targets

Establishes the following minimum requirements for electric energy sold by an electric distribution company (EDC) or electric generation supplier (EGS):

- 35% from Tier I PRESS energy sources by May 31, 2035.
  - Increases to 10.7% beginning June 1, 2026, increasing by 3% per year through 2035.
  - Maintains .5% carveout for solar through May 31, 2031.
- 10% from Tier II PRESS energy sources by May 31, 2035.
  - Reduces to 6% beginning June 1, 2026, increasing by .5% per year through 2035.
- 5% from Tier III PRESS energy sources by June 1, 2032.
  - Establishes 3.8% requirement beginning June 1, 2026, increasing to 4.4% in 2029 and 5% by June 1, 2032 and thereafter.

PRESS Energy Sources

Tier I PRESS energy sources include electric energy derived from:

- Solar photovoltaic and solar thermal energy.
- Wind power.
- Low-impact hydropower.
- Geothermal energy.
- Advanced nuclear reactors.
- Fusion energy.
- Coal mine fugitive emissions.
- Biogas energy.

Tier II PRESS energy sources include electric energy derived from:

- Natural gas or coal using at least 80% clean hydrogen co-fired blend or equivalent carbon intensity reduction technologies.
- Non-Tier I distributed generation systems.
- Demand-side management.
- Hydropower.
- Fuel cells.
- Biomass energy.

- Storage resources co-located with a Tier I PRESS energy source with 10% nameplate capacity available every hour for a 24-hour period.
- Combined heat and power.
- A tier I PRESS energy source that meets the requirements of section 3(e)(16).

Tier III PRESS energy sources include electric energy derived from:

- Natural gas or coal using 20% clean hydrogen co-fired blend or equivalent carbon reduction technologies.
- Waste coal.
- Municipal solid waste.
- Integrated combined coal gasification technology.
- Generation of electricity utilizing by-products of the pulping process, including bark, wood chips, sawdust and lignin in spent pulping liquors.
- Tier I PRESS energy source that meets the requirements of section 3(e)(16).

Force Majeure

Requires PUC to determine, upon the request of an EDC/EGS or on their own, whether:

- Energy resources are reasonably available in the marketplace to allow EDCs and EGSs to meet their obligations for the relevant reporting period.
- EDCs/EGSs have made a good-faith effort to meet those obligations. "Good faith effort" includes, but is not limited to:
    - banking reliable energy credits during their transition periods,
    - seeking reliable energy credits through competitive solicitations and
    - seeking to procure reliable energy credits or PRESS energy through long-term contracts.
- Reliable energy credits (either through the Generation Attributes Tracking System or generally) are available in PA and PJM.
- PUC may also require solicitations for reliable energy credits as part of default service before requests of force majeure can be made.

Requires PUC to modify EDC and EGS obligations or recommend to the General Assembly that the underlying obligation be eliminated if the commission determines that PRESS energy resources are not reasonably available in the marketplace to meet EDC and EGS obligations under the act.

- PUC modifications would only be applicable for the relevant compliance period.
- PUC may require EDCs or EGSs to acquire additional reliable energy credits in subsequent years equivalent to the reductions due to the force majeure declaration.

Reliable Energy Credits

Removes provisions related to exemptions for EDCs during cost recovery periods that are no longer relevant.

Provides that energy used to generate or produce virtual currency is not eligible for renewable energy credits.

Requires generating units with a nameplate capacity over 250 MW to be located in PA or within 15 miles of PA in order to be eligible for renewable energy credits.

- PUC may change the minimum capacity by regulation if necessary to prevent a force majeure event or the ongoing imposition of alternative compliance payments due to lack of available credits.

PRESS energy sources may not be offered to meet compliance requirements of more than one tier unless:

- The energy source is owned/leased by a school district and on school district property to be eligible to meet compliance requirements of more than one Tier. A school district may not offer credits in excess of the school district's electricity requirement in a given year.
- The energy source is co-located with a co-located energy storage resource. The energy storage resource would be eligible for Tier II credits.

Provides for additional in-state geographical requirements for PRESS energy sources in order to be eligible, as follows:

- PRESS energy sources would be required to meet one of the following requirements:
  - directly deliver electricity generated to:
    - a retail customer of an EDC required to comply with the act or
    - a distribution system operated by an EDC required to comply with the act;
  - be directly connected to an electric cooperative or municipal electric system within PA;
  - connect directly to the electric transmission system at a location that is within the service territory of an EDC operating within PA; or
  - generate electricity at generation units subject to and in compliance with permits issued by DEP under the Air Pollution Control Act (Act 787 of 1959) or Solid Waste Management Act (Act 97 of 1980).
- The following apply for the above requirements:
  - Existing contracts as of the effective date for the sale and purchase of energy credits would not be affected until June 1, 2029.
  - These requirements would apply to all energy sources eligible under Tier II, Tier III, and the solar carveout.
  - Tier I sources could be eligible for Tier II and Tier III credits if they meet one of these requirement.
  - For Tier I obligations, 6% of the electric energy sold by an EDC/EGS to retail electric customers in PA shall be generated from sources meeting one of the above requirements, beginning June 1, 2031.
    - The percentage shall increase by 1.333% in subsequent compliance years through June 1, 2036.
    - The percentage shall increase by 0.6% in subsequent compliance years through June 1, 2051.

Allows geothermal heating and cooling systems to sell renewable energy credits.

- Credits would be created based on the amount of energy that is generated by a geothermal system for space heating and cooling or water heating, converted from BTUs to KWhs.
- PUC would be required to determine the form and manner in which the credits are verified.

Allows Tier I and Tier II alternative energy sources to be offered for compliance purposes as a Tier I PRESS energy source, until June 1, 2029, for contracts entered into prior to the effective date.

Alternative Compliance Payments

Sets the alternative compliance payment as follows, beginning June 1, 2027:

- $45 times the number of additional credits needed to comply with Tier I requirements, except for solar share compliance.
- $35 times the number of additional credits needed to comply with Tier II requirements.
- $15 times the number of additional credits needed to comply with Tier III requirements.

Requires PUC to increase alternative compliance payment amounts based on changes to the energy price index.

Requires funds from alternative compliance payments to be utilized solely for projects that increase the amount of energy generated from certain sources.

- Eligible sources include:
    - geothermal energy;
    - storage resources co-located with a Tier I source; or
    - a Tier I source owned/leased by and located on the grounds of a school district.
- At least 40% of funds would need to be dedicated to projects located in environmental justice areas.

Zero Emissions Credits (ZECs)

Allows nuclear reactors that benefit the Commonwealth to apply for ZECs.

Requires PUC to decide on applications within 9 months of the application being filed, after notice and opportunity for a hearing.

Caps approvals at 75 million MWh of ZECs per year.

Provides for ZEC prices.

Requires PUC to promulgate regulations within one year prior to expiration of federal zero-emission nuclear power production credits.

- Regulations shall include:
    - data submission requirements to evaluate environmental benefits and verify gross annual receipts.
    - the ability recapture credits within the three previous years for a reactor that permanently terminates operations.
- This section expires 10 years following the effective date of this regulation.

Allows public utilities to recover all prudent and reasonable costs associated with the ZECs, if they have been approved by the PUC.

Prohibits a nuclear facility from receiving ZECs during any period in which they are receiving federal zero-emission nuclear power production credits.

Miscellaneous

Updates references from alternative energy credits to reliable energy credits throughout the act.

Definitions

Demand-side management means the management of customer consumption of electricity or the demand for electricity through the implementation of:

- energy efficiency technology or practices;
- load management or demand response technology or practices that shift electric load from periods of higher demand to periods of lower demand, including virtual power plants; or
- industrial by-product technologies, including combined heat and power systems and waste-heat-to-power systems.

Energy price index means the average of the day-ahead locational marginal prices at the highest PJM pricing node in Pennsylvania for each hour of the three prior years.

Reliable energy credit means "a tradable instrument that is used to establish, verify and monitor compliance with this act." One unit of credit equals one MWh of electricity from a PRESS energy source. Credits shall remain the property of the energy system until the credit is voluntarily transferred.

Virtual currency means "a type of digital unit that is used as a medium of exchange or a form of digitally stored value", broadly construed to include a digital unit of exchange that:

- has a centralized repository or administrator;
- is decentralized and has no centralized repository or administrator; or
- may be created or obtained by computing or manufacturing effort.

Effective Date:

June 1, 2026. The provisions of section 3(e)(16)(ii) and (18) shall take effect immediately.

G. Relevant Existing Laws

Alternative Energy Portfolio Standards

The Alternative Energy Portfolio Standards Act (Act 213 of 2004) provides for alternative energy standards in Pennsylvania. Currently, the requirements for electricity sold to retail electricity customers in Pennsylvania are as follows:

- 8 percent from Tier I sources, including a .5 percent solar carveout.
- 10 percent from Tier II sources.

Tier I alternative energy sources include energy derived from:

- Solar photovoltaic and solar thermal energy.
- Wind power.
- Low-impact hydropower.
- Geothermal energy.
- Biologically derived methane gas.
- Fuel cells.
- Biomass energy.
- Coal mine methane.

Tier II alternative energy sources include energy derived from:

- Waste coal.
- Distributed generation systems.
- Demand-side management.
- Large-scale hydropower.
- Municipal solid waste.
- By-products of the pulping process and wood manufacturing process, including bark, wood chips, sawdust and lignin in spent pulping liquors.
- Integrated combined coal gasification technology.

Neighboring States

Pennsylvania's neighbors have the following renewable energy goals:

- Delaware: 40 percent by 2035, with a 10 percent solar carveout.
- Maryland: 50 percent by 2030.
- New Jersey: 50 percent by 2030.
- New York: 70 percent by 2030.
- Ohio: 8.5 percent by 2026.
- West Virginia: In 2015, repealed 25 percent by 2025 standard.

E. Prior Session (Previous Bill Numbers & House/Senate Votes)

HB 501 was previously introduced as HB 2277 during the 2023-2024 Legislative Session, but received no further consideration. The following updates are included in this session's version of the bill:

- Updates dates to reflect reintroduction.
- Increases size of facilities that must be located in PA from 150 MW to 250 MW, and allows these facilities to be located within 15 miles of the border.
- Allows energy storage co-located with a Tier 1 energy source to be eligible to receive Tier 2 credits.
    - In order to be eligible, the storage resource would need to deliver 10% nameplate capacity of the energy source every hour for a 24-hour period.
    - *Energy storage resource* is defined to mean "a technology, including any electromechanical, thermal and electromechanical technology, or any technology defined as "energy storage technology" in 26 U.S.C. § 48E (relating to clean electricity investment credit) or 26 CFR 1.48E-2(g)(6) (relating to qualified investments in qualified facilities and EST for purposes of section 48E) as of the effective date of this definition that is capable of absorbing and storing electrical energy for use at a later time."
- Updates phase-in of geographic requirements.
- Requires PUC to adjust alternative compliance payment based on changes to the energy price index.
- Defines *energy price index* to mean "the average of the day-ahead locational marginal prices at the highest PJM Interconnection, L.L.C., pricing node in Pennsylvania for each hour of the three prior years."
- Updates definition of fuel cells to include linear generators.
- Adds definition for *lifecycle greenhouse gas emissions* to reference federal law.
- Updates definition for *geothermal energy*.

PRINTER'S NO. 1069

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 589 Session of 2025

INTRODUCED BY KINKEAD, GAYDOS, SANCHEZ, KHAN, BENHAM, VENKAT, BRENNAN, KUZMA, CEPEDA-FREYTIZ, MALAGARI, FREEMAN, HILL-EVANS, FLEMING, OTTEN, DEASY, STEELE, GREEN, KENYATTA, GUENST, SCHWEYER, PASHINSKI, INGLIS, MATZIE, ABNEY, SALISBURY, POWELL, KULIK, MAYES, D. MILLER, MARKOSEK AND McANDREW, MARCH 20, 2025

REFERRED TO COMMITTEE ON ENVIRONMENTAL AND NATURAL RESOURCE PROTECTION, MARCH 20, 2025

AN ACT

Establishing the Landslide and Sinkhole Insurance Program and the Landslide and Sinkhole Insurance Fund; establishing and providing for the powers and duties of the Landslide and Sinkhole Insurance Board; providing for duties of the Auditor General; imposing a penalty; and making transfers.

TABLE OF CONTENTS

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

CHAPTER 1

PRELIMINARY PROVISIONS

Section 101. Declarations.

The General Assembly finds and declares as follows:

(1) Geologists have studied with increasing concern the underground movement of the geological formations in this Commonwealth and its impeding effects on vertical and horizontal natural and manmade surfaces.

(2) Landslides and sinkholes have historically been the norm throughout most parts of this Commonwealth.

(3) Landslides and sinkholes occur without regard for municipal boundaries, ordinances, planning codes, politics and economies, making it difficult for local officials to deal effectively with the development and implementation of methods and standards to control the devastation that these natural forces can cause.

(4) Landslides and sinkholes have caused an enormous amount of damage to homes and roadways in this Commonwealth, particularly the southwestern region of the State.

(5) Landslides and sinkholes will continue to plague southwestern Pennsylvania.

(6) Landslides and sinkholes affect every state in the nation, causing an estimated $2,000,000,000 to $4,000,000,000 in damages per year.

(7) Landslide and sinkhole damage caused by flooding is not covered by the National Flood Insurance Program.

(8) Problems associated with landslide and sinkhole damage are becoming more widespread.

Section 102. 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 Landslide and Sinkhole Insurance Board established under section 305.

"Community." A political subdivision that has zoning and building code jurisdiction over an area having landslide and sinkhole features.

"Department." The Department of Community and Economic Development of the Commonwealth.

"GIS." Geographic information systems.

"Insurance fund." The Landslide and Sinkhole Insurance Fund established under section 501.

"Landslide." A detached mass of soil, rock, earth or debris that moves down a slope and is of sufficient size to cause damage.

"Landslide features." The term includes rockfall areas, creep, red beds and historic landslides.

"Program." The Landslide and Sinkhole Insurance Program established under section 302.

"Sinkhole." A closed topographic depression or basin, generally draining underground, including a doline, uvala, blind valley or sink.

CHAPTER 3

LANDSLIDE AND SINKHOLE INSURANCE PROGRAM

Section 301. Program goals.

The goals of the program shall be to:

(1) Provide actuarially sound insurance coverage.

(2) Make program policies universally available and competitively priced.

(3) Make use of the most effective scientific and

technological advances available, including, but not limited to, technology such as GIS.

(4) Process claims promptly, fairly and consistently.

(5) Collaborate with other organizations that operate in the public interest to assist in achieving the program's goals.

Section 302. Landslide and Sinkhole Insurance Program.

The Landslide and Sinkhole Insurance Program is established within the department. The program shall be administered by the board. The department shall provide administrative services and staff to the board for the purposes specified under this act. The board shall reimburse the department for the cost incurred for providing the administrative services and staff, including legal counsel. The board shall enter into an agreement with the department specifying the rights and obligations that the board and department have in administering their duties required under this act.

Section 303. Board authority.

(a) Intergovernmental cooperation.--The board shall:

(1) Work closely with Federal, State and local agencies and any other government agencies, including those of other states, to accomplish program goals.

(2) Collaborate with the Department of Conservation and Natural Resources, Department of Transportation, educational institutions and Federal agencies to complete a survey of this Commonwealth to define landslide and sinkhole features and identify areas of this Commonwealth most at risk of landslides and sinkholes and develop a Statewide map of landslide and sinkhole risk.

(3) Develop best management practices, including

recommendations for local governments to mitigate slope instability and landslide and sinkhole risk.

(4) Develop and maintain a community rating system based on landslide and sinkhole risk.

(5) Develop and maintain a publicly accessible Internet website that includes all of the following:

(i) Share the most up-to-date geological surveys in the form of maps, GIS data or other useful forms and related information free of charge to government agencies and appropriate representatives of communities and at a reasonable cost to all other persons.

(ii) Landslide and sinkhole insurance map panels.

(iii) A Statewide map of landslide and sinkhole risk and a community rating system.

(6) Inform the Department of Transportation of which highways are at greatest risk from landslides and sinkholes.

(7) Notify local governments in areas with the greatest risk from landslides and sinkholes.

(8) Have the authority to consult, receive information and enter into any agreements or other arrangements in order to identify and publish information with respect to all duties under this act.

(b) Studies and investigations.--

(1) The board is authorized to carry out necessary studies and investigations, utilizing to the maximum extent practicable the existing facilities and services of other Federal and State departments or agencies, local government agencies and any other organizations to implement the board's duties under this act.

(2) The board may enter into any contracts, agreements

or other appropriate arrangements to carry out its authority under this subsection. Studies and investigations under paragraph (1) shall include analysis of the following:

(i) Laws.

(ii) Regulations.

(iii) Ordinances.

(iv) Zoning.

(v) Building codes.

(vi) Building permits.

(vii) Subdivision or other building restrictions.

(c) State and local measures.--On the basis of studies and investigations under subsection (b), the board shall develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will:

(1) Constrict the development of land that is exposed to landslide and sinkhole damage, where appropriate.

(2) Guide the development of proposed construction away from locations that are threatened by landslide and sinkhole features.

(3) Assist in reducing damage caused by landslides and sinkholes.

(4) Otherwise improve the long-term land management and use of landslide-prone and sinkhole-prone areas.

(d) Technical assistance.--The board shall work closely with and provide technical assistance to State and local government agencies to encourage the application of the criteria and the adoption and enforcement of the measures under this section.

Section 304. Land-use controls.

A local government may adopt land-use controls for the

benefit of the local government's residents. The following shall apply:

(1) No new landslide and sinkhole insurance coverage shall be provided to new construction without proof of compliance with local prevention measures adopted by an appropriate local public body.

(2) A community rating system shall be employed by the board as an incentive for community landslide and sinkhole management. The rating system shall consider where landslide and sinkhole damage is more likely to occur and give higher ratings to those communities that have lower risk of damage either due to low risk of the damage occurring due to the natural characteristics of the community or due to steps taken by the community to prevent the damage. This rating system shall be reflected by the rates assigned to communities.

Section 305. Landslide and Sinkhole Insurance Board.

(a) Establishment.--The Landslide and Sinkhole Insurance Board is established. The board shall include the following members:

(1) The Director of the Pennsylvania Emergency Management Agency or a designee.

(2) The Secretary of Community and Economic Development or a designee who shall serve as chair of the board.

(3) The Secretary of Conservation and Natural Resources or a designee.

(4) The Insurance Commissioner or a designee.

(5) The State Treasurer or a designee.

(6) The Secretary of Transportation or a designee.

(b) Insurance Program.--

(1) The board shall develop and administer the program, including assessing a premium for participating in the program.

(2) Payments for premiums assessed under paragraph (1) shall be deposited into the insurance fund.

(3) Money deposited into the insurance fund under paragraph (2) shall only be used for the program.

(c) Duties of board.--The board shall have the following duties:

(1) Bring civil actions in courts of competent jurisdiction as the board deems necessary and defend the board against civil claims brought against the board.

(2) Establish bylaws for the management and regulation of the board's internal affairs.

(3) Engage and contract with attorneys, accountants and financial experts and any other advisors, consultants and agents as the board deems necessary and fix their compensation.

(4) Engage in any other act as the board deems necessary to implement the board's duties under this act.

CHAPTER 5

LANDSLIDE AND SINKHOLE INSURANCE FUND

Section 501. Landslide and Sinkhole Insurance Fund.

(a) Establishment.--The Landslide and Sinkhole Insurance Fund is established as a restricted fund in the State Treasury.

(b) Purpose.--The insurance fund shall be used to insure against damages resulting from landslide and sinkhole damage.

(c) Claim or liability.--A claim against or a liability of the insurance fund shall not be deemed to constitute a debt or liability of the Commonwealth or a charge against the General

Fund.

Section 502. Expenses.

The expenses of the administration of the insurance fund shall be paid out entirely from the insurance fund.

Section 503. State Treasurer custodian of insurance fund.

The State Treasurer shall be the custodian of the insurance fund and all disbursements from the insurance fund shall be paid by the State Treasurer upon request by the board. The following shall apply:

(1) The State Treasurer shall not be required to audit accounts from which the board requests payments.

(2) The State Treasurer shall not be liable for any payment made under this act.

Section 504. Schedule of premiums.

(a) Publication.--At any time during each year, the board shall prepare and publish on the board's publicly accessible Internet website a schedule of premiums or rates of insurance for subscribers for the program according to the following:

(1) The schedules shall be printed and distributed free of charge to individuals who request a schedule.

(2) A subscriber may pay to the State Treasurer the amount of premium appropriate and, upon payment, shall be insured in accordance with this act for the year for which the premium is paid.

(3) The insurance acquired under paragraph (2) shall cover all payments becoming due for which the premium is paid.

(b) Amount of premium.--The premium for the program is fixed and shall be adequate to enable payment of all sums that may become due and payable under the provisions of this act, and

adequate reserve sufficient to carry all policies and claims to maturity.

(c) Fixing premiums.--In fixing a premium payable by a subscriber, the board may:

(1) take into account the condition of the premises of the subscriber as shown by the report of any inspector appointed by the board;

(2) annually assess the amount of the premium charged and the needs of maintaining the insurance fund under this act. In addition, the board may change the amount of premiums payable by any subscriber as the condition of the premises of the subscriber may justify; and

(3) increase the premiums of any subscriber whose loss experience warrants the change.

(d) Effective date of insurance.--The insurance of any subscriber shall not be effective until the subscriber has paid in full the premium fixed and determined under this section.

(e) Credits.--Rate structures shall provide incentives for measures that reduce the risk of landslide and sinkhole damage and evaluate the measures. The program shall provide incentives in the form of credits on premium rates for landslide and sinkhole insurance coverage in communities that the board determines have adopted and enforced measures that reduce the risk of landslide and sinkhole damage. A credit on premium rates for landslide and sinkhole insurance coverage shall be based on the estimated reduction in damage risks resulting from the measures adopted by a community under the program.

Section 505. Surplus.

(a) Set aside percentage.--The board shall set aside 5% of all premiums collected under this act until the board determines

that the surplus is large enough to cover the catastrophe hazard of all the subscribers to the insurance fund and to guarantee the solvency of the insurance fund.

(b) Reevaluation.--If the board determines that the surplus is large enough under subsection (a), the board shall reevaluate the set aside under subsection (a) and investment of the surplus and, if approved by a two-thirds majority of the board, adjust the percentage of premiums to set aside.

Section 506. Investment of surplus.

(a) Duty of board.--The board shall direct the investment of the insurance fund as authorized by the investment policy approved by the board.

(b) State Treasurer custodian.--The State Treasurer shall be custodian of the insurance fund and the following shall apply:

(1) The State Treasurer shall have full and exclusive power to invest moneys of the insurance fund, as may be directed by the board, with that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence, who are familiar with such matters, exercise in the management of their own affairs, not related to speculation, but to the permanent disposition of the money, considering the probable income to be derived and the probable safety of their capital. Investments shall be made in accordance with a written investment policy approved by the board. The investment policy shall address liquidity, diversification, safety of principal, yield, maturity and quality and the capability of investment management with primary emphasis on safety and liquidity.

(2) The State Treasurer shall be responsible for

executing and overseeing all insurance fund investments and may hire investment advisers, asset managers, actuaries and other financial professional consultants or investment experts that, in the opinion of the State Treasurer, as necessary, to assist in the management of the insurance fund.

(3) The State Treasurer may pay for all investment and management expenses from the insurance fund.

(4) The State Treasurer shall provide an annual investment report to the board and make all reports available online.

Section 507. Disbursements from insurance fund.

(a) Operation of insurance fund.--Money from the general appropriation shall be available for the expense of administering the insurance fund, including the purchase of surety bonds, supplies, materials and motor vehicles, providing for administrative expenses, workmen's insurance covering the officers and employees of the board and any other expenses to enable the operation of the insurance fund as deemed necessary by the board.

(b) Treasury Department.--Money from a general appropriation shall also be available for payment to the Treasury Department for the cost of making disbursements out of the insurance fund on behalf of the insurance fund at amounts as the Treasury Department, with the approval of the board, shall determine.

(c) Accounting.--

(1) The board shall keep an accurate account of the money paid in premiums by subscribers and the disbursements on account of damages to the subscribers' premises. The board may engage the services of professionals to manage the accounting under this subsection.

(2) If at the expiration of any year there shall be a balance remaining after deducting the disbursements, the unearned premiums on undetermined risks and the percentage of premiums paid or payable to create or maintain the surplus as required under this section, and after setting aside an adequate reserve, the balance, as the board may determine to be safely distributable, may be allocated to the cost of administering the insurance fund or distributed among the subscribers in proportion to the premiums paid by them.

(3) For the proportionate share of the subscribers who remain subscribers to the insurance fund, the premiums distributed to subscribers under paragraph (2) shall be credited to the installment of premiums next due by the subscribers. The proportionate share of the subscribers who have ceased to be subscribers in the insurance fund shall be refunded out of the insurance fund in the manner provided under this chapter.

Section 508. Application for insurance, terms of insurance and penalty for false statement.

(a) Application for insurance.--

(1) An owner of a structure who desires to become a subscriber to the insurance fund for the purpose of insuring the structure against damages from landslide and sinkhole damage shall make a complete application, as prescribed by the board, to the board or the board's agents.

(2) Upon receiving an application under paragraph (1), the board shall:

(i) Make an investigation as may be necessary if the application complies with the rules and regulations of the board.

(ii) Within 90 days after receiving the application, issue a certificate showing whether the board approved the application and the amount of premium payable by the applicant for the year for which the premium is sought.

(3) The amount of insurance coverage for which an applicant is approved under paragraph (2) shall not exceed the replacement cost of the insured structure or $150,000, whichever is less. The maximum dollar amount of coverage established under this paragraph shall be reviewed annually by the board to determine whether the insurance fund has the capacity to increase the amount of insurance available to subscribers. The board may adjust the maximum dollar amount of coverage under this paragraph based on available money and need as determined by the annual review.

(4) Policies issued under this chapter may be issued for one year, for two years or for three years as the board may establish.

(5) Except as provided under subsection (b), no insurance shall become effective until the premiums have been paid. All premiums shall be payable to the State Treasurer, who shall issue a receipt for payment. The receipt for premium together with a certificate of the board shall be evidence that the applicant has become a subscriber to the insurance fund and is insured.

(b) Failure to approve or deny application.--If the board fails to make the necessary investigations or inspection and fails to approve or deny an application as required under subsection (a), the insurance requested by the applicant shall be deemed granted. The insurance shall be effective from the date of the application's submission under subsection (a). The

following shall apply to insurance coverage:

(1) The coverage shall be null and void if the applicant fails to remit the premium payment within 20 days from the day the bill for the premium was postmarked.

(2) The insurance may be subjected to later reductions, and premiums adjusted accordingly, if the board determines that the amount of insurance coverage requested is in excess of the current replacement cost of the structure or the maximum amount of coverage established by the insurance fund, whichever is less.

(3) The insurance shall be void if, upon inspection of the structure, the board determines that:

(i) landslide and sinkhole damage occurred prior to the request by the applicant for insurance;

(ii) the applicant, due to an unreasonable action or inaction, is responsible for the failure of the board to inspect the structure within 60 days of receipt of the application in accordance with this section; or

(iii) landslide and sinkhole damage was the result of a negligent act or omission by the applicant.

(c) Offense.--Whoever shall knowingly furnish or make any false certificate, application or statement as required under this section shall be guilty of a summary offense and, upon conviction, shall be sentenced to pay a fine not to exceed $300.

Section 509. Application for increase in insurance.

(a) Application process.--An application for an increase in the amount of insurance, up to the allowable limits, may be made at any time by the subscriber by submitting a written statement, as determined by the board, to the board, except during a period when a claim filed by the subscriber is open and pending

investigation.

(b) Approval of request.--

(1) Upon receipt of the subscriber's written statement under subsection (a), the board shall reinspect the structure within 60 days.

(2) If reinspection under paragraph (1) occurs within the 60-day period and the structure passes the reinspection, the new amount of insurance shall be approved and shall be effective from the date of the first premium payment after reinspection.

(3) If reinspection under paragraph (1) does not occur within the 60-day period, the new amount of insurance shall be deemed approved by the board and shall be effective from the date the subscriber's application for additional insurance was received by the board under subsection (a), but the additional coverage shall be null and void if the subscriber fails to remit the premium payment within 20 days from the day the bill for additional premium is postmarked.

(c) Reduction in additional insurance.--The additional insurance approved under this section may be reduced, with premiums adjusted accordingly, if the board determines that the subscriber's total amount of insurance exceeds the current replacement cost of the structure or the maximum amount of coverage established by the insurance fund, whichever is less.

(d) Voided additional insurance.--Additional insurance approved under this section shall be void if, upon reinspection of the structure, the board determines that:

(1) landslide and sinkhole damage occurred prior to the request of the subscriber for additional insurance;

(2) the subscriber's unreasonable action or inaction is

responsible for the board's failure to reinspect the insured structure within 60 days of receipt of the application for additional insurance under subsection (a); or

(3) landslide and sinkhole damage was the result of a negligent act or omission by the subscriber.

Section 510. Automatic inflation protection increase.

The board shall make available to all subscribers an annual inflation protection option on the anniversary date of each policy to uniformly increase subscribers' coverage. A subscriber must elect this option within 30 days. The option shall not be made available more than once annually. An inflation protection increase shall not be subject to a reinspection of the structure.

Section 511. Insurance for structures under construction.

The board shall make available landslide and sinkhole insurance to owners of structures under construction. The insurance under this section shall have a term of no more than 18 months, or until the structure is 80% complete, whichever is earlier.

Section 512. Claims.

A claim for payment due to loss for an insured under the program shall be on a form and in a manner established by the board and made available on the department's publicly accessible Internet website and by mail upon request. Claims shall be for loss of use due to damage from landslide and payment for claims shall be contingent upon inspection by the board.

Section 513. Audit by Auditor General.

The following shall apply to an audit by Auditor General:

(1) The Auditor General or a designee shall at least once each year make a complete examination and audit of the

insurance fund, including all receipts and expenditures, cash on hand and securities and investments or property held representing cash or cash disbursements.

(2) The Auditor General is authorized to employ consultants, experts, accountants or investigators as necessary to carry out this section.

(3) The expense incurred in making an examination and audit under paragraph (1) shall be certified to the insurance fund by the Auditor General and shall be paid from the general appropriation.

(4) The first audit of the insurance fund may, in the discretion of the Auditor General, extend back to the establishment of the insurance fund or to any other period in the insurance fund's existence.

Section 514. Claims against insurance fund.

A subscriber to the insurance fund must file with the board a true statement of the subscriber's claim for any landslide and sinkhole damage and shall provide the board an opportunity to investigate to determine whether the board must pay the claim.

Section 515. Defenses against claims, suits, procedure and investigations of claims.

In each case where a claim is made against the insurance fund, the insurance fund shall be entitled to every defense against the claim under the policy and shall be subrogated to every right of the subscriber arising out of accidents against any third persons. The insurance fund may, in the name of the insurance fund, sue or be sued to enforce any right given against or to any subscriber or other persons under this act.

Section 516. Subrogation to rights of claimants.

Nothing in this act shall relieve any person, partnership or

corporation from any liability for damages sustained, and the insurance fund shall be subrogated to the rights of any property owners' insurance as provided under this chapter.

Section 517. Insurance companies may cover this type of risk.

An insurance company may issue policies covering the type of risk covered under this act if the policy is approved by the Insurance Commissioner as to policy form and rates.

CHAPTER 7

ADMINISTRATION AND FUNDING

Section 701. Rules and regulations.

The board may publish guidance and rules and promulgate regulations to carry out the purposes of this act, including reasonable classification of risks eligible for coverage under this act, limits of coverage and rules covering the adjustment and settlement of claims.

Section 702. Escrow of premium payments.

A mortgage lender that offers the purchase of insurance under this act shall escrow the premium.

Section 703. Properties in violation of State or local law.

No new landslide and sinkhole insurance coverage shall be provided for a property that the board finds has been declared by a State or local zoning authority or other authorized public body to be in violation of State or local laws, regulations or ordinances that are intended to discourage or otherwise restrict land development or occupancy in areas that are prone to landslides and sinkholes.

Section 704. Board report.

The board shall make an annual report on the program and on experience with landslide and sinkhole insurance sales through producers to the chairperson and minority chairperson of the

Environmental Resources and Energy Committee of the Senate and the chairperson and minority chairperson of the Environmental and Natural Resource Protection Committee of the House of Representatives.

Section 705. Appropriation.

(a) Annually.--Funding shall be appropriated on an annual basis to the board for the purposes of this act and expenses of organization and administration of the insurance fund as provided under this act.

(b) Additional transfer.--If, upon completion of an annual examination and audit under section 513, the board determines that the total asset value of the insurance fund is less than $10,000,000, an additional sum as may be necessary to increase the total asset value of the insurance fund to $10,000,000 shall be transferred from the General Fund to the insurance fund for the purposes of this act for the fiscal year immediately following the examination and audit.

(c) Fund transfer.--The sum of $10,000,000 is transferred from the General Fund to the insurance fund for the fiscal year July 1, 2025, through June 30, 2026.

(d) Board.--Money in the insurance fund is appropriated to the board in amounts as may be determined annually by the Governor to be used for the specified purposes of this act.

Section 706. Appeals.

A party aggrieved by an action of the board shall have the right to appeal in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

Section 707. Cost of administration.

The board shall keep an accurate account of money paid in premiums by the subscribers and disbursements on account of

damages to structures. If, at the expiration of any year, there is a balance remaining after deducting the disbursements, the unearned premiums on undetermined risks and the percentage of premiums paid or payable to create or maintain the surplus provided under this act, and after setting aside an adequate reserve, the board may determine to allocate the remaining money to the cost of administering the insurance fund.

CHAPTER 9

MISCELLANEOUS PROVISIONS

Section 901. Effective date.

This act shall take effect immediately.

PRINTER'S NO. 286

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 349 Session of 2025

INTRODUCED BY YAW, BROOKS, GEBHARD, HUTCHINSON, PENNYCUICK, J. WARD, DUSH, VOGEL AND STEFANO, FEBRUARY 26, 2025

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 26, 2025

AN ACT

Amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, in environmental protection, providing for decommissioning of solar energy facilities.

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

Section 1. Title 27 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 43

DECOMMISSIONING OF SOLAR ENERGY FACILITIES

Sec.

4307. Applicability.

§ 4301. Definitions.

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

"Commencement of construction." The moment when a grantee issues a full notice to proceed order to the construction contractor.

"Decommissioning plan." A document on file with the county recorder of deeds detailing the steps that will be taken to decommission a solar energy facility and the amount, form and timing of financial assurance.

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

"Grantee." The owner of a solar energy facility on leased property.

"Professional engineer." As defined in section 2(e) of the act of May 23, 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and Geologist Registration Law.

"Solar energy facility." The development or construction of a facility that utilizes solar energy to produce or distribute energy.

"Solar energy facility agreement." A lease agreement between a grantee and a surface property owner that authorizes the grantee to operate a solar energy facility on leased property.

§ 4302. Decommissioning requirements in solar energy facility agreements.

A solar energy facility agreement executed after the effective date of this section shall provide that the grantee is responsible for decommissioning the grantee's solar energy

facility on the surface property owner's property in accordance with this chapter no later than 18 months after the facility has ceased producing electricity, except for an instance when the grantee is actively working to recommence production of electricity, including an instance after the occurrence of a force majeure or similar event.

§ 4303. Financial assurance requirements in solar energy facility agreements.

(a) Proof of financial assurance.--A grantee who executes a solar energy facility agreement on or after the effective date of this subsection shall provide a decommissioning plan, submit proof of financial assurance to the county recorder of deeds and provide notice to the surface property owner party to the solar energy facility agreement. The financial assurance shall conform to the requirements of this chapter to secure the performance of the grantee's obligation to decommission the grantee's solar energy facility. If the grantee does not fulfill the grantee's obligation to decommission the solar energy facility, the financial assurance shall be made payable to the surface property owner.

(b) Amount of financial assurance.--The amount of financial assurance shall be equal to the estimated cost to decommission the solar energy facility. The amount of financial assurance shall be calculated and updated every five years by a third-party professional engineer retained by the grantee from a list of professional engineers compiled by the department and published on the department's publicly accessible Internet website.

(c) Delivery.--A grantee shall deliver a decommissioning plan and proof of financial assurance to the county recorder of

deeds in accordance with the following:

(1) No later than 30 days before the commencement of construction of the solar energy facility, the grantee shall provide the decommissioning plan and proof of financial assurance to the county recorder of deeds in an amount equal to 10% of the estimated cost of decommissioning as determined by a third-party professional engineer.

(2) On or before the fifth anniversary of the commencement of construction of the solar energy facility, the grantee shall provide an updated decommissioning plan and proof of financial assurance to the county recorder of deeds in an amount equal to 10% of the estimated cost of decommissioning as determined by a third-party professional engineer.

(3) On or before the 10th anniversary of the commencement of construction of the solar energy facility, the grantee shall provide an updated decommissioning plan and proof of financial assurance to the county recorder of deeds in an amount equal to 40% of the estimated cost of decommissioning, less the facility's salvage value, except that the required proof of financial assurance shall not be less than 25% of the total estimated cost of decommissioning as determined by a third-party professional engineer.

(4) On or before the 15th anniversary of the commencement of construction of the solar energy facility, the grantee shall provide an updated decommissioning plan and proof of financial assurance to the county recorder of deeds in an amount equal to 60% of the estimated cost of decommissioning, less the facility's salvage value, except that the required proof of financial assurance shall not be

less than 40% of the total estimated cost of decommissioning, as determined by a third-party professional engineer.

(5) On or before the 20th anniversary of the commencement of construction of the solar energy facility, the grantee shall provide an updated decommissioning plan and proof of financial assurance to the county recorder of deeds in an amount equal to 80% of the estimated cost of decommissioning, less the facility's salvage value, except that the required proof of financial assurance shall not be less than 60% of the total estimated cost of decommissioning, as determined by a third-party professional engineer.

(6) On or before the 25th anniversary of the commencement of construction of the solar energy facility, the grantee shall provide an updated decommissioning plan and proof of financial assurance to the county recorder of deeds in an amount equal to 100% of the estimated cost of decommissioning, less the facility's salvage value, except that the required proof of financial assurance shall not be less than 70% of the total estimated cost of decommissioning, as determined by a third-party professional engineer.

(7) The calculation of the salvage value of a solar energy facility by a third-party professional engineer shall be limited to salvageable steel, aluminum and copper.

(d) Forms of financial assurance.--Any of the following shall be an acceptable form of financial assurance:

(1) An escrow account.

(2) A certificate of deposit or an automatically renewable, irrevocable letter of credit from a financial institution chartered or authorized to do business in this Commonwealth and regulated and examined by a Federal agency

or the Commonwealth.

(3) A bond executed between the grantee and a corporate surety licensed to do business in this Commonwealth.

(4) A negotiable bond of the Federal Government, the Commonwealth or a municipality within this Commonwealth.

(e) Transferability.--A decommissioning plan, the associated financial assurance and the salvage value of a solar energy facility to reduce the financial assurance may not be separated from the solar energy facility through a change in grantee ownership. The new grantee shall submit proof of financial assurance in accordance with subsection (a). The prior grantee may not release or revoke the prior grantee's financial assurance until the new grantee's proof of financial assurance is filed with the county recorder of deeds and notice is provided to the surface property owner party to the solar energy facility agreement.

§ 4304. Form and content of decommissioning plans.

(a) Development of form.--

(1) Within 180 days of the effective date of this paragraph, the department shall, by regulation and in consultation with the solar energy industry, develop a provisional standard form for a decommissioning plan and financial assurance to be filed with the county recorder of deeds in accordance with this chapter. In order to facilitate the prompt implementation of this chapter, regulations promulgated to develop a provisional standard form under this paragraph shall be deemed temporary regulations. Temporary regulations promulgated under this paragraph shall not be subject to any of the following:

(i) Section 612 of the act of April 9, 1929

(P.L.177, No.175), known as The Administrative Code of 1929.

(ii) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(iii) Sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(iv) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) After the promulgation of the temporary regulations under paragraph (1), the department shall, by regulation and in consultation with the solar energy industry, develop a final standard form for a decommissioning plan and financial assurance to be filed with the county recorder of deeds in accordance with this chapter. The temporary regulations under paragraph (1) shall expire upon the promulgation of the final regulations under this paragraph, or two years after the effective date of this paragraph, whichever is later.

(b) Contents.--The provisional standard form and final standard form under subsection (a) shall include all of the following provisions:

(1) Unless the surface property owner and grantee mutually agree in writing on an alternative condition for restoring the property, the grantee's decommissioning plan shall include all of the following:

(i) The removal of all non-utility-owned equipment, conduits, structures, fencing and foundations to a depth of at least three feet below grade. The grantee shall not be required to remove equipment and materials that the

public utility requires to remain on site.

(ii) The removal of graveled areas and access roads, unless the surface property owner requests in writing for graveled areas and access roads to stay in place.

(iii) The restoration of the property to a condition reasonably similar to the property's condition before the commencement of construction, including the replacement of top soil removed or eroded on previously productive agricultural land.

(iv) The reseeding of a cleared area, unless requested in writing by the surface property owner to not reseed due to plans for agricultural planting.

(2) The required financial assurance under section 4303 (relating to financial assurance requirements in solar energy facility agreements).

(3) The grantee's attestation required under section 4305 (relating to prevention of forced labor).

§ 4305. Prevention of forced labor.

The grantee of a solar energy facility commenced on or after the effective date of this section shall attest to the grantee's compliance with the Uyghur Forced Labor Prevention Act (Public Law 117-78, 135 Stat. 1525) or any other Federal law, rule or regulation that restricts the import or use of goods, wares, articles or merchandise mined, produced or manufactured wholly or in part with forced labor.

§ 4306. Preemption of local ordinances and regulations.

The regulation of the decommissioning of solar energy facilities is a matter of general Statewide interest that requires uniform Statewide regulation. This chapter and the regulations promulgated under this chapter constitute a

comprehensive plan with respect to all aspects of solar energy facility agreements, financial assurance and decommissioning plans associated with solar energy facilities within this Commonwealth. Any county, municipal or other local government ordinance or regulation that materially impedes the purposes of this chapter shall be preempted and shall be without force and effect.

§ 4307. Applicability.

The requirements under this chapter shall not apply to any of the following:

(1) A solar energy facility with a nameplate capacity of two megawatts AC or less.

(2) A customer-generator as defined in section 2 of the act of November 30, 2004 (P.L.1672, No.213), known as the Alternative Energy Portfolio Standards Act.

(3) An owner or operator of a normal agricultural operation as defined in section 2 of the act of June 10, 1982 (P.L.454, No.133), referred to as the Right-to-Farm Law, who owns and operates a solar energy facility on the normal agricultural operation premises, regardless of the location or consumption of the energy generated.

Section 2. This act shall take effect as follows:

(1) The following shall take effect immediately:

The addition of 27 Pa.C.S. § 4304.

This section.

(2) The remainder of this act shall take effect in 180 days.

HOUSE OF REPRESENTATIVES
DEMOCRATIC COMMITTEE BILL ANALYSIS

Bill No:	SB0349 PN0286	**Prepared By:**	Andrew McMenamin (717) 783-4043,6941
Committee:	Environmental & Natural Resource Protection	**Executive Director:**	Evan Franzese
Sponsor:	Yaw, Gene		
Date:	5/13/2025		

A. Brief Concept

Provides for decommissioning requirements for solar energy facilities.

C. Analysis of the Bill

SB 349 amends Title 27 (Environmental Resources) to require decommissioning plans for solar energy facilities with a nameplate capacity greater than 2MW.

Lease agreements between grantees (the owner of the solar facility) and property owners would be required to include provisions that the grantee is responsible for decommissioning the facility no later than 18 months after the facility has finally ceased production.

Financial Assurance and Decommissioning Plan Requirements

Requires a solar energy facility agreement to include the following:

- a decommissioning plan,
- proof of financial assurance to the county recorder of deeds to cover decommissioning costs, and
- notice to the surface property owner.

Provides for decommissioning plans and financial assurance to be updated with the county recorder of deeds every 5 years as follows:

- Within 30 days prior to commencement of construction, the initial decommissioning plan and 10 percent of the estimated decommissioning cost.
- By year 5 following commencement of construction, financial assurance equal to 10 percent of the estimated decommissioning cost.
- By year 10, proof of financial assurance equal to 40 percent of decommissioning costs, minus the facility's salvage value.
- By year 15, proof of financial assurance equal to 60 percent of decommissioning costs, minus the facility's salvage value.
- By year 20, proof of financial assurance equal to 80 percent of decommissioning costs, minus the facility's salvage value.
- By year 25, proof of financial assurance equal to 100 percent of decommissioning costs, minus the facility's salvage value.
- In addition, the following would apply:
    - The grantee would also be required to submit updated decommissioning plans every five years.
    - Decommissioning costs would be determined by a third-party engineer.
    - A decommissioning plan and the associated financial assurance may not be separated from the solar energy facility through a change in grantee ownership.
    - If the grantee does not fulfill the obligation to decommission the solar energy facility, the financial assurance shall be made payable to the surface property owner.

Provides for the following forms of financial assurance:

- An escrow account.
- A certificate of deposit or irrevocable letter of credit.
- A bond executed between the grantee and a corporate surety licensed to do business in this Commonwealth.
- A negotiable bond of the Federal Government, the Commonwealth or a municipality.

Department Duties

Requires DEP, in consultation with the solar energy industry, to develop standard forms for a decommissioning plan and financial assurance within 180 days of the effective date.

Provides for temporary regulations as needed to implement the act.

Contents of Decommissioning Plans

Requires decommissioning plans to include provisions for all of the following:

- The removal of all non-utility-owned equipment, conduits, structures, fencing and foundations to a depth of at least three feet below grade.
- The removal of graveled areas and access roads, unless the surface property owner requests in writing for graveled areas and access roads to stay in place.
- The restoration of the property to a condition reasonably similar to the property's condition before the commencement of construction.
- The reseeding of a cleared area, unless requested in writing by the surface property owner to not reseed due to plans for agricultural planting.

Prevention of Forced Labor

Requires a grantee to be in compliance with the Uyghur Forced Labor Prevention Act (Public Law 117-78, 135 Stat. 1525) or any other Federal law, rule or regulation that restricts the import or use of goods, wares, articles or merchandise mined, produced or manufactured wholly or in part with forced labor.

Preemption

Preempts existing local ordinances related to solar decommissioning.

Applicability

Exempts the following:

- A solar energy facility with a nameplate capacity of two megawatts AC or less.
- A customer generator as defined in section 2 of the Alternative Energy Portfolio Standards (AEPS) Act.
- A farmer who owns and operates their own solar energy facility on premises.

Definitions

Grantee means the owner of a solar energy facility on leased property.

Solar energy facility means the development or construction of a facility that utilizes solar energy to produce or distribute energy.

Solar energy facility agreement means a lease agreement between a grantee and a surface property owner that authorizes the grantee to operate a solar energy facility on leased property

Effective Date:

Immediately for Section 4304 (Form and content of decommissioning plans).

The remainder of the act shall take effect in 180 days.

G. Relevant Existing Laws

State law does not currently provide for solar decommissioning requirements.

The AEPS Act defines customer generator to mean "a nonutility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 50 kilowatts if installed at a residential service or not larger than 3,000 kilowatts at other customer service locations, except for customers whose systems are above three megawatts and up to five megawatts who make their systems available to operate in parallel with the electric utility during grid emergencies as defined by the regional transmission organization or where a microgrid is in place for the primary or secondary purpose of maintaining critical infrastructure, such as homeland security assignments, emergency services facilities, hospitals, traffic signals, wastewater treatment plants or telecommunications facilities, provided that technical rules for operating generators interconnected with facilities of an electric distribution company, electric cooperative or municipal electric system have been promulgated by the Institute of Electrical and Electronic Engineers and the Pennsylvania Public Utility Commission."

E. Prior Session (Previous Bill Numbers & House/Senate Votes)

SB 349 was introduced last session as SB 211. SB 211 was referred to the Senate Environmental Resources and Energy Committee and reported as committed (**8-3**) on February 27, 2023. SB 211 passed the Senate (**36-13**) on March 8, 2023.

SB 211 was referred to the House Environmental Resources and Energy Committee and reported as committed (**24-1**) on October 1, 2024. It received no further consideration.

Pennsylvania Businesses In Support of the PRESS Act

Pennsylvania businesses strongly support adoption of the Pennsylvania Reliable Energy Sustainability Standards Act (PRESS). This legislation provides a comprehensive energy framework that will help companies invest, grow, and compete in today's economy.

About PRESS

PRESS would update Pennsylvania's existing Alternative Energy Portfolio Standard with a more comprehensive framework for clean energy development. The legislation defines and enables a range of energy technologies, including solar, wind, hydropower, geothermal, fuel cells, and demand-side management solutions. The goal of the bill is to add necessary generation as demand is rising, while modernizing our grid to lower costs and improve resilience. It also creates a market structure to ensure utilities and large energy users are investing in energy efficiency and technologies that promote grid reliability, cost management, and economic growth.

Job Creation

With enhanced clean energy standards, Pennsylvania would generate thousands of good paying jobs across the Commonwealth. Adopting PRESS would catalyze billions in capital investment throughout Pennsylvania—from energy installations to manufacturing opportunities. PRESS would create immediate construction and installation positions while building long-term careers in operations, maintenance, and manufacturing of components for wind, solar, energy storage, and grid modernization.

According to a report from Advanced Energy United, MAREC Action, and American Clean Power Association, adopting PRESS could attract investment of $13.1 billion in Pennsylvania's economy over seven years, creating 129,000 jobs.

Cost Containment

For companies dealing with risings prices throughout their supply chains, cost management is paramount. With nationwide power demand expected to rise dramatically in the near-and-mid-term—and Pennsylvania's electricity load projected to grow by 32 percent by 2040—the Commonwealth should ensure that it is containing costs by investing in a diverse portfolio of generation. Pennsylvania can mitigate rising and volatile prices by including adding more generation from other sources which have the benefit of zero fuel costs, and efficiency and demand-side management, which can help prevent excess electricity generation during the most expensive price spikes.

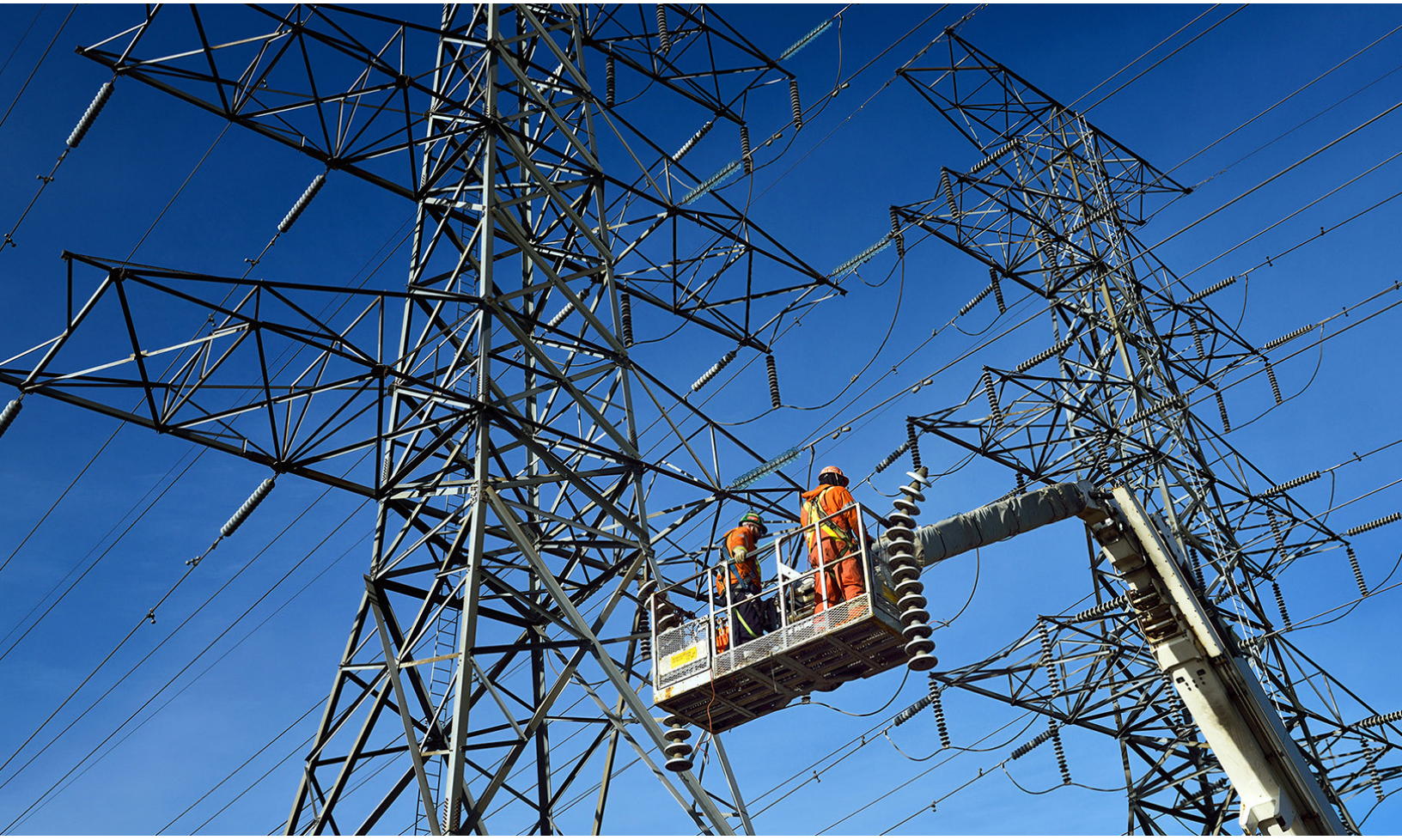
Reliability and Resilience

Transitioning to a more diverse mix of energy sources significantly enhances the resilience and reliability of our electricity system. Unlike traditional centralized generation, alternate energy technologies can create a distributed network of power generation assets that can continue operating even when parts of the grid are compromised, thereby maintaining service to critical facilities and communities.

This enhanced reliability translates directly to the bottom line by minimizing production downtime, preventing inventory losses, and avoiding emergency generation costs that can reach thousands of dollars per hour. Investments in new energy infrastructure represent strategic insurance policies against business disruption, offering competitive advantages through operational continuity.

Conclusion

Pennsylvania has a proud legacy as an energy powerhouse and is the largest energy exporting state in the country. The Commonwealth must maintain this position in the emerging energy economy. Companies are prepared to invest, innovate, and create job—and PRESS provides a policy framework to make it happen.



Dear Governor Shapiro and Members of the Pennsylvania General Assembly,

As major businesses, investors, and employers with operations in Pennsylvania, we write to express our support for the goal of achieving 35% clean energy by 2035 in the commonwealth, as outlined in the proposed PA Reliable Energy Sustainability Standard (PRESS). We urge Pennsylvania lawmakers to enact legislation to establish clean energy production goals that will accelerate the development of local clean energy while providing cost savings, creating good jobs, and improving public health.

We understand firsthand how Pennsylvania's energy policies impact the cost of doing business and the commonwealth's economic competitiveness. Like many hundreds of businesses across the U.S., we have set goals to reduce greenhouse gas emissions, procure renewable energy, and improve energy efficiency in our facilities and supply chains.[1] Clean energy helps businesses save money, hedge against volatile fuel prices, and stay competitive. Our climate and clean energy commitments are also in line with the expectations of our customers, employees, and investors.

Pennsylvania's largest companies and employers want access to clean energy. Twenty seven of Pennsylvania's 40 largest employers have renewable energy or energy efficiency goals[i]. More than 90 companies with a presence in the Commonwealth have committed to being powered by 100% renewable energy.[ii] More than 370 companies, including many Fortune 500 companies, have committed to powering all their corporate operations with 100% renewable energy[iii]. Since 2014, corporate America has procured 37% of the carbon-free electricity added to the U.S. grid, setting a record of 11.06 GW added in 2021 [iv]. Enactment of clean energy goals will provide certainty to businesses that Pennsylvania's energy mix will meet their future needs throughout their supply chains and facilitate companies' long-term planning.

Pennsylvania's economy will benefit if policymakers send a clear message that the state is open for clean energy investment over the long term. It is imperative that Pennsylvania

move quickly to take advantage of unprecedented federal incentives provided by the Inflation Reduction Act, ensuring maximum benefits flow to Pennsylvania businesses and communities. A 35% goal is also critical to ensuring that efforts to electrify industry and transportation are cost effective and beneficial to public health by reducing pollution in the air and water.

To ensure that the benefits of this transition are distributed fairly to all Pennsylvanians, it is also imperative that clean energy goals include protections for low- and middle income communities and assurances that they will share in the economic and environmental benefits of the energy transition.

Now is the time to grow Pennsylvanian energy and prioritize growing our clean energy economy by enacting PRESS or establishing comparable standards. Passing legislation to codify the 35% clean energy by 2035 goal will attract new investment, encourage innovation, save homeowners and businesses money on their energy bills, and ensure environmental benefits for all Pennsylvanians. We look forward to working with you to grow jobs and the economy, and ensure that Pennsylvania retains its place as an American energy leader.

Sincerely,

Akamai Technologies
DSM
EILEEN FISHER
Energy Management Solutions Inc.
Green Building Alliance
IKEA USA
Nestlé
Recreational Equipment, Inc. (REI)
Sustainable Business Network
Warren Energy, LLC

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[i] "Pennsylvania Top 50 Employers and Industries," Center for Workforce Innovation and Analysis. https://www.workstats.dli.pa.gov/Products/Top50/Pages/default.aspx

[ii] "RE100," Climate Group. https://www.there100.org/

[iii] "Power Forward 4.0: A Progress Report of the Fortune 500's Transition to a Net-Zero Economy," World Wildlife Fund. https://www.worldwildlife.org/stories/fortune-500-companies-are-acting-on-the-climate-crisis-but-is-it-enough

[iv] " Corporate clean energy procurement on track for another record year after adding 11 GW in 2021," Utility Dive. May 2022. https://www.utilitydive.com/news/corporate-clean-energy-procurement-ceba-report/623926/

In light of the voting meeting on Monday on HB 501, I am resending these comments in the email below and hope that you might share them with the rest of the committee members. I know that other solar industry groups and organizations sent similar requests to make this simple change to include distributed solar that has no impact to ratepayers. I sincerely hope they will be considered.

Because of the recent passage of the federal House reconciliation bill that will gut the tax benefits for clean energy by the end of this year, we urge you to consider these important changes. There are many companies that will be closing shop if that bill passes, so strong state policy is crucial.

HB 501 in its current state does not raise the credit price for distributed in-state solar; it merely maintains the price near the current rate which is about $30 (with a ceiling of $45). If the federal tax benefits are repealed, then the state credit at the current price will not suffice to keep the residential and the small commercial solar companies in business, and we will see a huge decline in solar installations across the state.

I find it perplexing that this simple change that would not change the ratepayer impacts of the bill has not been incorporated, particularly when there continues to be a rich incentive provided to waste coal and large hydropower plants that create no new jobs nor new energy generation. Waste coal plants used to receive a credit of our $0.20 (20 cents) before the "border was closed." These plants now receive a credit near the current solar credit. PRESS does help to lower that, but it would trade near the ceiling (ACP) level of $15. This has a huge ratepayer impact that nets no new benefits, whereas distributed solar is saving schools, municipalities, businesses, farms, etc. thousands in electricity costs and creating most of the renewable energy jobs in the state.

As long as there is no movement to include distributed solar in a more robust manner, our organization cannot fully support PRESS, because it is tone-deaf about the situation that is happening at the federal level. I hope that your committee and the rest of the General Assembly seriously considers this simple change that will send a strong signal to the industry that you support onsite solar and their businesses to create more clean energy. It will certainly help in advocacy efforts by the industry, which is not actively supporting the bill.

Thank you for your consideration.

Sharon Pillar

Founder and Executive Director

Pennsylvania Solar Center

c/o Energy Innovation Center

1435 Bedford Avenue, Suite 140

Pittsburgh, PA 15219

412-215-5995

(she/her)
sharon@pasolarcenter.org

www.pasolarcenter.org

Pennsylvania Farm Bureau

P.O. Box 8736 | Camp Hill, PA 17001-8736 | 717-761-2740 | www.pfb.com

May 5, 2025

On behalf of Pennsylvania Farm Bureau, which represents more than 27,000 farm and rural families across the Commonwealth, I write to express our strong support for Senate Bill 349, legislation that establishes clear statewide standards for the responsible decommissioning of solar energy facilities in Pennsylvania.

As renewable energy projects—particularly solar and wind—continue to expand throughout the state, it is important that the growth of clean energy does not result in unintended financial or environmental burdens for the landowners who host these projects. Without proper decommissioning procedures in place, landowners may be left responsible for removing infrastructure and restoring land when a project reaches the end of its useful life. This is of particular concern for farmers who rely on the long-term viability of their land to sustain their operations.

Senate Bill 349 ensures that solar energy developers are held accountable for the costs and responsibilities associated with decommissioning. It requires developers to provide financial assurance equal to the estimated cost of decommissioning, and mandates that both a decommissioning plan and proof of financial assurance be filed with the county recorder of deeds. These provisions promote transparency, maintain enforceable obligations even if ownership changes, and prevent conflicts by preempting inconsistent local ordinances.

This legislation protects the interests of landowners while also providing clear and consistent guidance to solar developers. It supports responsible renewable energy development in a way that aligns with agricultural preservation and environmental stewardship. By ensuring that land is properly restored at the conclusion of a project's life, Senate Bill 349 helps balance energy progress with rural sustainability.

We urge all members of the Senate to support Senate Bill 349 and work to ensure its passage.

Respectfully,

Mitchell Kurek
State and Local Affairs Specialist
Pennsylvania Farm Bureau

MARCELLUS SHALE COALITION

May 16, 2025

The Honorable Greg Vitali, Chairman
House Environmental and
Natural Resource Protection Committee
30 East Wing
P.O. Box 202166
Harrisburg, PA 17120-2166

The Honorable Jack Rader, Republican Chairman
House Environmental and
Natural Resource Protection Committee
423 Irvis Office Building
P.O. Box 202176
Harrisburg, PA 17120-2176

Dear Chairman Vitali and Chairman Rader:

The Marcellus Shale Coalition (MSC) is a regional trade association representing over 150 companies engaged in the safe and responsible development of Pennsylvania's unconventional natural gas resources. Our members represent the largest operators engaged in the production, processing and transport of natural gas, as well as the professional service firms, contractors, supply chain companies and skilled building trades who partner with the industry.

On behalf of the MSC, I write to express our concerns with House Bill 501, which is scheduled for a public hearing on May 19th and a possible vote by the House Environmental and Natural Resource Protection Committee in the near future.

Before outlining specific concerns with HB 501, it is important to emphasize that despite purporting to strengthen electric reliability within the Commonwealth, this legislation is poised to do the exact opposite. The legislation micromanages the Commonwealth's electric generation portfolio and imposes significant new mandates upon electric distribution companies and competitive energy suppliers, rather than enabling the marketplace to work as intended. Doing so counters the advice of many of the experts who have weighed in regarding the growing concerns of our electric grid to meet growing demand during a period of historic generation retirements.

Many of these new mandates relate to intermittent, unreliable and even untested energy generation sources. While energy resources like wind and solar have a place within a diverse mix of fuel sources, imposing mandates to purchase and distribute these resources – when there is no guarantee that they can generate sufficient electricity both at scale and on demand – puts the Commonwealth's consumers and economy at significant peril.

Beyond this overarching concern, there are several other significant policy issues which the Committee should take note of regarding HB 501:

- HB 501 creates a state subsidy program for nuclear generation. Due to drafting concerns with the bill, it is not clear whether the state subsidy program is in addition to or in place of the recently implemented federal subsidy for nuclear generation which already will cost Pennsylvania taxpayers approximately $229.96 Million annually. The language is unclear whether taxpayers will be required to foot the bill for another layer of subsidies for nuclear energy.

- HB 501 permits out-of-state nuclear generation to be subsidized by Pennsylvania ratepayers.

- While percentages fluctuate based upon demand and facility retirements or availability, in 2024 Pennsylvania's electric generation portfolio was roughly 60% natural gas, 32% nuclear, and 5% coal, with the balance of 5% coming from intermittent sources like hydropower, solar and wind.

  Under HB 501, when fully phased in, 50% of Pennsylvania's generation portfolio must come from Tier 1 intermittent resources and Tier II and Tier III resources, all of which exclude natural gas and coal. Given the strong likelihood that nuclear generation will continue to maintain its portfolio share of 32% thanks to the new taxpayer subsidies, this means that combined, Tier 1 intermittent resources, Tier II, Tier III, and nuclear generation will account for approximately 82% of Pennsylvania's generation that is distributed. Said another way, gas and coal generation, currently 64% of the market, are left to compete for only 18% of the market.

- The corresponding demand reduction for Pennsylvania natural gas generation translates to a 69% decrease in natural gas electric generation compared to current 2024 market share, and an 8.6% decrease in demand for Pennsylvania-produced natural gas. This translates into tens, if not hundreds, of millions of dollars of lost capital investment to the Commonwealth and lost revenue to Pennsylvania royalty owners, including state agencies like DCNR and the Game Commission.

- The legislation's use of "*lifecycle greenhouse gas emissions*" is misleading. By incorporating the definition utilized in the federal hydrogen tax credit law, the term limits such emissions to only those associated with the through-put at the electricity generation source. This is the antithesis of what is meant by the term "lifecycle" and disguises the true lifecycle emission footprint of intermittent energy resources like wind and solar.

For those concerned with reducing carbon emissions from the electric power sector, they ought to be celebrating Pennsylvania's historic 46% CO_2 emissions reduction since 2005[1] and recognizing that these reductions were driven by increased natural gas use. Instead, this legislation relegates Pennsylvania natural gas to the literal back burner while blindly hoping that intermittent, unreliable and untested fuel sources will somehow magically become reliable and capable of ensuring baseload power.

At a time when PJM and other experts have sounded the alarm over grid resiliency and reliability in contrast to the projected increase in electric demand, HB 501 exacerbates these concerns. It displaces clean, reliable and affordable energy and in doing so puts our residents and economy in grave danger.

Please oppose HB 501 as written.

Sincerely,

Patrick Henderson
Vice President
Government Affairs and Communications

[1] By comparison, PA DEP's own modeling showed that entry into the Regional Greenhouse Gas Initiative would have a net CO_2 emissions reduction of 0.169% through 2030.

MARCELLUS SHALE COALITION